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Are School Districts Eligible Issuers for the MLF?

very important point



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Oh boy.

After a conversation with a policy analyst, a super important point came up that I'd completely missed: can a school district even be eligible to issue bonds to the MLF?

The MLF's fact sheet has a set of complex stipulations that determine who exactly can take advantage of this program. (There's also more information in this document.)

Issuers can be:

- cities
- states
- multi-state entities
- “Designated Revenue Bond Issuers (RBIs)”
- entities that issues securities on behalf of cities, states, or counties that manages cash flows (subject to Fed review and approval).

A school district is not one of the first three things, so the question is whether a district can be a designated RBI or an entity that issues securities.

DRBI?

A designated RBI is:

Each Governor of a U.S. state may designate up to two Revenue Bond Issuers located in his or her state for participation in the MLF...Any such designated Revenue Bond Issuers will be “Designated RBIs.” A “Revenue Bond Issuer” is a State or political subdivision thereof, or a public authority, agency, or instrumentality of a State or political subdivision thereof, that issues bonds that are secured by revenue from a specified source that is owned by a governmental entity. Each Designated RBI will be required to provide at the time it submits a notice of interest, evidence that it has verified with the Governor of its state...that it will be designated and at the time of closing, a certification from the Governor of its state reflecting the designation.

A school district definitely issues bonds that are secured by revenue from a specified source, but is it ‘owned by a governmental entity’? Not really.

Also, here's an important point: to issue bonds to the MLF as an RBI you need a “notice of interest” and “evidence that is has been verified with the Governor of the state. And your governor can only designate two RBIs maximum! This

wouldn't be a problem for Hawaii, which has only one school district (the entire state). But Pennsylvania has 500 school districts.

An 'Entity'?

Could the school district be an entity that issues bonds on behalf of cities, states, or counties? Here's what that means:

Many States, Cities, and Counties issue debt securities through an authority, agency, department, division or other entity that is statutorily authorized to issue debt on behalf of the applicable State, City, or County. Such an authority, agency, department, division or other entity of a State, City, or County may also issue debt securities for the purposes of assisting in cash flow management on behalf of one or more of the political subdivisions or other governmental entities of the applicable State, City, or County. Such an entity would constitute an Eligible Issuer, subject to Federal Reserve review, only if (i) such entity can commit the credit of, or pledge revenues of, the applicable State, City, or County, or (ii) the State, City, or County guarantees the Eligible Notes issued by such issuer. Each eligible State, City, and County may only access the Facility through one issuer; provided that the Federal Reserve may approve one or more additional issuers per State, City, or County to facilitate the provision of assistance to political subdivisions and other governmental entities of the relevant State, City, or County.

School districts are their own governmental entities. They tend not to be departments of states, counties, or cities. The district tends to be its own government, have its own budget, etc. This is true for Philadelphia but not all school districts.

For the first option, does the SDP "commit the credit of, or pledge revenues of" the state, city, or county? When I get my property taxes, the SDP taxes are always listed separate from the city because, again, their budgets are different. Is school district money the same as county, city, or state money?

For the second option, does the state, city, or county “guarantee the Eligible Notes” issued by the school district, if it were to issue them? Again, unclear. This could vary across school districts.

There is a little piece of language in the definition of eligible issuers worth noting:

An Eligible Issuer is a State, City, or County (or, **subject to Federal Reserve review and approval**, an entity that issues securities on behalf of the State, City, or County, respectively, for the purpose of managing its cash flows), Multi-State Entity, or Designated RBI

Maybe school districts submit their bonds for review and approval. Maybe they get it, maybe they don't.

Other Paths

These criteria could be devastating for the MLF strategy for school funding. But we should remember that improvements to school infrastructure don't always and only come from direct sources flowing into the budget. They could come from other departments, entities, grants or outside initiatives so designated.

It might be that we lobby the Governor to designate the Pennsylvania Department of Education as an RBI. But can the DOE issue bonds? I haven't heard of that before. Is there an agency that issues bonds for the DOE, or for DOE projects? Are there other entities that are viable to be designated as RBIs or could issue bonds for the government?

Basically, getting Philly schools MLF money to fix ventilation might require a creative strategy involving other agencies, departments, and programs. Rep. Elizabeth Fiedler's legislation creating a grant program for asbestos remediation is a promising lead, as well as the PlanCon workbook that permits state reimbursement for school building infrastructure projects.

In general, I think there's a path forward for Philadelphia, but I'm not sure yet, and this is important to know for other districts moving forward.