



Harrisburg Pennsylvania Seeks Chapter 9 Bankruptcy Protection: Lawyers Talking "Trash" October 12, 2011

Yesterday, the City of Harrisburg filed a petition for bankruptcy protection under Chapter 9. The city's fiscal distress is well documented. It results from its previous general obligation guarantee of revenue bonds issued by the Harrisburg Authority, on behalf of a stand-alone trash incinerator project. The incinerator is owned by the authority, with the city having previously guaranteed \$242 million of revenue bonds, with \$65 million past due.

To put the size of the debt load into perspective, the amount was so large that the annual principal and interest payments to fund this individual project exceeded the city's entire operating budget. A bad situation was made worse, as technical challenges prevented the plant from producing enough electricity to meet its revenue projections.

Last night, October 11, 2011, a bankruptcy filing was approved by the city council by a 4-3 vote, with the mayor stating that the council lacked the legal authority to do so. The city's legal department also believes that the filing is without merit.

The city council previously rejected state oversight and fiscal rescue under Pennsylvania's Act 47, which seeks to address and remedy smaller Pennsylvania municipalities that experience severe fiscal distress.

This filing also comes one week prior to a state senate scheduled meeting to act upon an already house approved bill that would give the governor the ability to declare a fiscal emergency for the city, empowering the state to assume critical fiscal decisions with respect to the city.

*Notwithstanding the aforementioned objections to a bankruptcy filing, it should be noted that **federal law allows judges, unlike corporate Chapter 11 bankruptcy filings, full discretion in allowing municipal filings to proceed and allows the judge to consider objections.*** State law would not permit the city to consider a bankruptcy filing until June 2012.

The problems experienced by the Harrisburg Authority can be summarized as follows: too much debt was issued to fund an incinerator that burned too little trash. This saga has not concluded and will continue to be fluid.

Despite the current economic downturn, municipal bankruptcies remain extremely rare and are rarely used by significant or ongoing issuers of municipal debt. The only large issuers of municipal debt that filed for bankruptcy in recent times are: Orange County, California (1994), Bridgeport, Connecticut (1991) and the smaller Vallejo, California (2008).



Summary and Conclusion-

There are many alternatives to a municipality seeking bankruptcy protection -- most of which are cheaper and ultimately more amenable to the issuing entity. States also frown on such actions and provide various avenues of oversight and recourse to address local fiscal ills before they reach this point. It is no wonder that such filings are rare, and are unlikely to be encountered by investors in high grade municipal bonds.

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