



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #825

### WHEDA Reserve Funds (WHEDA)

[LFB 2005-07 Budget Summary: Page 526, #1]

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#### CURRENT LAW

The Wisconsin Housing and Economic Development Authority is a public body corporate and politic that 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

Require WHEDA to pay \$2,500,000 in each year of the 2005-07 biennium from its unencumbered general reserves to the state for deposit in the general fund.

#### 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 July 1, 2004, the Authority had 173 full-time equivalent employees. The Authority is divided

into an executive office and the following seven teams: administration, asset management, credit, finance, information technology, legal, and community development. The Authority's teams are similar to divisions in state agencies.

3. WHEDA issues revenue bonds to finance the purchase or 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 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. While the state has no legal obligation to back the bonds of the Authority, if WHEDA ever has a capital reserve requirement that exceeds the amount of the Authority's capital reserve, under s. 234.15(4) of the statutes, the Legislature has expressed its moral obligation to make an appropriation necessary to restore the reserve to the amount of the reserve requirement.

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 2003-04 year with assets and reserves exceeding liabilities by \$382 million. However, of this balance, approximately \$228 million represents restricted reserves for 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 of principal, bond interest, and program expenses. The remaining \$154 million indicated in Table 1 represents the balance in the Authority's general reserve fund for 2003-04. 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 \$126 million for targeted single- and multifamily housing programs and economic development programs in 2003-04, and \$20.2 million was encumbered for WHEDA operations. After these amounts were set aside, a total of \$8.15 million remained. This revenue is set aside for WHEDA's "Dividends for Wisconsin" plan.

**TABLE 1**

**WHEDA Combined Balance Sheet 2003-04**

Assets and reserves (cash; investments; loans and interest receivable; other)*	\$2,482,395,931
Liabilities (bonds, notes and interest payable; escrow deposits; other)	<u>- 2,099,902,610</u>
Total reserves	\$382,493,321
Less restricted reserves for bond resolutions, administered funds	<u>- 227,860,077</u>
General reserve fund balance	\$154,633,244
Less encumbered for housing and economic development activities	- 126,309,919
Less encumbered for WHEDA operations	<u>- 20,172,860</u>
Unencumbered general reserves (or "surplus")	
available for 2004-05 "Dividends for Wisconsin" plan	\$8,150,465

\*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 \$8.15 million was available for this fund at the close of fiscal year 2003-04. The statutes provide for gubernatorial and legislative review of the Authority's annual plan for expending or encumbering the surplus 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 its "Dividends for Wisconsin" plan. 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 continues 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 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 limited 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.

9. WHEDA's 2004-05 "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 2004-05.

**TABLE 2**

**2004-05 "Dividends for Wisconsin" Plan**

<u>Activity</u>	<u>Amount</u>
Home Ownership	\$3,250,000
Multifamily Housing	500,000
Small Business and Economic Development	775,000
Housing Grants and Services	1,500,465
Transfer to the State's General Fund	<u>2,125,000</u>
Total	\$8,150,465

10. The homeownership 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 lease purchase program, which allows credit-impaired individuals to clean up their credit record while they lease a home for up to two years; and (c) to provide a portion of the community match under the individual development account program, which helps build the assets of low-income individuals in Milwaukee by rewarding individuals who save money for the purchase of a home or a secondary education.

11. The multi-family housing funds will be used for the housing preservation initiative, which provides resources for preserving housing within the state, including refinancing current debt or rehabilitation of current housing.

12. The funding set aside for housing grants and services will support: (a) WHEDA Foundation grants, which support the development of 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); (b) WHEDA's homeownership awareness campaign for minority and underserved markets, which promotes homeownership and WHEDA mortgage products in minority and underserved markets in the state; (c) the youth financial literacy program, in particular, the program's development and implementation of a youth financial literacy website; and (d) the development of Spanish language homebuyer education workshops and the production of support and promotional material.

13. The transfer to the general fund is required by 2003 Act 33 (the 2003-05 biennial budget act).

14. WHEDA transfers to the state to benefit the general fund from its unencumbered reserves have totaled in excess of \$9 million, and include the following amounts: (a) \$1,500,000 in 2001-02; (b) \$3,300,300 in 2002-03; (c) \$2,375,000 in 2003-04; and (d) \$2,125,000 in 2004-05.

15. 2001 Act 109 (the 2001-03 budget adjustment bill) required WHEDA to make the 2001-02 (\$1,500,000) and 2002-03 (\$3,300,300) transfers to the Department of Administration for housing grants and loans. This was used to fund a new PR biennial appropriation, with corresponding expenditure authority, under DOA for housing grants and loans, and offset equivalent amounts of GPR funding for these purposes. Act 109 repealed this appropriation on June 30, 2003.

16. 2003 Act 33 required the 2003-04 (\$2,375,000) and 2004-05 (\$2,125,000) transfers from WHEDA's unencumbered reserves to be deposited to the state's general fund.

17. The Governor has recommended again transferring a portion of WHEDA's unencumbered general reserve funds to the state's general fund. While a transfer 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.

18. The administration recommended an annual transfer of \$2.5 million based on the assumption that WHEDA would have \$10 million annually available for its "Dividends for Wisconsin" plan, for the equivalent of a 25% annual transfer. In its August 16, 2004, "Dividends for Wisconsin" plan submission to the Governor, WHEDA identified \$10.6 million as available for its 2004-05 plan (later revised to \$8.2 million). However, this report did not include WHEDA's estimate of the anticipated surplus for the following year as required under s. 234.165(2)(b) and this information was, therefore, not available to the administration. WHEDA officials now project between \$7 million and \$8 million to be available for the "Dividends for Wisconsin" plan in 2005-06 and approximately \$4.2 million to be available in 2006-07, due to an expected reduction in revenue sources of the plan.

19. Given the amount of the transfers in the bill and the anticipated amounts WHEDA

now expects for its "Dividends for Wisconsin" plan in 2005-06 and 2006-07, WHEDA officials state they would likely reduce the amount of funding made available for a variety of programs and objects funded from the "Dividends" plan. In particular, WHEDA Foundation grants (which is a non-profit corporation that makes grants to other nonprofit organizations and local governments for improving housing opportunities for low- and moderate-income persons, the elderly, handicapped and disabled persons, and persons in crisis), multifamily housing programs, and funding used to offset the costs of bond issuances (thereby lowering the interest rates that WHEDA needs to charge on loans), would all likely be affected.

20. The Committee could consider reducing the amounts of the annual transfers from WHEDA's unencumbered general reserves to the state, to be 25% of the anticipated amount of funding available for the "Dividends for Wisconsin" plan, as was the administration's original intention. In this instance, the Committee could consider transferring \$1,875,000 to the state in 2005-06 (25% of \$7,500,000) and \$1,050,000 in 2006-07 (25% of \$4,200,000). However, while this would allow WHEDA to utilize additional funds for its "Dividends" plan-funded housing programs, it would decrease the amount of general fund revenues by \$2,075,000 from the amount in the bill.

21. On the other hand, revenues available for the Dividends plan can fluctuate based on such factors as economic conditions and early loan repayments. Further, WHEDA has some discretion over the level it commits from its general reserves for housing and economic development programs and for WHEDA operations. These decisions, in turn, affect the amount available for the Dividends programs. It could be argued, for example, that WHEDA could reduce administrative expenditures in order to generate a greater surplus. This would be consistent with state operations reductions made in most state agencies in each of the last several budgets. Further, WHEDA has been using reserves to pay for the costs of bond issuances, which thereby frees up additional bond revenues to be used to make mortgage loans, as the costs of bond issuances would otherwise have to be paid for by the bond revenues. Moreover, WHEDA has been increasing the amounts it pledges as security for its revenue obligations in recent years. WHEDA officials indicate this has been done to meet market demands, however, officials also indicate WHEDA's solvency and the marketability of its bonds have not declined in recent years. It could be argued that given WHEDA's options to manage its funds, the transfer amounts in the bill would not be unreasonable.

22. The bill would require WHEDA to transfer \$2.5 million in 2006-07, which, given WHEDA's estimate of \$4.2 million available for the "Dividends for Wisconsin" plan, may leave \$1.7 million for this plan. WHEDA officials indicate that reducing funding for the "Dividends" plan to this level could greatly hamper the plan, and make it difficult for the Authority to fund basic programs along with the statutorily-required programs. As a result, the Committee could consider adjusting the amounts transferred between the two years. For example, one possibility would be to require the Authority to transfer \$3 million from its unencumbered reserves to the state in 2005-06 (leaving an estimated \$4.5 million for the "Dividends" plan) and \$2 million to the state in 2006-07 (leaving at least \$2.2 million for the "Dividends" plan). This would allow WHEDA to more evenly distribute the reductions to the 2005-06 and 2006-07 "Dividends" plans.

23. WHEDA officials have expressed concerns related to the method of transferring Authority funds to the State's general fund. They argue that if Authority funds are to be transferred to the state, that they be expended in accordance with WHEDA's statutory purposes, particularly for the development and maintenance of low- to moderate-income housing.

24. The Department of Commerce utilizes a housing grants and loans appropriation that it uses to make grants and loans to low- and moderate-income persons and families to help defray housing costs. Under the bill, the housing grants and loans appropriation is appropriated \$3,300,300 GPR annually. As a result, similar to 2001 Act 109, the Committee could consider using funds that WHEDA transfers to the state's general fund to offset GPR costs faced by Commerce related to this appropriation.

25. For example, in 2001 Act 109, \$1,500,000 GPR in 2001-02 and \$3,300,300 GPR in 2002-03 was deleted from the Department of Administration's housing assistance function for housing grants and loans to low- and moderate-income families and replaced with one-time grants of the same amount from WHEDA's general fund. As a part of this funding transfer, a new PR biennial appropriation was created under DOA, and authorized corresponding spending authority for the payment of housing grants and loans, with the specification that this appropriation expire on June 30, 2003.

26. Therefore, the Committee could require WHEDA to transfer \$3 million to the state in 2005-06 and \$2 million in 2006-07, and create a new biennial appropriation in Commerce that would make grants to provide housing for low- to moderate-income individuals and families, and specify that this appropriation would be repealed on June 30, 2007. In addition, the Committee could reduce GPR expenditures from Commerce's housing grants and loans appropriation by \$3 million in 2005-06 and \$2 million in 2006-07, and require Commerce to submit a request to the Governor for GPR housing grants funding for the 2007-09 biennium as though \$3,300,300 GPR was provided as base level funding. This would have the effect of making this a one-time transfer of funds from WHEDA to the state, and would require the agency to request GPR funding for the 2007-09 biennium as though \$3,300,300 GPR was provided in 2006-07. Under Alternative #4, Commerce's housing grants and loans GPR appropriation would retain \$300,300 GPR in 2005-06 and \$1,300,300 GPR in 2006-07.

## **ALTERNATIVES**

1. Approve the Governor's recommendation to pay \$2,500,000 in 2005-06 and 2006-07 from WHEDA's "Dividends for Wisconsin" plan to the state's general fund.

2. Modify the Governor's recommendation by requiring WHEDA to transfer \$1,875,000 from its unencumbered reserves to the state in 2005-06 and \$1,050,000 in 2006-07. These amounts would be 25% of the revenue WHEDA expects to be available each year for the "Dividends for Wisconsin" plan.

<u>Alternative 2</u>	<u>GPR-REV</u>
<b>2005-07 REVENUE</b> (Change to Bill)	- \$2,075,000

3. Modify the Governor's recommendation by requiring WHEDA to transfer \$3,000,000 from its unencumbered reserves to the state in 2005-06 and \$2,000,000 in 2006-07.

4. Adopt Alternative 1, 2, or 3. However, require WHEDA to transfer the designated amount from its unencumbered reserves to the Department of Commerce and deposit these revenues to a new, biennial PR housing grants and loans appropriation. Further, repeal this appropriation on June 30, 2007. In addition, delete an equal amount of GPR from Commerce's housing grants and loans appropriation, but require Commerce to submit a request to the Governor for GPR housing grants funding for the 2007-09 biennium as though \$3,300,300 GPR was provided as base level funding.

5. Maintain current law (WHEDA would make no payment to the state general fund).

<u>Alternative 5</u>	<u>GPR-REV</u>
<b>2005-07 REVENUE</b> (Change to Bill)	- \$5,000,000

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