

Client Advisory | August 2010**Municipal Relief Act**

On July 27, 2010, the Municipal Relief Act (the “Act”) was signed into law in Massachusetts. The statutory changes made by the Act are intended to provide flexibility to local governments as they manage through the current economic climate. The focus of this Client Advisory is on the provisions of the Act that deal with the issuance of bonds and notes by Massachusetts municipalities.



Richard A. Manley, Jr.
Partner



Brenda M. McDonough,
Counsel

The Act’s provisions dealing with municipal borrowing include: (i) new purposes for which cities and towns may borrow money, (ii) provisions governing the term over which municipal debt can be repaid, (iii) provisions providing new flexibility in scheduling the repayment of municipal debt, and (iv) other financial provisions.

New Borrowing Purposes

The specific new purposes and terms for which cities and towns may borrow are as follows:

- Dredging of tidal and non-tidal rivers, streams, harbors, channels and tidewaters
- Environmental cleanup caused by existing or closed municipal facilities
- Constructing and reconstructing seawalls, riprap, bulkheads and other similar structures
- Establishing and funding a revolving loan program to make loans to private property owners to be used for renewable energy and energy conservation improvements to such properties
- Any public work, improvement or asset not specifically provided for in Chapter 44, Section 7 of the General Laws with a useful life of at least five years.

While the addition of the four new particular borrowing purposes will be of importance to many cities and towns in Massachusetts, the addition of a “catch-all” borrowing authorization will help Massachusetts municipalities finance capital projects without having to seek special legislation to permit a borrowing for a purpose

not specifically included within the statutory scheme of Chapter 44 of the General Laws.

New Maximum Terms for the Repayment of Municipal Borrowings

A significant change brought about by the Act concerns the maximum terms over which borrowings must be repaid. This affects not only the term over which bonds are to be retired, but also serves as the basis for the computation of note paydowns required by Chapter 44, Section 17 of the General Laws. Chapter 44, Section 7 (which provides for borrowing for purposes within the normal debt limit) and Chapter 44, Section 8 (which provides for borrowing for purposes outside of the normal debt limit) have been amended to permit municipalities to borrow either for a term not exceeding the periods of time listed in such sections, or for a longer period of time (not to exceed 30 years) based upon the maximum useful life of the project being financed as determined in accordance with guidelines established by the Department of Revenue’s Division of Local Services (“Local Services”). In addition, bonds of school districts issued under Chapter 71, Section 16(d) of the General Laws and bonds issued under Chapter 70B of the General Laws for a project approved by the Massachusetts School Building Authority may be issued for a period of up to 30 years if consistent with the guidelines from Local Services regarding useful life.

We have been in regular contact with officials from Local Services and understand that the useful life guidelines are

under development and are expected to be released shortly. Until these guidelines are released, however, a municipality may not borrow longer than is currently permitted under Chapter 44, and the borrowing of money to pay costs of departmental equipment must have a maximum repayment term of 5 years. Once the guidelines are issued, we expect that municipalities will have more flexibility to structure the repayment of debt over periods that reflect the actual useful life of the project financed.

Principal Repayment Flexibility

Chapter 44 has also been amended to provide more flexibility in sizing the annual principal payments required to be made on account of an issue of bonds. Prior law required that principal repayments on most bonds were to be made on an equal or declining principal basis, and allowed level debt service repayment structures only in limited circumstances. The law as amended permits annual principal payments to be made on a level debt service basis, or on the basis of a schedule providing for a more rapid amortization of principal. In approving the amortization of debt, for all issues that are not structured on an equal or declining principal basis, we will need to review the principal amortization of each purpose of a borrowing on a debt service basis, assuming a market based interest rate scale, against the proposed repayment schedule, utilizing the same interest rate

scale, to ascertain that the amortization of principal in a proposed repayment structure is at least as rapid as that achieved by a level debt service structure.

Miscellaneous Financial Provisions of Interest to Municipal Borrowers

Other financial provisions of the Act include the elimination of fees for the State House Note program, allowing the Director of Accounts to approve school district stabilization fund appropriations for purposes other than for which the district may borrow money, and a local option change to the election law requiring the distribution of information relating to ballot questions (which would include debt exclusion questions under Proposition 2 ½).

Other provisions of the Act not discussed here include revisions to the law governing the funding of retirement systems, the assessment and abatement of local property taxes, the procurement process, and mutual aid agreements, among others.

This advisory is intended only to highlight some of the provisions of the Act, and is not intended to be a complete summary of the Act. The full text of the Act can be found at the following internet address: <http://www.mass.gov/legis/laws/seslaw10/sl100188.htm>. Please contact Richard A. Manley, Jr. or Brenda M. McDonough, if you would like further information regarding these new borrowing options.

BOSTON MA | FT. LAUDERDALE FL | HARTFORD CT | MADISON NJ | NEW YORK NY | NEWPORT BEACH CA | PROVIDENCE RI
STAMFORD CT | WASHINGTON DC | WEST PALM BEACH FL | WILMINGTON DE | LONDON UK | HONG KONG (ASSOCIATED OFFICE)

This advisory is for guidance only and is not intended to be a substitute for specific legal advice. If you would like further information, please contact the Edwards Angell Palmer & Dodge LLP attorney responsible for your matters or one of the attorneys listed below:

Richard A. Manley, Jr, Partner

617.239.0384

rmanley@eapdlaw.com

Brenda M. McDonough, Counsel

617.239.0684

bmcdonough@eapdlaw.com

This advisory is published by Edwards Angell Palmer & Dodge for the benefit of clients, friends and fellow professionals on matters of interest. The information contained herein is not to be construed as legal advice or opinion. We provide such advice or opinion only after being engaged to do so with respect to particular facts and circumstances. The Firm is not authorized under the UK Financial Services and Markets Act 2000 to offer UK investment services to clients. In certain circumstances, as members of the Law Society of England and Wales, we are able to provide these investment services if they are an incidental part of the professional services we have been engaged to provide.

Please note that your contact details, which may have been used to provide this bulletin to you, will be used for communications with you only. If you would prefer to discontinue receiving information from the Firm, or wish that we not contact you for any purpose other than to receive future issues of this bulletin, please contact us at contactus@eapdlaw.com.

© 2010 Edwards Angell Palmer & Dodge LLP a Delaware limited liability partnership including professional corporations and Edwards Angell Palmer & Dodge UK LLP a limited liability partnership registered in England (registered number OC333092) and regulated by the Solicitors Regulation Authority.

Disclosure required under U.S. Circular 230: Edwards Angell Palmer & Dodge LLP informs you that any tax advice contained in this communication, including any attachments, was not intended or written to be used, and cannot be used, for the purpose of avoiding federal tax related penalties, or promoting, marketing or recommending to another party any transaction or matter addressed herein.

ATTORNEY ADVERTISING: This publication may be considered "advertising material" under the rules of professional conduct governing attorneys in some states. The hiring of an attorney is an important decision that should not be based solely on advertisements. Prior results do not guarantee similar outcomes.

EDWARDS
ANGELL
PALMER &
DODGE

eapdlaw.com