

ferences and discussions with bond counsel, the financial consultants formulate a method of financing and recommend the type of bonds to be issued. The legal instrument prepared by bond counsel for the authorization of the bonds, such as the bond ordinance, bond resolution, or trust indenture, is based on such recommendations, as accepted by the public agency, and referred to such financial advisers for suggestions and comments which, if legally acceptable, are incorporated in the legal instrument.

In connection with certain types of revenue bond issues two firms of consulting engineers may be employed, one to design and supervise the construction of the project to be financed and the other firm to make estimates of revenues, such as toll revenues on a turnpike or toll bridge, and other determinations and projections. Bond counsel may confer with such engineers and review the engineering reports to make certain that they include findings, determinations, and statements consistent with the requirements of law and the trust indenture.

Bond counsel also maintain a close working relationship with local counsel of the public agency. Bond attorneys normally are not substitutes for local counsel. In fact, local counsel facilitate the work of the bond attorneys. Such services as rendering day-to-day advice to the issuing body, attending its meetings, preparing certain types of legal papers, acquiring land, handling litigation, and otherwise guiding the bond proceedings at the local level can be more effectively performed by local counsel working in cooperation with bond counsel.

In drafting the trust indenture, bond counsel considers the suggestions and comments of the trustee and its lawyers. The trustee may frequently consult bond counsel respecting various legal aspects of the functions of the trustee.

4. REMUNERATION

Bond counsel, like other attorneys, are compensated on the basis of legal services rendered. The fees of bond counsel are not governed by any schedule of fees suggested or agreed upon by bond attorneys or by any other group of attorneys. The volume of such type of legal work in any jurisdiction is so limited and the number of firms engaged therein is so small that, to my knowledge, no bar association has attempted to formulate a schedule of fees for bond counsel.

This, however, is not to say that bond counsel's fees do not conform to fair and reasonable standards. Foremost among the controlling factors are the reasonableness and integrity of the bond attorneys and the salutary effect of competition among them. Generally, their fees are much lower than the charges that would be made by lawyers who are not specialists in the field of municipal finance and are less experienced. The fairness and reasonableness of such fees are evidenced by the continuity of employment, as mentioned above, of a firm of bond attorneys by a public agency. The several factors that determine legal fees are the complexity of the work involved, the time devoted to the performance of such work, and the degree of responsibility assumed by the bond attorney. The degree of responsibility is related to the amount of bonds that are approved under his legal opinion and the complexities involved. The larger the bond issue, the greater is the lawyer's responsibility. Where the bond attorney's work consists merely of examining a bond transcript which is provided to him covering a simple bond issue, lower fees can, of course, be expected. Much