



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

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Joint Committee on Finance

Paper #820

### **WHEDA Reserve Funds (Wisconsin Housing and Economic Development Authority)**

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#### **CURRENT LAW**

The Wisconsin Housing and Economic Development Authority is a public body corporate and politic which sells taxable and tax-exempt mortgage revenue bonds and uses the proceeds to fund loans to eligible homebuyers, housing developers and businesses at below market interest rates. The Authority was created for this purpose because the state is constitutionally prohibited from incurring this type of debt. The Authority works through participating banks, savings and loans, mortgage bankers, and other lenders and sponsors.

#### **GOVERNOR**

No provision.

#### **DISCUSSION POINTS**

1. The Wisconsin Housing and Economic Development Authority (WHEDA) was originally created as the Wisconsin Housing Finance Authority by Chapter 287, Laws of 1971, to help meet the housing needs of low- to moderate-income households in Wisconsin. Subsequently, its mission was expanded to include providing financing for economic and agricultural development and it was given its present name.

2. The authority is not a state agency. Its operating budget is not included in the state budget and is not subject to legislative control. Revenues to finance its operating budget come from interest earnings on loans it makes, investments of its assets and administrative fees it assesses. As of December 1, 2002, the Authority had 166.4 FTE employees. The Authority is divided into an executive office and the following eight teams: administration, asset management, credit, emerging

markets, finance, information technology, legal and community development. The Authority's teams are similar to divisions in state agencies.

3. The bonds issued by WHEDA to finance its programs are revenue bonds. Revenue bonds are used to finance the construction of buildings and structures on which rent or fees can be collected from the users in order to repay the bondholders. Revenue bonds are also used for WHEDA's re-lending programs. For its re-lending programs, WHEDA borrows money through bonding and re-lends the proceeds of the bond issues to third parties for such uses as the development of multifamily housing or the purchase of single-family homes. WHEDA is then obligated to repay the bondholders using monies from repaid loans. The state has no legal obligation to back WHEDA-issued revenue bonds.

4. The majority of the Authority's programs are funded from proceeds from the sale of tax-exempt and taxable bonds. However, WHEDA has also created several housing and economic development programs through the use of general reserve funds that are available after setting aside required reserves and funding for the authority's operations.

#### **Dividends for Wisconsin Plan**

5. As indicated in Table 1, the Authority completed the 2001-02 year with assets and reserves exceeding liabilities by \$324 million. However, of this balance, approximately \$171 million represents restricted reserves for statutorily-required bond redemption funds and for programs funded from WHEDA's general reserves. These funds may be used only for permitted investments such as government-backed securities and bank deposits and permitted disbursements such as payment or repayment of principal, bond interest, and program expenses. The remaining \$153 million indicated in Table 1 represents the balance in the Authority's general reserve fund for 2001-02. The statutes require WHEDA to establish a general reserve fund but provide discretion as to how the assets of the fund are used. Under this authority, out of this general reserve balance, Table 1 shows that WHEDA encumbered \$124 million for targeted single- and multifamily housing programs and economic development programs in 2001-02. \$16.8 million was encumbered for WHEDA operations. After these amounts were set aside, a total of \$11.6 million remained. This revenue is set aside for WHEDA's "Dividends for Wisconsin" plan.

**TABLE 1**

**WHEDA Combined Balance Sheet, 2001-02**

*Assets and reserves (cash; investments; loans and interest receivable; other)	\$2,708,086,236
Liabilities (bonds, notes and interest payable; escrow deposits; other)	<u>2,384,051,005</u>
Total restricted and unrestricted reserves	\$324,035,231
Less restricted reserves for bond resolutions, administered funds	<u>- 170,860,231</u>
General reserve fund balance	\$153,175,000
Less encumbered for housing and economic development activities	- 124,793,228
Less encumbered for WHEDA operations	<u>-16,805,630</u>
Unencumbered general reserves (or "surplus")	
available for 2002-03 "Dividends for Wisconsin" plan	\$11,576,142

\*Assets include year-end adjustment for WHEDA building income from rent.

6. The statutes require that remaining unencumbered general reserves be set aside for programs outlined in a "Dividends for Wisconsin" plan. This plan fulfills the Authority's statutory requirement to maintain an unencumbered general reserve fund (also referred to as a "surplus" fund) within its general fund into which any Authority assets in excess of operating costs and required reserves are to be deposited. A calculation of unencumbered general reserve funds is done annually at the fiscal year end and reported by WHEDA to the Governor and the Legislature. As shown in Table 1, a total of \$11.6 million was available for this fund at the close of the 2001-02 fiscal year. The statutes provide for gubernatorial and legislative review of the authority's annual plan for expending or encumbering the unencumbered funds.

7. By August 31, of each year, the Chairperson of the Authority certifies to the Secretary of the Department of Administration the actual unencumbered funds available on the preceding June 30 and the projected funds available on the following June 30 and submits to the Governor a plan for expending or encumbering the funds. The Governor may modify the plan and is required to submit, within 30 days, his or her plan to the presiding officer of each house of the Legislature for referral, within seven days, to the appropriate housing committees. The standing committee review period extends for 30 days after referral. Within the review period, either of the standing committees may request WHEDA to appear before it to discuss the plan. If such a request is made, the review period is extended until 30 days after the request has been made. If a standing committee and the Governor agree to modifications in the plan, the review period for all standing committees will continue for an additional 10 days after receipt of the modified plan. The plan or modified plan is approved if no standing committee objects to it within the designated review period. If a standing committee objects to the plan or modified plan, the parts objected to are referred to the Joint Committee on Finance, which is required to meet in executive session within 30 days to consider the objections. The Joint Committee on Finance may: (1) concur in the standing

committee objections; (2) approve the plan or modified plan notwithstanding standing committee objections; or (3) modify the portions of the plan objected to by the standing committee. Until approved or modified under these provisions, the plan is not effective. With the exception of certain statutorily permitted transfers of funds from one plan category to another, the unencumbered general reserve funds may be expended or encumbered only in accordance with the approved plan.

8. WHEDA is required to allocate a portion of its unencumbered general reserve funds to: (1) match federal funds available under the McKinney Homeless Assistance Act; (2) match federal funds available under the home investment partnership program; and (3) fund the property tax deferral loan program. A large portion of its general reserve funds are used by WHEDA to supplement bond proceeds to achieve more favorable interest rates or other lending terms. However, the Authority also has developed and administered several programs using these funds. These programs include the HOME Plus Program (a second mortgage that offers fixed-rate loans of up to \$10,000 for a 15-term, and may be used for initial draw requests on credit, meeting down payment and closing costs, and repairs for homes at least ten years old) and the Property Tax Deferral Loan Program (which allows low income and elderly homeowners to convert home equity into income to pay property taxes).

9. WHEDA's 2002-03 "Dividends for Wisconsin" plan is summarized in Table 2. The plan was approved by the Governor and Legislature and specifies the amount of funding, from total unencumbered general reserves, that is to be allocated to single- and multifamily housing programs and economic development programs in 2002-03.

**TABLE 2**

**2002-03 "Dividends for Wisconsin" Plan**

<u>Activity</u>	<u>Amount</u>
Family Home Ownership	\$3,600,000
Multifamily Housing	4,345,900
Small Business	150,000
Housing Grants and Services	<u>1,300,000</u>
Total	\$9,395,900

10. The family home ownership funding will be used by WHEDA to encumber funds for the following purposes: (a) to contribute to the costs of the issuance of bonds and permanent and/or temporary contributions to reserve funds; (b) to provide loans under the property tax deferral loan program, which allows low-income elderly people to convert home equity into income to pay property taxes; (c) to provide funds to increase the revolving Homeownership Development Fund, which provides increased financial capacity for the authority to participate in the construction and/or rehabilitation of owner-occupied, affordable housing; and (d) to provide funds for alternative mortgage instruments and second mortgages (under the Homeownership Revolving Loan fund).

11. The multi-family housing funds support (a) the development of rental housing; (b) the development of financing alternatives to preserve multifamily housing; and (c) are used to match federal Stewart B. McKinney Homeless assistance Program funds that produce permanent housing for homeless persons and families.

12. The funding set aside for small businesses will be used to develop alternative or unconventional financing models to overcome barriers faced by entrepreneurs and small business operators, and to support potential initiatives to improve access to federal tax credits for the state.

13. Funds set aside for housing grants and services will support special housing for persons-in-crisis (among others, this includes homeless persons, runaways, alcohol or drug dependent persons and persons in need of protective services), programs to fix-up old and distressed neighborhoods, funds for grants and loans for disaster relief, funds for education for housing issues, funds for support to under-served markets and funds for the M7 community center in Milwaukee.

14. Funds available for WHEDA's "Dividends for Wisconsin" plan are estimated at \$9 to \$10 million in 2003-04 and \$7 to \$10 million in 2004-05. Some have suggested that a portion of these funds be transferred to the general fund. While a lapse would increase the balance of the state's general fund, it would result in a reduction of funding available for the grant programs funded from the "Dividends for Wisconsin" plan, and could also limit the Authority's ability to offer other programs, such as single family housing programs, by reducing revenue that is used to supplement bond proceeds for these programs.

#### **Wisconsin Development Reserve Fund**

15. The Wisconsin Development Reserve Fund (WDRF) was created by 1991 Wisconsin Act 39 through the consolidation into a single fund of several existing guarantee funds: the agricultural production loan fund (CROP fund), the drought assistance and development loan fund, and the recycling loan fund. Each of these separate funds had been created to back guarantees made under one or more legislatively authorized loan guarantee programs. This consolidated WDRF now backs guaranteed loans made by private lenders under separate programs, reserving funds to repay lenders for any losses from defaulted loans made under any of these guaranteed programs. The WDRF also funds the administrative costs of the loan guarantee programs and pays interest subsidies for the CROP loan guarantee program.

16. The statutes specify that annually on June 30, until no balance remains, WHEDA shall transfer to the general fund any balance remaining in the WDRF after deducting funds sufficient for all of the following: (1) to pay all outstanding claims under the programs guaranteed by funds from the WDRF; and (2) to fund guarantees under all of the programs guaranteed by funds under the WDRF at a ratio of \$1 of reserve fund to \$4.50 of total outstanding principal and outstanding guaranteed principal that the Authority may guarantee under those programs. This means the WDRF needs to have at least one dollar in reserve for every \$4.50 in available guarantee authority.

17. 2001 Act 16 established the current aggregate maximum guarantee of the total principal amount or total outstanding guaranteed principal amount of \$49.5 million, excluding the outstanding amount of a remaining loan to Taliesin. WHEDA has interpreted this to mean the total amount of outstanding guarantee authority in the WDRF must not exceed \$49.5 million.

18. The consolidated reserves available in the WDRF totaled \$12.9 million on June 30, 2002. These reserves are primarily maintained to repay the lender in case of program loan defaults. Through June, 2002, for every \$3.20 in outstanding loan actually guaranteed, the WDRF had one dollar in reserve.

19. Annually on June 30, WHEDA is required to transfer to the state's general fund any balance in the WDRF which remains after deducting: (a) amounts sufficient to pay outstanding claims; and (b) a reserve amount sufficient to maintain the required leverage factor (generally 4.5:1) of total principal guarantee authority to reserve fund balance under each loan program backed by the fund. The WHEDA Executive Director is required to submit a signed statement to the Secretary of the Department of Administration and the Joint Committee on Finance that lists the amounts deducted to any outstanding claims and to fund remaining guarantees. The Authority also must provide a report to the Chief Clerk of each house of the Legislature and to the Joint Committee on Finance by November 1 of each year on the number and amount of all loans guaranteed by the fund, as well as the loan default rate. Through December of 2002, no money has been transferred to the state's general fund. WHEDA estimates it will make a payment of \$812,300 to the state's general fund from the WDRF on June 30, 2003, and a payment of \$248,700 on June 30, 2004.

### **Housing Rehabilitation Loan Fund**

20. WHEDA administers and finances the Home Improvement Loan program from the proceeds from the sale of revenue bonds. This program provides below market rate loans to low- to moderate-income households to repair their homes or to improve their homes' energy efficiency. These loans can range between \$1,000 and \$17,500 and have a maximum term of 15 years. 1999 Act 9 requires WHEDA to annually transfer, by October 1, all funds in the housing rehabilitation loan program administration fund that are no longer required for the housing rehabilitation loan program to the general fund (section 234.51 (2) (b) of the statutes). In 2000, (the first year of the requirement), WHEDA transferred \$1,500,000 to the state's general fund. In 2001 and 2002, no transfers were made, and in 2003, WHEDA also plans no transfer to the state's general fund.

21. However, when the Legislature was considering 2001 AB 576 in the spring of 2002 (WHEDA airline loan guarantee program), WHEDA officials had identified \$1,750,000 from the housing fund as available to transfer to the WDRF to support the loan guarantees under the bill. Since the bill did not pass, this amount was expected to be lapsed to the general fund in October, 2002, under s. 234.51 (2) (b) of the statutes. However, WHEDA made no transfer in October, 2002. Officials indicate this is because the funding was used instead to support other programs, such as the HOME Loan program (mortgage loans for low- and moderate-income households), the Home Improvement Loan program (housing rehabilitation loans for low- and moderate-income households) and the Multifamily Loan program (financing to developers of multifamily projects for

low- and moderate-income households). As a result, in order to realize this anticipated gain to the state's general fund, the Committee could require that WHEDA lapse \$1,750,000 from the "Dividends for Wisconsin" plan to the state's general fund.

**ALTERNATIVES**

1. Reestimate state GPR-Earned to include a \$248,700 transfer from the WDRF in 2003-04.

<u>Alternative 1</u>	<u>GPR</u>
2003-05 REVENUE (Change to Bill)	\$248,700

2. In addition to Alternative #1, require that WHEDA transfer \$4,750,000 in 2003-04 and \$4,250,000 in 2004-05 from the "Dividends for Wisconsin" plan to the state's general fund. This is equivalent to an estimated lapse of 50% of amounts expected to be available for the "Dividends for Wisconsin" plan in each year of the biennium.

<u>Alternative 2</u>	<u>GPR</u>
2003-05 REVENUE (Change to Bill)	\$9,000,000

3. In addition to Alternative #1, require that WHEDA transfer \$2,375,000 in 2003-04 and \$2,125,000 in 2004-05 from the "Dividends for Wisconsin" plan to the state's general fund. This is equivalent to an estimated lapse of 25% of the revenues in the "Dividends for Wisconsin" plan in each year of the biennium.

<u>Alternative 3</u>	<u>GPR</u>
2003-05 REVENUE (Change to Bill)	\$4,500,000

4. In addition to Alternative #1, require that WHEDA transfer \$1,750,000 from the "Dividends for Wisconsin" plan to the state's general fund in 2003-04.

<u>Alternative 4</u>	<u>GPR</u>
2003-05 REVENUE (Change to Bill)	\$1,750,000

5. Take no action.

Prepared by: Christopher Pollek