

higher fees are justified for a more complicated or revenue bond type of financing. Extraordinary or novel methods of financing may entail extraordinary or unusual legal issues that have to be resolved by bond counsel and other additional services.

Occasionally, bond attorneys perform their legal services upon a contingent fee basis whereby the legal fees are payable only if the bond issue in question is sold and delivered. Work upon a contingent fee basis is performed in conformity with the prevailing code of ethics of the American Bar Association. As is to be expected, legal fees payable upon a contingency are larger than would be the case if no contingency were involved. Issuing authorities and underwriters usually prefer that the legal work be performed upon a contingent fee basis. If the bond issue is not sold in such case, no liability for the payment of the legal services is incurred. Generally, the bond attorney then recovers only his out-of-pocket expenses for travel, telephone calls, and similar disbursements.

The legal fees for opinions on general obligation bonds of the ordinary type payable from ad valorem taxes are usually based upon a certain amount per bond with a graduated scale providing for a lower per bond fee as the principal amount of bonds involved increases. The fees for such general obligation bond issues vary as among different bond counsel in different localities. Differences in legal requirements, such as election requirements, may account at least in part for such variances in charges.

Historical factors also play a part in determining legal fees. A bond attorney may be governed by fees that he may have charged a particular client for similar services over a long period of time, and he may be reluctant to increase such fees notwithstanding his increasing costs of operation.

In many instances bond counsel's fees are subject to review and approval by various governmental agencies. Fees pertaining to bond issues of public agencies in connection with loans made by the Federal Government are subject to approval both by the respective local agency issuing the bonds and by the Federal Government. Charges of bond attorneys in connection with other bond issues not involving a Federal loan are subject to approval by the appropriate officers or governing bodies of the State, county, city, or other public agency issuing the bonds. If the bond attorney is employed by the underwriters or the purchasers of the bonds, the fees of the bond attorney must be acceptable to such underwriters or purchasers.