



CARES Act provisions targeted at state and local governments

March 30, 2020

On Friday March 27, 2020, President Trump signed Senate Bill 3548, the Coronavirus Aid, Relief, and Economic Security Act" or "CARES Act," into law. While states and their political subdivisions remain hopeful that future federal stimulus legislation will provide more tools for communities to access the credit markets to address the impact of COVID-19, the CARES Act was viewed as an important step in addressing the economic fallout from the coronavirus pandemic. While it is the largest ever economic stimulus package, the CARES Act is actually the third stimulus act passed by Congress - the first phase was the "Coronavirus Preparedness and Response Supplemental Appropriations Act of 2020," which was signed into law on March 6, 2020 (an \$8.3 billion bill focused on coronavirus vaccine research and development), and the second phase was the "Families First Coronavirus Response Act," signed into law on March 18, 2020, an approximately \$104 billion package largely focused on paid sick leave and unemployment benefits for workers and families.

The CARES Act, 880 pages in length, addresses a wide range of programming and funding aimed at addressing the pandemic, with \$2 trillion in stimulus initiatives. The following may be of particular interest to states and political subdivisions:

Economic Stabilization Fund

- The CARES Act creates a \$454 billion Economic Stabilization Fund that authorizes the U.S. Treasury to purchase obligations or other interests in secondary markets or otherwise of states and political subdivisions. This permits the Federal Reserve to participate as an institutional investor in securities that mature in greater than six months in the event that is necessary to stabilize the bond market.

- The CARES Act authorizes a \$5 billion allocation to the Community Development Block Grant (CDBG) to address COVID-19 for services to senior citizens and the homeless. Of that allocation, \$2 billion would be distributed using the existing formula, \$1 billion would go to states based on a formula developed by Department of Housing and Urban Development (HUD) for COVID-19 (the states will then allocate to both entitlement and non-entitlement communities), and the remaining \$2 billion will go to the states and localities based on a formula to be developed by HUD within 30 days.
- \$850 million is authorized to the Department of Justice for the Byrne Justice Assistance grant program to assist state and local law enforcement and jails prevent, prepare for and respond to COVID-19.
- \$1.5 billion is authorized for the Department of Health and Human Services (HHS) for the Center for Disease Control's (CDC) State and Local Preparedness Grants for state and local preparedness and response activities. Funds provided under this category can be used for grants for the rent, lease, purchase, acquisition, construction, alteration or renovation of non-federally-owned facilities to improve preparedness and response capabilities at state and local levels.
- \$1 billion for the HHS Community Services Block Grant Program for grants to states and local community-based organizations to provide a wide range of human, social services and emergency assistance.

With its \$2 trillion in stimulus provision, the CARES Act covers a lot of ground, but communities hoping for new bond financing programs to assist in their recovery will have to wait for additional action by Congress. Several bond-related items that have been discussed as important stimulus considerations are NOT included in the CARES Act, and constituency groups are hoping to see these included in the fourth (or fifth) round of stimulus legislation. Items of particular interest include:

- The Government Finance Officers Association (GFOA) is advocating:
 - The restoration of advance refunding, which was eliminated by the "Tax Cuts and Jobs Act," signed into law on December 22, 2017.
 - The expansion of the use of bank-qualified debt (the Municipal Bond Market Support Act of 2019 proposed to increase the amount of bank-qualified debt that could be used by a state or political subdivision annually from its current ceiling of \$10 million to \$30 million. That legislation has so far not gained traction.)
- The Council of Development Finance Agencies (CDFA) is advocating for the two prior items, plus:
 - Expansion of the ability to use tax-exempt small manufacturing industrial development bonds (IDBs) (referred to as the Modernizing Agricultural and Manufacturing Bonds Act (MAMBA))
 - The restoration of the State Small Business Credit Initiative (SSBCI), which expired in 2017. SSBCI deployed over \$1.4 billion, which states were able to use to leverage against private lending to help finance small businesses and manufacturers that are creditworthy but are not getting the loans they need to expand and create jobs. States used these funds to create collateral support programs, Capital Access Programs (CAPs) and loan guarantee programs.
- On March 25, 2020, the National Association of Bond Lawyers (NABL) sent a letter to the U.S. Treasury asking for clarification on the ability to hold public hearings required in connection with certain types of tax-exempt bonds (TEFRA hearings) without holding an in-person public hearing (by providing opportunity to attend via a toll-free telephone call).
- The National League of Cities (NLC) is advocating for the restoration of advance refunding bonds and Build America Bonds (BABs or taxable bonds with a federal subsidy payment to states and local government issuers), which were part of the American Recovery and Reinvestment Act of 2009, with an express prohibition on a reduction of the subsidy payment, which severely limited the effectiveness of the previous authorization.

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