

# VIRGINIA GFOA

*Federal Legislation Affecting Local Governments*  
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# GFOA

- Annual Conference: Seattle June 28- July 1
- Advanced Government Finance Institute
  - July 26 – 31
  - University of Wisconsin/Madison
- Get Involved
  - Standing Committees
  - Budget Reviewers
  - Write Articles for GFOA's Publications

# Remote Sales Tax

- Streamlined Sales Tax Project
  - Voluntary system went on-line October, 1, 2005
  - 21 states representing more than 20% of the US population have adopted the Agreement
  - The Agreement sets forth rules that states and vendors agree to if they want to collect remote sales tax. These include:
    - Uniform definition of goods
    - Uniform sourcing: destination-based sourcing
    - Standardization of tax holidays
    - Centralized state administration of sales tax and redistribution
    - Electronic system for vendors
    - Creation of a 'tax rate' database per state

# Remote Sales Tax

- Streamlined Sales Tax Project

- New Sourcing Provision – Adopted 12/2007
  - States may chose:
    - Destination sourcing for all sales
    - Origin sourcing for in-state sales; destination sourcing for out-of-state sales
  - 22 States On Board
- Federal Legislation – S. 34 and H.R. 3396
  - Provides federal authority for mandatory collection of taxes on remote sales.
  - **KEY PROBLEM:** Both call for state and local govts to simplify their communications taxes before being able to collect taxes on remote sales
  - Local govts: Keep the two issues separate. We could lose more with “communications reform” than we could gain with new remote taxes.
- [www.streamlinedsalestax.org](http://www.streamlinedsalestax.org)

# Legislation: 3% Withholding

- 3% Withholding and Annual Reporting Requirement on Government Payments
  - Begins January 1, 2011
  - Applies to gvts that spend > \$100m/year on goods and services
  - Governments must withhold 3% to all vendors (with some exemptions) and remit that 3% to the federal government
  - All payments to all vendors must be reported annually to the IRS
  - Unfunded Mandate
  - Unclear Legislative Language
  - **Legislative Efforts to Repeal (S.777, S.2394, H.R.1023) - \$6B**
- House Passed One Year Implementation Date Delay
  - Senate Has Failed to Act

# Credit Card Interchange Fees

- Credit Card Fair Fee Act (H.R. 5546)
- House Judiciary Hearings Held 7/2007
  - Interchange Fees Unfair to All Vendors
  - \$26 Billion in Fees Collected in 2006
  - Anti-Competitive Behavior?
  - [WWW.Unfaircreditcardfees.com](http://WWW.Unfaircreditcardfees.com)
- Other Hearings: Consumers/CCard Fees

# Cell Phones: Fringe Benefits

- 1989 Rules on Employer Provided Cell Phones Still In Place
- Does Not Work With Today's Technology/  
Pricing Structure
- Passed House, Languishing in Senate  
(S. 2668 & H.R. 5450)
- IRS Advisory Committee Study

# Other Tax Issues

- **Offset Legislation (H.R. 1965)**
  - Allow Local Governments to Collect Tax Debts from Federal Tax Refunds
- **Business Activity Taxes**
  - S. 1726 & H.R. 5267
  - Federal Government Creating a “Physical Presence” Test for Imposing State and Local Business Activity Taxes
- **Hotel/Rental Car Taxes**
  - Tax Policy for Reservations Made Over the Internet
  - Industry Concern: Over-Taxation of the Industry

# Telecommunications

- *Internet Tax Freedom Act*
  - Extends Moratorium on Taxation of Internet Access Until 11/1/2014
  - Clarifies Definition of “Access”
    - Especially important for local governments and ‘bundled’ products (e.g., cable, Internet, voice)
  - 1998 Grandfather Clause Intact But Only if govt is Currently Collecting the Tax
- Cell Phone Tax Moratorium
- FCC Video Franchising Order
  - Pre-empts Local Franchising Authority
- Municipal Broadband Initiatives

# Red Flag Rules

- Applies to any business (including government) that has serves as a ‘creditor’ – collect deferred payments for recurring services (e.g., electricity, water/sewer)
- Written procedures must be in place to identify, detect and respond to identify theft activities.
- **MUST BE IN PLACE – MAY 1, 2009.**

# 110<sup>th</sup> Congress Accomplishments

- Housing Reform
- Economic Stabilization Act
- Continuing Resolution
  - Increase in Homeland Security Funding
- Tax Extenders
  - AMT Patch
  - S/L SALES Tax Deduction

# Subprime Crisis & S/L Govts

- Impact on S/L Government Finances
  - Decreased Property Tax Revenues
  - Foreclosed Property – Problems for Govts & Communities
  - Increased Need for Social Services
  - Overall Economic Downturn
  - Dampened Growth in Economic Development/Infrastructure Projects
  - Legislation Allowing Housing Authorities to Issue Bonds to Help Low-Income Homeowners with Refinancings
  - Direct Assistance to Local Govts and Foreclosed Homes
  - Fannie/Freddie/FHLB Assistance

# 110<sup>th</sup> Congress

## Housing Bill

- \$10B for Mortgage Revenue Bonds to Help Homeowners Refinance
  - Increase in volume cap
  - Non AMT
- \$4B in Community Development Block Grants to Help Govts Purchase/Refurbish Foreclosed Homes
- FHLB as LOC Provider
- Standard Property Tax Deduction
- Tax Credit for Foreclosed Home Purchases (\$7K)
- \$100m for Mortgage Counseling Programs
- Federal Govt Takeover of Fannie and Freddie

# 110<sup>th</sup> Congress

## Rescue Package

- Emergency Economic Stabilization Act:
  - Provides Treasury Secretary \$700B to Establish the Troubled Asset Relief Program
  - Fannie and Freddie Accelerating Purchase of Mortgage Bonds\*
  - Federal Government Purchasing Equity in Financial Institutions\*
  - Federal Government Providing Aid for Financial Institutions to Purchase Struggling Mortgages and Renegotiate terms
  - FDIC Reform – Limit Raised to \$250K
  - Safeguards Protect Taxpayers
  - Importance to Muni Market: liquidity – liquidity – liquidity!!!!

# Treasury

## Money Market Mutual Funds

- Money Market Guarantee Program – Dept. of the Treasury
  - Allows funds to “guarantee the share price of publicly offered eligible money market mutual funds”
  - Funds must pay a fee to join the program
  - Includes municipal money market funds
  - Exists for 3 months (beginning 9/19), and then Treasury Secretary can renew
  - \$50 billion available
  - Extension of the 1934 Exchange Stabilization Fund program
  - No coverage limit (unlike FDIC bank accounts). Investments as of 9/19 are covered

# Federal Reserve CPFF

- Commercial Paper Funding Facility
  - Federal Reserve May Purchase CP From “Issuers”
    - Including Tax-Exempt CP and other short-term notes?
  - Other Authority to Purchase Tax-Exempt Securities?

# Treasury/SEC Guidance

- Bidding on Own ARS; CP; VRDOs
  - Treasury Guidance
    - Convert out of unfavorable interest rate modes without triggering a ‘reissuance’
    - Allowed to add/eliminate credit enhancement
    - Allowed to ‘exchange’ new bonds for old
  - SEC Guidance
    - Allowable with appropriate disclosures
    - Not Yet Finalized for CP and VRDOs
  - Market Manipulation Concerns
    - Bidding below market

# Insurance Downgrades

## Credit Rating Agency Reform

- Bond Insurers
  - Downgrades
  - Congressional Review of Business Practices
- Credit Rating Agencies
  - Failure of Comparable Ratings Munis = Corporate
  - Congressional Review of Business Practices
    - H.R. 6333: Must use comparable ratings methodology
  - SEC Has Oversight Role Over Rating Agencies
  - Agencies' Recalibration Efforts Put on Hold

# Other Market Dynamics

- AIG Downfall
- Continuing Concern w/ US and International Financial Institutions
- Lack of LOC and Credit Enhancement Providers
- Unwinding Credit Default Swaps
- Regulatory Pressures

# Material Event Notices

- Material Event Notices
  - Insurance Downgrade = Issue Downgrade
  - Is It a Material Event?
    - No Downgrade Notification from Credit Rating Agency
    - No Change in Underlying Credit
    - REGARDLESS SEC SAYS YOU MUST FILE A MATERIAL EVENT

# Municipal Market Turmoil

- Looking Forward: Debt Market
  - End of Auction Rate Securities Market?
  - End of Tender Option Bond Market?
  - Less Appetite for Derivatives/Swaps
  - Fewer Investment Banks
  - Regional Banks Will Be More Active in Market
  - = **Higher Debt Issuance Costs Across the Board**
- Looking Forward: Investments
  - Using More Bread and Butter Investments
  - Fewer GIC Providers
  - Understanding Impact Market Changes, Legislative and Regulatory Changes will Have on Government Investments and Pools

**See GFOA Web Site for Debt and Cash Management  
Market Turmoil Resources**

# SEC Initiatives

- Tower Amendment Added to the 1934 Securities Act in 1975 when Congress Created the Municipal Securities Rulemaking Board
  - Prohibits the SEC or the MSRB from requiring municipal issuers to file reports or documents prior to the sale of bonds
  - Places disclosure requirements on the underwriters of bonds, not the issuers
- SEC Rule 15c2-12 (1994)
  - Continuing disclosure requirements

# SEC Initiatives

- SEC Chairman Cox Proposals – Muni Market and Governmental Accounting
  - Federally Mandating GAAP Reporting
  - Federal Funding for and Oversight of GASB
  - Conform Continuing Disclosure Documents to Private Sector Models
  - Establishments of Policies and Procedures for Disclosure
  - Clarification of Legal Responsibilities for Disclosure
  - Federal Involvement in Selection of Governmental Trustees on FAF

# SEC/MSRB Initiatives

- Disclosure Central Repository: EMMA
  - [www.emma.msrb.org](http://www.emma.msrb.org)
  - Web-based
    - Primary Market Data
    - Search Feature
    - Education Center
  - Next Step: Continuing Disclosure Documents
    - Change in SEC Rule 15c2-12
    - Free for Issuers
    - Free for Investors

# SEC Initiatives: Where's the Beef?

- Need to Recognize Profound Difference of Muni Market
  - Much municipal debt is backed by the full taxing power of the issuer
  - Risk of default is extremely low, and default rates are much lower than comparably-rated corporate credits
- Governments Are Extremely Transparent:
  - Public Meetings
  - Reporting of events in the local media
  - Website dissemination of information
- Regulatory Compliance Comes With a Price Tag
- Use Current Authority to Curtail Non Compliance
- GFOA Leadership In Area Longstanding

# Munis: Congress

- Bank Qualified Debt
  - H.R. 6308 and S. 3518
  - Increases Annual Limit from \$10M to \$30M
  - Banks Allowed to Purchase Addtl Munis
  - Allows Application at Borrower Level
- Nt'l Infrastructure Bank: S. 1926 & H.R. 3401
  - Transit, Roads, Water, etc.
  - \$60 Billion Tax-Credit Bonds
  - Large Capacity Projects
  - Does Not Displace Current Funding Streams

# Tax Credit Bonds

- QZABs (school construction) \$400m for 2008 and 2009
- \$800m additional funds for Clean Renewable Energy Bonds (CREBs) and program extended to 2012
- Green Bonds authority extended until 2012
- New Qualified Energy Conservation Bond Program

# Public Pensions/Benefits

- Normal Retirement Age
  - Plan years beginning on or after 1/1/2011
  - Distributions from a pension plan upon attainment of normal retirement age.
- Public Sector Plan Problem
  - No single standard for early or normal retirement age.
  - Regulations should allow for prevailing local/state laws, regulations and policies

# Public Pensions/Benefits

- HELPS II
  - ALL Public Sector Retirees = \$3K Pre-Tax for Health Insurance or Long Term Care
- Volunteer Firefighters (P.L. 110-142)
  - Exempts S/L Taxes From Federal Income Taxes
- Mental Health Parity Legislation

# Public Pensions

- Congressional Interest in Soundness of Public Pension Plans
- Actuarial Group Initiative to Use Market Value Liability for Public Pensions
  - Does not take into account the full picture or dynamics of public plans
- Week of Oct 19: Save for Retirement Week

# Outlook 2009

- Banking Reform
- Tax Reform
- Infrastructure Financing
- Social Security
- Medicare
- Initiatives of New President

# Member Advocacy

- Why:
  - Real Life Examples Make a Difference
  - Be a Resource to Both DC and District Staff
  - Quality of Interaction with Congress
  - Quantity of Interaction with Congress

# Federal Liaison Center

- Staff and Issues of Expertise:
  - Susan Gaffney: taxes, tax-exempt bonds, budget, banking, and general outreach
  - Barrie Tabin Berger: pensions and retirement, health care, telecommunications, budget

**202-393-8020**