# THE CARES ACT AND PUBLIC FINANCE

*Hodgson Russ Public Finance Alert*
April 1, 2020

The Coronavirus Aid, Relief, and Economic Security, or "CARES Act" was signed into law on Friday, March 27, 2020. The CARES Act was enacted to provide approximately $2.2 trillion of relief to Americans and the U.S. economy in connection with the COVID-19 pandemic.

**What are potential benefits to local governments?** - Among the programs in the CARES Act is the creation of a $500 billion Economic Stabilization Fund, which authorizes the U.S. Treasury to purchase obligations of states, local governments and political subdivisions. As described in Section 4003 of the CARES Act, the Economic Stabilization Fund was created to provide liquidity for the borrowing needs of states and municipalities. The recent volatility of the financial markets, including the bond market, has created difficulties for states and local governments in selling their bonds and notes. For example, a number of local governments have pulled bond sales during the past two weeks. Under the authorization contained in the CARES Act, the U.S. Treasury could purchase bonds and notes issued by states and municipalities, thereby providing a source of liquidity to local governments.

**What are potential benefits to local school districts?** - The CARES Act creates a $16.5 billion Education Stabilization fund, which is designed to provide emergency relief through grants to school districts to support educational services for students, together with child care and early childhood education, social and emotional support and the protection of education-related jobs. The federal government will make these funds available at the state level, by applications submitted by each of the states.

**Will there be more federal legislation?** - The CARES Act is the third major piece of federal legislation adopted this year in response to the COVID-19 pandemic. Many commentators believe it does not go far enough to address the increasing costs and declining revenues in connection with the pandemic being faced by states, local governments and school district. Accordingly, some experts think there will be a fourth (or even a fifth) round of legislation, with the new legislation providing specific bond-related amendments to assist local governments and school districts. Examples of specific bond-related amendments that might be included could be the possible reinstatement of or permission for:

(a) many of the ARRA and other expired Internal Revenue Code provisions that facilitated market access during the 2008 financial crisis, such as Build America

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(b) long-term cash flow borrowings

(c) provision for a federal guaranty program for tax-exempt bonds

(d) advance refundings

(e) an increase in the bank qualified limit and application of the test to the conduit borrower

(f) an expansion of the small issue bond program under Section 144 to small businesses beyond manufacturing companies

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**Is the financial market beginning to stabilize?** - As reported in the "Bond Buyer" yesterday and this morning, the municipal market appears to be stabilizing, especially in light of the strong "quantitative easing" steps undertaken by the Federal Reserve. There may be a new "normal" emerging, and we are closely watching the markets this week as they react to the recent stimulative measures.

**What if a local government or school district is experiencing cash flow problems? –** Under the NYS Local Finance Law, local governments and school districts have the authority to issue Tax and Revenue Anticipation Notes (TANs and RANs) to address cash flow issues. Over the past two weeks, we have assisted a number of local issuers in preparing resolutions authorizing such borrowings.

**How does the Governor's Executive Orders affect the undertaking by local governments and school districts of construction projects?** - On Friday, the NYS Empire State Development updated its "Guidance for Determining Whether a Business Enterprise Is Subject to a Workforce Reduction Under Recent Executive Orders." Please see our guidance on that issue **here** and **here**.

To learn more about the CARES Act and Public Finance, please contact **A. Joseph Scott, III** (518.433.2419) or **John Alessi** (716.949.2940).

**Please check our Coronavirus Resource Center to view many other alerts our attorneys in various practice areas have published on topics related to the pandemic.**

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