THE BOND BUYER

Muni groups urge lawmakers to spare advance refundings, PABs

By Lynn Hume
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WASHINGTON – Municipal market groups are strongly opposing provisions of the House Republican tax bill that aim to terminate the use of advance refundings and private activity bonds.

The groups papered House and Senate lawmakers with letters Monday and Friday defending these bonds and urging they not be halted as the House Ways and Means Committee led by Rep. Kevin Brady, R-Texas, began deliberating and voting on the bill, a process that could take all week.

Twenty-nine groups in the Public Finance Network representing hundreds of thousands of municipal bond issuers, borrowers and professionals, included some statistics as to what the loss of advance refundings and PABs would mean in their letter to leaders of the House and Ways and Means Committee.

The groups said the par amount of advance refundings was more than $120 billion last year, representing almost 27% of the new issue muni market, according to Thomson Reuters' data.

A par amount of more than $84.6 billion of private activity bonds were issued, representing almost 19% of new issue muni market in 2016, said the groups, which include states, localities, airports and hospitals, as well as housing, infrastructure and public power organizations.

The majority of PABs issued last year -- $72.4 billion – were 501(c)(3) bonds that are used to finance projects for nonprofits such as hospitals, health care organizations, colleges and universities, representing 16% of the new issue muni market, according to the data.

There is a bit of overlap in the data since some PABs were also advance refunded, sources said.

The groups included the Government Finance Officers Association, the American Hospital Association, the Council of

Infrastructure Financing Authorities and the National Council of State Housing Agencies, among others.

Under current tax law governmental bonds and 501(c)(3) bonds for nonprofits are permitted one advance refunding.

Advance refunding bonds saved taxpayers at least $3 billion last year, said the 29 groups.

“This allows public issuers to take advantage of fluctuations in the interest rates to realize considerable savings on debt service,” they said. “The ability to advance refund outstanding bonds provides substantial savings to taxpayers throughout the country.”

The Municipal Bonds for America (MBFA) coalition, said in a letter sent to House and Senate leaders, “Tax-exempt advance refundings allow state and local governments to efficiently and successfully manage their finances, giving the necessary flexibility to take advantage of market conditions and interest rates when refinancing existing debt.”

“This lowers the cost of borrowing for basic infrastructure projects that directly benefit taxpayers,” MBFA said.

“Advance refundings … are a vital tool for governmental issuers to take advantage of favorable interest rates and market conditions to lower their overall costs,” the National Association of Bond Lawyers said in a letter sent to leaders of the House, Senate, and tax-writing committees.

The current law already contains provision to prevent any kind of abuse with these refundings, said the letter, which was signed by NABL president Alexandra “Sandy” MacLennan.

MBFA also defended PABs, telling lawmakers, that they “provide a critical source of funding for a variety of important projects, including financing for non-profit hospitals, colleges, schools, public-private partnerships [as well as] multi-family housing projects, toll-roads, airports and seaports, and even state-run student loan programs.”

“These projects and programs foster job creation and economic development and provide reduced costs for healthcare and education,” the coalition said.

The Council of Development Finance Authorities said it will hold a national call at 1:00 pm on Tuesday Nov. 7 to discuss the tax reform bill as well as a strategy to preserve PABs.

“Tax-exempt private activity bonds are a crucial and instrumental financing tool that spurs local economic development, private sector investment and job creation,” CDFA president and CEO Toby Rittner said in a letter to Congress. The letter included support from dozens of organizations, some of which were in almost every state.

“By eliminating private activity bonds, the ability of communities around the country to finance these projects will also be eliminated, as governments and project sponsors will be forced to borrow at higher interest rates,” Rittner said.

“Industry experts have estimated that interest rates for borrowers would increase by 1.5% – 2.5% for bond transactions of varying levels of credit quality if private activity bonds are eliminated,” Rittner said. “Conservatively, such a rise in interest rates would cause the cost of borrowing for state and local governments to increase by as much as 25%-35%,” he said.

NABL told the lawmakers that, “Unlike federal debt, which finances operating deficits, state and local governments and tax-exempt nonprofit organizations use these bonds, with minor exceptions, to finance capital projects.”

“A loss of the tax exemption on important categories of state and local bonds would increase borrowing costs and result in an increase in local taxes, tolls, fees, low-income housing rent and mortgage payments, and hospital charges to pay that higher cost or in a reduction in the amount of infrastructure that could be undertaken,” NABL said in its letter.

The bond lawyers group said current federal tax laws include excessive – “some might say draconian” – restrictions for private activity bonds such as the types of projects that can be financed and caps on the amounts that can be issued in any state in any given year. Many PAB projects are public where some private use, including by non-profit organizations such as the local YMCA or Girl Scouts, is sufficient to categorize them as private use, NABL said.

“The House [Republican] bill’s prohibition of private activity bonds would … eliminate the use of the 4% low income housing tax credit, which is linked to tax-exempt financing and represents approximately 45% of the low-income housing tax credit program,” NABL said.

Bond Dealers of America CEO Mike Nicholas told lawmakers in a letter that, “By terminating private-activity bonds (including all 501c3 bonds for healthcare and higher education) and disallowing advance refundings, these changes will raise borrowing costs, and thus, taxes to all jurisdictions focused on infrastructure and capital improvement projects.”