



EXECUTIVE ORDER #68

WHEREAS, the Deficit Reduction Act of 1984 (the "Act") imposes a ceiling during each calendar year on the aggregate amount of certain obligations ("Private Activity Bonds") that may be issued by or on behalf of the State of Wisconsin and its political subdivisions; and

WHEREAS, the formula for allocation of the ceiling amount included in the Act is ill-suited for the needs of the State of Wisconsin and its political subdivisions; and

WHEREAS, the Act provides that the Governor of any State may proclaim a different formula for allocating the ceiling amount among the governmental units in such State having authority to issue Private Activity Bonds; and

WHEREAS, the authority for the Governor of the State of Wisconsin to make such a proclamation expires after the earlier of (1) January 1, 1986 or (2) the effective date of any legislation with respect to the allocation of the ceiling amount enacted by the Legislature of the State of Wisconsin; and

WHEREAS, it is appropriate to allocate the ceiling amount for calendar year 1985;

NOW, THEREFORE, BE IT PROCLAIMED AS FOLLOWS:

§1. Within this Executive Order, the following terms shall have the respective meanings:

"Carryforward Project" has the meaning assigned to the term in Section 103(n)(1)(E) of the Code.

"Ceiling Amount" means the ceiling for the issuance of Private Activity Bonds applicable to the State of Wisconsin for calendar year 1985, as provided in Section 103(n)(4)(A) of the Internal Revenue Code of 1954, as amended, namely, an amount equal to the latest census estimate of the resident population of the State of Wisconsin published by the Bureau of Census before the beginning of calendar year 1985, multiplied by \$150 per person.

"Code" means the Internal Revenue Code of 1954 as amended.

"Private Activity Bonds" has the meaning assigned to that term in Section 103(n)(7) of the Internal Revenue Code of 1954, as amended.

§2. There is hereby allocated to the Wisconsin Housing and Economic Development Authority for calendar year 1985 \$95 million of the Ceiling Amount to be utilized for the issuance of such Private Activity Bonds as the authority in its discretion shall determine.

§3. There is hereby allocated to the Wisconsin Health Facilities Authority for calendar year 1985 \$25 million of the Ceiling Amount to be utilized for the issuance of such Private Activity Bonds as the authority in its discretion shall determine.

§4. There is hereby allocated to the Building Commission for calendar year 1985 \$40 million, plus any amounts assigned under §7(a) and §7(b) of the Ceiling Amount to be utilized for such student loan bond financings as the Building Commission in its discretion shall determine.

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§5. There is hereby allocated to the Department of Development (the "Department") on behalf of the cities, villages and towns of the State of Wisconsin and all other political subdivisions of the State of Wisconsin (and public corporations established by any of the aforementioned) empowered to borrow money (hereinafter collectively referred to as "municipalities") for calendar year 1985 the remainder of the Ceiling Amount to be further allocated as follows:

(a) Upon application to the Department by any municipality, or any person acting on its behalf, the Department shall promptly certify the portion of its allocation of the Ceiling Amount that has not been allocated to municipalities and shall allocate the amount requested to such municipality for a period equal to the lesser of 60 calendar days or the remainder of the calendar year, unless the requested amount shall exceed such portion of Ceiling Amount, or unless the amount shall exceed the maximum amount authorized for issuance under any official action taken by the municipality with respect to such obligations (which, with respect to obligations issued pursuant to §66.521, Wis. Stats., shall be the initial resolution previously filed with the Department with respect to such obligations).

(b) In making such allocation, the Department shall only consider the dollar amount of the request and the portion of its allocation of the Ceiling Amount that has not been further allocated.

(c) Each municipality, or a person acting on its behalf, shall, on or before 5 calendar days after the expiration of the allocation, notify the Department in writing as to the amount of obligations issued pursuant to such allocation, and provide the Department with the written, signed opinion of the municipality's legal counsel, or of bond counsel, to the effect that a reasonable basis exists to conclude that the obligations, as issued, are Private Activity Bonds, and upon such notification the allocation shall become permanent and irrevocable.

(d) All applications shall be processed in the order received by the Department; any application may be renewed but any such renewal request shall be deemed to be received at the end of the day on which the previous allocation expires. It is intended that applications should be made only within 60 days prior to the planned issuance of the obligations.

§6. As soon as practicable after January 1, 1985, the Department shall determine the Ceiling Amount and give written notice to the Governor and Building Commission.

§7. (a) Each of the Wisconsin Health Facilities Authority and the Wisconsin Housing and Economic Development Authority may make an election, pursuant to any applicable Income Tax Regulations promulgated pursuant to Section 103 (n)(10) of the Code to carry forward any portion of its unused allocation for any specific project, if in its judgment an effective election can be made. Seven calendar days prior to the last business day of the calendar year, the Wisconsin Housing and Economic Development Authority and the Wisconsin Health Facilities Authority each shall make a written assignment to the State of Wisconsin Building Commission of its allocation for the calendar year to the extent such allocation will exceed the aggregate amount of Private Activity Bonds issued and has not been carried forward.

(b) Seven calendar days prior to the last business day of the calendar year, the Department shall determine the portion of its allocation of the Ceiling Amount that has not been allocated to municipalities and shall thereafter make allocations only for Carryforward Projects. Such allocations shall be made to any municipality that has requested an allocation for the Carryforward Project and has provided the Department with such information as requested by and satisfies the Department that an effective election can be made by the municipality under any applicable Income Tax Regulations promulgated pursuant to the Code to Section 103(n)(10). The requests shall be considered by the Department in the order received. No later than three days prior to the last business day of the year, the Department shall make a written assignment to the Building Commission of the portion of its allocation that has not been allocated to municipalities and has not been carried forward.

(c) The Building Commission shall (1) on or prior to the last day of such calendar year make an election, pursuant to any applicable Income Tax Regulations promulgated pursuant to Section 103(n)(10) of the Code, to carry forward its unused allocation (including any assigned allocation) for the purposes of student loan bonds and (2) maintain a record of any assignment of allocation under §7(a) and §7(b) in the State's records for the term of all student loan bonds issued pursuant to the allocation assigned thereby.

§8. Each of the entities allocated a portion of the Ceiling Amount under §§ 2, 3 and 4, or any municipality allocated a portion of the Ceiling Amount under §5 and §7(b) herein shall, upon issuing a Private Activity Bond pursuant to such allocation, issue a certificate signed by the officer or employee responsible for such allocations and stating, under penalty or perjury under the Laws of the United States, that the allocation was not made in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign.

§9. With respect to every allocation made under §5 and §7(b), the Department shall issue a certificate, signed by the officer or employee responsible for such allocation, stating, under penalty of perjury under the laws of the United States, that the allocation was not made in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign.

§10. Inasmuch as the authority of the Wisconsin Housing and Economic Development Authority, the Wisconsin Health Facilities Authority, the State of Wisconsin, and the municipalities of the State of Wisconsin to issue obligations that would be subject to the Ceiling Amount exists independent of the Act and this Executive Order, nothing contained in this Executive Order shall be deemed to take away from such authority.

§11. I hereby certify, under penalty of perjury under the laws of the United States of America, that this Executive Order was not made in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Wisconsin to be affixed. Done at the Capitol in the City of Madison this 28th day of December in the year one thousand nine hundred eighty-four.



Anthony S. Earl

ANTHONY S. EARL
Governor
State of Wisconsin

By the Governor:

Douglas La Follette
DOUGLAS LA FOLLETTE
Secretary of State