

THE ROLE OF THE STATES

STATE CONCERN WITH MUNICIPAL CREDIT

State concern with municipal credit historically has been of a negative nature as evinced by the general imposition of constitutional and statutory restrictions. These restrictions generally involved establishment of municipal debt limits at fixed percentages of the assessed valuation, and requirements for voter approval of bonded debt, often by an extraordinary majority. Problems created by restrictive debt limits have been adequately treated elsewhere,¹² and, therefore, are not included in this discussion. It is sufficient to say that these debt restrictions frequently have impeded efforts by municipalities to provide needed community facilities. As a consequence, such restrictions have tended to encourage proliferation of independent, overlapping single-purpose districts, and utilization of costly and circuitous financing methods.

STATE ADMINISTRATIVE SUPERVISION

Several States have attempted to provide guidance and assistance to municipalities by assigning responsibility for exercising administrative supervision over municipal debt, borrowing, and related fiscal operations to specific State agencies or officials. In such cases, the designated agencies, or officials, are responsible for examining, on a routine basis, the legality of proposed issues, and for assisting municipalities in eliminating inadequate or defective local borrowing procedures.¹³ This approach can be constructive and flexible; in some States it has provided positive assistance to small municipalities attempting to market bond issues. The total kind and degree of supervision and assistance provided municipalities by such agencies varies from State to State. The following examples describe the assistance provided by six such State agencies with respect to municipal borrowing.

Michigan.—The Michigan Municipal Finance Commission was created in 1943 to “protect the credit of the State and its municipalities.”¹⁴ The commission has been given the power to—

1. Approve or deny proposed municipal loans;
2. Aid, advise, and consult with municipalities relative to proposed or outstanding indebtedness;
3. Examine municipal books and records to determine if they comply with debt provisions established by the commission, by statute, by charter, or by ordinance;

¹² See, for example, Advisory Commission on Intergovernmental Relations, “State Constitutional and Statutory Restrictions on Local Government Debt” (Washington, D.C.: U.S. Government Printing Office, 1964).

¹³ The attorney general’s office in Arizona, Kansas, New Mexico, Oklahoma, Texas, West Virginia, and Wisconsin perform this function. In Louisiana and Michigan, the State attorneys general are called upon to examine the legality of local issues in special cases, and in Missouri and Nebraska the State auditor has this responsibility. The same responsibility is assigned to the tax commissioner in Connecticut; the local finance office, department of finance, in Kentucky; director of accounts, department of corporations and taxation, bureau of accounts, in Massachusetts; the State bond attorney in Mississippi; the local government commission in North Carolina; the bureau of municipal affairs, department of internal affairs, in Pennsylvania; and the division of local and metropolitan government, department of administration in Rhode Island.

¹⁴ Act 202, Public Acts of 1943.