

## American Recovery and Reinvestment Act of 2009 for Local Governments

By John Repsholdt, Ehlers Financial Advisor

It is fall, football is underway, and there are only five quarters left before time runs out on local governments to score with the American Recovery and Reinvestment Act of 2009 (ARRA).

The ARRA was passed in early 2009 to provide important economic incentives for the construction or reconstruction of public infrastructure. Since it is designed to merely stimulate an economic recovery, the provisions are scheduled to sunset on December 31, 2010.

The American Recovery and Reinvestment Act expanded the benefits of bank qualified bonds for public benefit and private activities. It also eliminated the alternative minimum tax on tax-exempt private activity bonds. ARRA provided new and expanded tax credit programs, as well as federally subsidized public benefit programs to the states, counties, large urban areas, and all units of local government – depending on the program.

### Build America Bonds

During the summer months, a significant amount of Build America Bonds – federally subsidized bonds available to all local governments – were issued. The Build America Bonds program is being offered for two years and provides a permanent federal subsidy of 35 percent of the interest expense of qualifying bond issues. A qualifying bond issue is used to finance capital improvements and could be a tax-exempt bond, but is issued on a taxable basis.

Recently, our client Naperville School District (CUSD 203), issued \$33 million taxable Build America Bonds. The Bonds mature to 2029, and the District received a net rate of 3.05 percent. This rate compares to 3.45 percent, the best the District could have received if it had issued traditional tax-exempt bonds. The difference in rates reduced the project cost by almost 3 percent, saving taxpayers nearly \$1.2 million over the life of the issue. There are many factors to consider in determining whether an issue is a good candidate for Build America Bonds. Many bonds, for good reasons, are still being issued on a traditional tax-exempt basis.

### Qualified School Construction Bond Program

An important program gaining popularity in our neighboring states is the Qualified School Construction

Bond program. The federal government has committed \$11 billion to the states for 2009 and will commit another \$11 billion in 2010. This program is designed to allow local school districts the ability to issue interest-free bonds for construction.

School districts in other states receiving an allocation directly from the U.S. Treasury have already issued their bonds. Indiana, Minnesota, Missouri and Wisconsin have recently allocated their lump sum shares to local districts. However, Illinois has not yet allocated its lump sum, and there is growing concern that it is too late in the year to effectively do so. This delay of game will penalize local school districts \$244 million this year as they will not be able to receive zero interest financing and favorable construction bids.

*(continued on page 2)*

## What are Build America Bonds?

The most frequently utilized ARRA program thus far is the Build America Bonds program (BABs). With BABs, projects are financed on a taxable (vs. the traditional tax-exempt) basis and the U.S. Treasury subsidizes 35 percent of the interest expense. Local governments may apply the subsidy towards the debt service expense of the BABs issue or use it for other lawful corporate purposes.



*(continued from page 1)*

### **ARRA Incentives Working in Illinois**

Counties in Illinois received an allocation from ARRA directly from the Federal government. (They didn't have to wait for the State like school districts). Many Illinois counties have already created "Economic Recovery Zones", the first step to stimulating public benefit and private activity projects within their boundaries. DuPage and Lake Counties have delegated the duty of selecting private activity projects to an agency and are in good positions to distribute the stimulus money before the deadline. Ehlers is currently working with two municipalities to help them receive tax benefits from their counties to help spur important private activity projects.

Many state agencies received funding from ARRA to help local governments offset the costs of construction projects. For example, the Illinois Environmental Protection Agency received funds from ARRA. Ehlers is working with a municipality that recently took construction bids for a new \$38 million new wastewater treatment plant. Ehlers expects the Illinois Environmental Protection Agency will provide ARRA money for this project through its revolving loan program with little or no interest expense. The remainder is expected to be financed with Build America Bonds.

A significant portion of ARRA was dedicated to clean renewable energy production and qualified energy conservation. Units of local government, including school districts, were allowed to take advantage of low or no interest rate financing opportunities and build windmills, ethanol plants and closed loop geothermal systems. The State of Illinois deadline for grant applications for qualifying projects was set for October 1, 2009.

Now is the time for local governments to take advantage of these various ARRA programs. Unless the Federal Government extends deadlines, some of this cheap money will be lost if bonds are not issued by the end of this year.

## **IRS Increases Role in Governmental Bonds**

**By Gail Robertson, Ehlers Arbitrage Specialist, and Steve Apfelbacher, Ehlers President**

The IRS is now assigned the responsibility to handle bonds authorized under the "American Recovery and Reinvestment Act" including Build America Bonds (BABs). It will be processing applications, determining if they are valid and ensuring that payment is received on time.

This is a departure from the IRS' past role in which it would only handle tax-exempt bonds. As a result of this increased responsibility, the IRS has just hired 57 new staff, increasing its bond office staff to 102 employees.

The IRS is urging governmental issuers to keep a close eye on their post-issuance compliance activities. In January, the IRS sent out 200 questionnaires to governmental issuers of tax-exempt debt obligations in 2005 requesting information about their record retention practices and procedures, as well as compliance efforts. Three Wisconsin cities, one Minnesota city, and one Minnesota school district reported to Ehlers that they had received this survey. The Minnesota city had a population of less than 1,000. Ehlers assisted the communities with responses.

The surveys were due April 26 and about 67 percent of the surveys were returned. This is much lower than the 98 percent response rate of an IRS survey of non-profits last year. The concerning news is that the IRS has reserved the right to audit any of the 200 governmental issuers surveyed.

Gail Robertson, Arbitrage Specialist for Ehlers, urges governmental issuers to beware of the increased resources the IRS now has available to them.

"The low response by governmental issuers to the governmental survey forces the IRS to focus on governmental issuer compliance," Robertson said. "By doubling the IRS staff, the IRS can spend more time on governmental compliance."

Governmental issuers are best served by establishing and following a Post-Issuance Compliance Policy. A Post-Issuance Compliance Policy highlights the types of activities governmental issuers need to track and monitor on an ongoing basis. Ehlers is available to help governmental issuers establish a policy.

One important consideration – completing the arbitrage calculations is one part of a Post-Issuance Compliance Policy. To complete this calculation, there needs to be a clear trail on the investment of issue proceeds, including the interest rate and the period of time.

While it is easiest to invest bond proceeds as part of one investment, it can be very expensive to allocate bond interest earnings within one investment account. Issuers are best served if they invest bond proceeds separately from other investments. This will reduce the cost to complete the arbitrage calculations.

# Capital Improvements – Now Is Better Than Later

By Brad Townsend, Ehlers Financial Advisor

Local governments in Illinois are experiencing the negative effects of the global financial crisis. Nevertheless, the timing may be right for many to proceed with financing and constructing capital projects. To understand, first let's briefly review the challenge, and then the opportunities.

**THE CHALLENGE:** A perfect storm of circumstances hit municipalities, counties and special districts hard. A recent Wall Street Journal retrospective on the crisis noted that real troubles began in 2007 with “subprime” mortgage defaults, a stock market slowly drifting downward from an all-time high, and a critical mass reached during a two-week period in September 2008. Business closures, job losses, bankruptcies, buyouts and federal government takeovers followed.

By January 2009, \$30 trillion in investment gains earned the previous 10 years were lost. Municipalities heavily reliant on sales taxes have been hit the hardest by dramatic reductions in sales tax revenues. A large number of city councils and village boards have cut operating budgets, laid off employees, and deferred or downsized infrastructure and facility improvements.

**THE OPPORTUNITIES:** Despite the economic dilemma, there is some encouraging news.

**1. Financial Market Turnaround:** The tax exempt municipal bond market is experiencing more investors, more available credit, and lower interest rate yields as shown in the following sale results of six of Ehlers' clients:

Client	Par Amount	Final Maturity	TIC
Village of Northfield	\$1,565,000 G.O. Bonds (Alt. Rev. Source)	2024	3.612%
City of Centralia	\$1,500,000 G.O. Sewerage bonds (Alt. Rev. Source)	2019	3.131%
Skokie Park District	\$3,305,000 G.O. Refunding Bonds	2011	1.215%
Village of Glencoe	\$3,890,000 G.O. Refunding Bonds	2011	1.150%
Kinnikinnick Community SD	\$4,480,000 G.O. Refunding School Bonds	2015	2.236%
Village of Shorewood	\$4,140,000 G.O. Refunding Bonds	2021	3.377%

**2. New Financing Options:** American Recovery and Reinvestment Act (ARRA): It is not yet known whether the economic stimulus program will do everything promised. However, the American Recovery and Reinvestment Act can provide a good taxable financing alternative to the

traditional tax-exempt bonds. (See the ARRA article on page one for more details about the benefits of Build America Bonds.) Local governments willing to consider this new form of financing may save a substantial amount of interest costs. There are many factors to consider in determining whether an issue is a good candidate for Build America Bonds. Ehlers has developed customized programs to help our clients compare and evaluate which financing option will best serve their financing needs.

### 3. The State Capitol Poised to Start Capital Projects:

The six-year interruption in Illinois capital spending finally came to a close when the \$31 billion capital bill became law. The State reportedly plans to pay for the program through a combination of federal matching grants, \$3.7 billion from the federal economic stimulus package, about \$12 billion in borrowing, and \$300 million from a controversial expansion of gaming. Revenue sources include extending the sales tax to additional items and increasing the sales tax rate on others.

The Illinois FIRST program that started 10 years ago and the Build Illinois program of 20 years ago funded a lot of projects within several years. The flurry of increased demand for the contractors caused project bids to go up 20 percent or more. If history repeats itself, local governments wanting to proceed now with projects they have had on hold may compete with the State once again for a limited number of contractors.

Therefore, municipalities, counties, and special districts should proactively reassess their ability to proceed with needed capital projects now while contractors have capacity and project bids are still reasonable.

The economy has been rough, and citizens and local governments continue to pay the price. Yet, there are reasons that this may be an opportune time for many municipalities, counties, and special districts to proceed with capital improvements. Favorable financing options, the economic stimulus program, and recent actions by the State all point to this being a good time for capital improvements.

# Developing a Plan to Engage Your Community in Major Decisions

By Steve Larson, Ehlers Financial Advisor

Local governments have used a variety of methods to involve the public in the decision-making process for major projects. Common methods include public meetings, surveys, focus groups, task forces and citizen advisory committees.

If your governmental unit is planning to build a facility, seek funding for operations, redevelop your downtown area, or is considering some project that will create public attention, developing a process to engage the public by soliciting their input and gaining their support can help you make a better decision.

The following Ehlers' Public Participation Process has proven effective in a wide range of situations. You can adapt and modify it to your own situation and community.

## The Public Participation Process

Once you decide to engage the public, the timing required to make a decision and the history of how you make major decisions will affect the design of the process.

The most effective Public Participation Plans should include:

- the governing board, administration and a volunteer task force;
- a series of public forums (open houses) to inform and receive feedback from the community;
- a newsletter and a news release preceding each open house that inform the public on the issue and details of the open houses; and,
- a newsletter following each open house to communicate the feedback received and to reiterate the facts involved in the project.
- consider a web page dedicated to



providing citizens with documents, information and possible streaming video of public presentations or cable television.

## Open House Format

- **The first open house** focuses on the problem and the process being used to find a solution to the problem. Examples: overcrowded schools, deficits in the budget, under-capacity sewer plant.
- **The second open house** repeats information from the first open house and presents potential options for solving the problem.
- **The third open house** is held after the best option is determined to share it with the public for feedback and validation.
- Consider multiple dates and places for each open house. With permission, go to locations where the community is gathering, such as festivals, parent night, market days, booster club event, etc. The more exposure and feedback you have, the better information you will have to make the right decision.

Between open houses the governing board, administration and task force re-evaluate and arrive at solutions. All

parties should come to a consensus at each step to ensure that the process is on track. If there are major unresolved issues, they must be addressed before moving on to the next step.

## Public Surveys

A survey of your citizens can provide the information you need about your proposed options. A phone survey sample of 300-500 people is generally accepted as the method that produces the most accurate results. Electronic and paper surveys can be useful with a large enough sample. This type of survey also can be an educational tool and demonstrate your desire to receive comments from everyone. A survey can be done multiple times (larger expense) or done shortly after you have demonstrated your options to consider to solve the problem. Professional help is recommended to do the survey.

## Other Guides for Your Process

A public participation process takes time. Most projects will require nine months to a year to complete properly. Projects with unresolved issues will take longer.

The governing board, administration and task force need to keep an open mind and not come to a conclusion until you complete the whole process. It is critical that a decision is not made until you have adequate feedback from the public. If the public thinks that you are just going through the motions, it will taint the process and possibly hamper your opportunity for success.

Contact an Ehlers Financial Advisor to find out how the Ehlers Public Participation Plan can help your community successfully complete an upcoming project.

# Preparing Your Municipality for the Return of Development

By Nancy Hill, Ehlers Financial Advisor

Development opportunities may seem pretty dismal right now. At some point development and building construction will return, although it will likely not be in the quantity and perhaps the same quality, we've enjoyed over the last ten to twenty years. In our February, 2009 edition of the Ehlers Advisor, we encouraged communities to use this slow down as an opportunity to implement TIF Districts, Business Districts, and implement other economic development tools. This is also a great time to examine development-related fees, such as utility connection and impact fees.

If you are tempted to try to make up for lost revenue by raising fees, this reflexive response can be harmful to your municipality in the long run for legal, as well as economic reasons. Will an increase in impact fees, for example, price the families and individuals you are trying to attract out of your community's housing market? Will commercial renters relocate their operations to a cheaper location, possibly resulting in higher commercial vacancies, lower estimated assessed valuations, loss of jobs in your community, etc.? Ensuring that increases in fees have minimal or no adverse impact on markets is a delicate balance.

To effectively provide quality services and infrastructure at rates that customers can afford, Ehlers recommends several actions, listed below, that will assist you.

- **Understand your current and future customer base.** Having a firm grip on the type, location, and market potential for growth or redevelopment will help determine

assumptions and alternatives to use in fee rate studies. Comprehensive Land Use Plans are still a good source of this information. But with the recent changes in the overall economy, local leaders should seek information from local real estate brokers, developers, and bankers. They have a pulse on today's market, which is increasingly different from last year and maybe even last month.

- **Examine current fees** to determine to what extent they cover operations and capital costs. In most instances, Ehlers recommends against supplementing your enterprise funds with general funds.
- **Identify future capital and maintenance projects and funding requirements** for the next five to ten years. Your capital improvement plan will be your main resource. You should examine your CIP critically and determine if your needs have changed, because potential future development or redevelopment opportunities may have changed.
- **Consider a fee structure that has provisions for unpredictable situations** to avoid unwanted "spikes" in rates. This is especially true for water, sewer, and other utility user and connection rates.
- **Commit to and prepare for ongoing evaluation.** Implementation of new fee structures should not end with ordinance adoption. Issue accounting reports periodically to determine if any fee changes have adversely impacted development activity. Decide how often data will be reexamined in the future.

Ehlers offers a variety of services to assist you with these tasks including an independent and critical financial analysis of your fee structures. For more information, contact an Ehlers Financial Advisor.

## EHLERS ILLINOIS SERVICES

- Debt Issuance
- Development & Redevelopment
- Key Financial Strategies™
- Tax Increment Financing (TIF)
- Business Districts
- Financial Planning
- Population & Enrollment Studies
- Referendum and Public Participation Services
- Operational Assessment
- Strategic Planning
- Enterprise Performance
- Arbitrage Monitoring
- Continuing Disclosure
- Paying Agent
- Investment Management Services

## Financial Advisors

Steve H. Larson  
Beth Ruyle  
John Repsholdt  
Brad Townsend  
Maureen Barry  
Nancy Hill

Visit our website at  
[www.ehlers-inc.com](http://www.ehlers-inc.com)  
or call us at (800) 417-1119  
for detailed information  
about the services Ehlers can  
provide for your community.

# Illinois Legislative Update

This year's spring legislative session was interesting, beginning on the heels of the former governor resigning and ending with the first capital bill in ten years. Through the morass, a number of notable bills impacting local government finance were approved and signed into law by Governor Pat Quinn. They include:

## Debt Service Extension Base Increase

*Public Act 96-501 (formerly H.B. 242)* allows local governmental units that have a debt service extension base to increase their debt service extension base by the amount of the annual Consumer Price Index (CPI). This change will help taxing bodies fund projects at a higher debt service extension base level over time. Ehlers expects some challenges with implementing long term financings with this change, but short term financing will be easier to maximize. The CPI for 2008 is 0.1 percent.

## Park District Debt Service

The same piece of legislation allows park districts to issue general obligation bonds and debt certificates over a 25-year period rather than 20 years. This will enable park districts to issue a little more debt under the debt service extension base and to lower the level of annual debt service by extending debt another five years.

## TIF Act Amendments

Two noteworthy changes were made to the TIF Act.

1. *Public Act 96-0680 (formerly H.B. 2394)* provides that a redevelopment project area may include areas within a one-half mile radius of an existing or proposed STAR Line station without classifying the area as an industrial park conservation area, conservation area, or a blighted area. The STAR Line is a proposed suburb-to-suburb commuter passenger rail line that would connect Joliet to Chicago O'Hare International Airport. Ehlers expects the actual application of this law to be limited because of the proximity to an existing or proposed STAR Line station requirement, as well as a requirement that related redevelopment project costs are restricted to the station.

2. *Public Act 96-0324 (formerly H.B. 4326)* amends the TIF Act. The change will require a payment to municipalities when individuals or entities receive TIF benefits for originating, locating, maintaining, rehabilitating, or expanding a business facility, and then abandon or relocate that facility in violation of a development agreement. They must pay the municipality an amount equal to the pro-rated value of the benefit.

## Legislative changes may impact your organization

The Illinois General Assembly has scheduled its fall veto session for October 14-16 and October 28-30. Complete copies of the Acts mentioned in our legislative update are available from the Illinois General Assembly Web site: [www.ilga.gov](http://www.ilga.gov). For additional information about how these legislative changes impact your local government, contact an Ehlers Financial Advisor.

## Ehlers Advisor Newsletter Goes Electronic! Sign-up Today!

For your convenience and to conserve the environment and costs, the "Ehlers Advisor" is going electronic, allowing you to receive our newsletter quickly via e-mail. The next issue will be our first electronic issue. We have many of your e-mail addresses in our database. However, to make sure we have yours on file, please send the following information to: [Editor\\_IL@ehlers-inc.com](mailto:Editor_IL@ehlers-inc.com). Feel free to add names and E-mail addresses for any other staff or elected officials who wish to receive our newsletter as well.

- First and last name
- Name of your community or firm
- City and state
- E-mail address

We value our readers and your feedback and hope that you will continue to find the Advisor a valuable and convenient resource. Thank you!!!