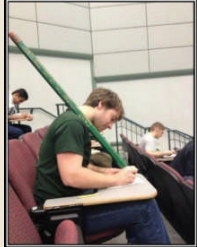


Background

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- Dillon's Rule v. Home Rule
- Role of Bond Counsel
- Restrictions under State law – relate to validity of the borrowing
- Restrictions under Federal law - relate to "tax exemption" of interest
- General Fund v. Proprietary/Enterprise Fund
- Municipal boundary v. service area – S.C. Code Section 5-7-60



Basic Utility Borrowing Tools

POPE FLYNN GROUP

- General Obligation Bonds
- Revenue Bonds
- Lease-Purchase Agreements
- Tax Increment Bonds (TIF)
- Interim Financing (BANS, TANs, GANs)

Revenue Bonds

POPE FLYNN GROUP


- Why? Pay as you go v. Long-term borrowing
- Capital planning process
- SC Constitution (1895): Article X, Section 14(10): "[i]ndebtedness payable solely from a revenue-producing project or from a special source, which source does not involve revenues from any tax or license, may be issued upon such terms and conditions as the General Assembly may prescribe by general law."
- State law authority: (1) Revenue Bond Refinancing Act (S.C. Code Section 6-17-10 et seq.); and (2) Revenue Bond Act for Utilities (S.C. Code Section 6-21-10 et seq.)
- Constitution; State law; Federal law; Local law
 - Action/contract of council:
 - Bond Ordinance; Master/Trust Indenture
 - Series/Supplemental Ordinance; Supplemental Indenture

Constitution of the State of South Carolina, Ratified in Convention, December 4, 1895

South Carolina

Revenue Bonds


- Pledge of revenues: Gross v. Net (No mortgage – Statutory/Contractual lien)
- Waterfall (day to day and default) – controls flow of funds
- Coverage Ratio: Annual Rate Covenant (usually 1.20x annual debt service) v. Additional Bonds Test (usually 1.20 x. max annual debt service)
- Parity Debt, Junior Bonds, Special Facilities Bonds; Lease-financing
- Refunding: Current v. Advance
- Redemption/Notice/Modifications/Trustee
- Covenants: asset ownership; no free service; audit requirement; insurance; sale of assets/system; surplus appropriations; efficient operation



The diagram illustrates the waterfall structure of revenue bonds. It shows a series of buckets representing different fund categories, with arrows indicating the flow of funds from top to bottom. The categories are: Project Revenues, Revenue Fund, Operation & Maintenance Expenses, Operations & Maintenance Reserve Fund, Senior Debt Service Payments and Reserve Fund, Subordinate Debt Service Payments and Reserve Fund, Rehabilitation & Reconstruction Reserve Fund, and Return on Equity. The POPE FLYNN GROUP logo is in the top right corner.

Knowing Your Professionals


- Bond Counsel: Required to deliver validity opinion for borrowing
- Local Counsel: Know day to day operations; required to deliver an opinion as to underlying documents and litigation
- Trustee: Fiduciary for bondholders (not involved in every transaction)
- Financial Advisor (FA): Evolving role, far more involved in transactions; perform roles that Bond Counsel used to perform.
- Bank/SRF/USDA/Underwriter: Lender
- Other Counsel: Represent Trustee, Underwriter, Issuers (i.e. Disclosure or Special Tax matters)



A meme featuring a soldier in full combat gear holding a rifle. The text "Don't worry, ma'am" is at the top, and "I'm from the Internet" is at the bottom. The POPE FLYNN GROUP logo is in the top right corner.



Tips for a Smoother Borrowing Experience

- Financial Statements (be timely)
- Define the project: sizing of issue
- Stability in financial administration
- Stability in professionals, including bank and bond counsel
- Pricing is important, but not sole determining factor
- Discussion on front end of expectations – don't agree to things you do not understand
- Policies and Procedures (debt administration, tax, disclosure, coverage, OPEB, Pension, cash management)




A signpost with two arrows pointing in opposite directions. The top arrow is labeled "SUCCESS" and the bottom arrow is labeled "FAILURE". The POPE FLYNN GROUP logo is in the top right corner.

Transactional Building Blocks


- Taxable v. Non-Taxable
- "Bank Qualified" v. "Non-Bank Qualified"
- Private Placement v. Publicly Sold Transaction: Term, Size, Flexibility, Issuance Costs, Disclosure practices, rate differentials, credit-worthiness; insurance or other liquidity providers

"Bank Loans"

- Potential Problems:
 - * Not a recognized structure
 - * No council action typically taken
 - * Ignores public notice requirements - generally no ordinance
 - * No IRS reporting
 - * No debt filing with State Treasurer
- Use Banks that understand your limitations
- More structuring capabilities; terms limited; capacity limited
- Like "Bank-Qualified" paper

"Government Loans"



<p><u>State Revolving Loan (SRF)</u></p> <ul style="list-style-type: none"> • - Federal program with State match • - Water and Sewer Only • - 20 to 30 years • - Interest rates trail market • - Reduced cost for low-income systems or green energy projects • - Becoming more streamlined • - DSRF not funded for "A" rated credits • - Straight quarterly amortization • - Easy call features 	<p><u>USDA, Rural Development</u></p> <ul style="list-style-type: none"> • - Lender of last resort • - Protect service area • - Rates higher • - 40 years • - No tax work • - Little structuring flexibility • - May require interim financing • - DSRF required (funded over time) • - Require consent for other debt
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“Public Market Deals”

- Publicly underwritten transaction (size may dictate number of underwriters)
- Requires a rating
- Interest rate tied to rating and market
- Official Statement required
- Disclosure counsel (to be considered, different than Bond Counsel)
- Underwriter represented by counsel
- Continuing Disclosure is required and must be current
- May require insurance (credit support)
- Sold in denominations of \$5,000+
- Electronic dissemination through the Depository Trust Company
- Disclosure of purchase power arrangements

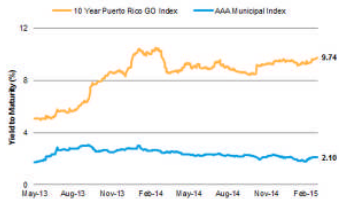



Credit Ratings

- Rating agencies (S&P, Moody's, Fitch, others) are moving toward a quantitative "scorecard" approach; charge for electric utility surveillance
- Moody's Utility Methodology is provided below (Dec. 2014)

System Characteristics (30%)	Financial Strength (40%)
<ul style="list-style-type: none"> - Asset Condition (10%) - Service Area Wealth (12.5%) - System Size (7.5%) 	<ul style="list-style-type: none"> - Annual Debt Service Coverage (15%) - Days Cash on Hand (15%) - Debt to Operating Revenues (10%)
Moody's Updated Utility Methodology	
Management (20%)	Legal Provisions (10%)
<ul style="list-style-type: none"> - Rate Management (10%) - Regulatory Compliance and Capital Planning (10%) 	<ul style="list-style-type: none"> - Rate Covenant (5%) - Debt Service Reserve Requirement (5%)


Credit Issues: More Important Than Ever Before



- Long Term: Fund Balance/Reserves
- Short Term: Cash Flow Ratios
- Leverage Ratio: Net Assets in comparison to Total Liabilities
- Customer Changes-Fluctuations in Revenue
- Large Capital Outlays
- Political Issues: Annexation, etc.

Additional Legal Considerations


- FOIA
- Arbitrage and rebate
- Spend down requirements
- Tax Covenants (Ownership)
- Continuing Disclosure

Continuing Disclosure Defined:

•“Continuing disclosure consists of important information about a municipal bond and its issuer that arises after the initial issuance of the bond. This information generally reflects the financial or operating condition of the issuer as it changes over time, as well as specific events occurring after issuance that can have an impact on the ability of issuer to make payments on the bond, the value of the bond if it is traded prior to its maturity, the timing of repayment of principal, and other key features of the bond.”

- Enforced through SEC regulation of Broker-Dealers; Required in Primary Offer as an Aid to Secondary Market
- Exempt from Registration and Reporting Requirements of ‘33 Act and ‘34 Act (Tower Amendment – Pre-sale) – But see Rule 10b-5 and Rule 15c2-12 and SEC’s 1994 Interpretative Release (not private placements)



What are my continuing disclosure responsibilities?

Established in the Continuing Disclosure Agreement (CDA) executed at the closing of your Bonds.

Issuer may engage a Dissemination Agent to assist with disclosure responsibilities.

Generally Requires:

- Disclosure of Financial and Operating Information
- Material Event Notices

