

CHAPTER 363—H.F.No. 3145

An act relating to bond allocations; providing for certain applications, housing pool allocations, scoring systems, deadlines, procedures, the carrying forward of bond allocations, and the review of allocations and compliance monitoring; amending Minnesota Statutes 1996, sections 462A.223, by adding subdivisions; 474A.045; 474A.061, subdivisions 1, 2a, and 6; Minnesota Statutes 1997 Supplement, section 474A.091, subdivisions 3 and 6; repealing Minnesota Statutes 1996, section 474A.061, subdivision 3.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1996, section 462A.223, is amended by adding a subdivision to read:

Subd. 3. SUBMISSION DEADLINES. In order to assist the Minnesota housing finance agency to comply with the reporting requirements of section 42 of the Internal Revenue Code of 1986, as amended, cities and counties to which low-income housing tax credits are reserved under section 462A.222, subdivision 1, shall submit required documents relating to compliance, allocation or commitment, carryover, issuance, and audit or review and shall return unused tax credits to the Minnesota housing finance agency by the deadlines established in the agency's qualified allocation plan. Cities and counties to which low-income housing tax credits are reserved under section 462A.222 that fail to meet the deadlines established by the agency for the submission of required documents relating to allocation or commitment, carryover, issuance, and allocation reporting shall pay the fees established in the agency's qualified allocation plan. Pursuant to the qualified allocation plan, the agency may waive fees imposed for failure to meet the deadlines for submission of required documents.

Sec. 2. Minnesota Statutes 1996, section 462A.223, is amended by adding a subdivision to read:

Subd. 4. REVIEW OF ALLOCATIONS, COMPLIANCE MONITORING. The agency may review the allocation and compliance monitoring processes established by a city or county to which low-income tax credits are reserved under section 462A.222, subdivision 1, and may review documentation related to the allocations made to and the compliance monitoring of projects allocated credits from a city or county to which low-income tax credits are reserved under section 462A.222, subdivision 1.

Sec. 3. Minnesota Statutes 1996, section 474A.045, is amended to read:

474A.045 SCORING SYSTEM FOR MANUFACTURING PROJECTS.

The following criteria must be used in determining the allocation of small issue bonds for manufacturing projects. The issuer must prepare and submit to the commissioner a public purpose scoring worksheet that presents the data and methods used in determining the total score under this section. The total score is the sum of the following:

- (1) the number of net direct new jobs in the state generated by the proposed project for the next two years per \$100,000 of proposed allocation multiplied by 15;
- (2) the number of direct jobs retained in the state due to the proposed project per \$100,000 of proposed allocation multiplied by 15;

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(3) the quotient of the total increase in net payroll generated in the state by the proposed project divided by the proposed bond allocation, multiplied by 100;

(4) the quotient of the estimated total net increase in property taxes generated in the state by the project in the first full year of operation divided by the proposed bond allocation, multiplied by 500; and

(5) the seasonally unadjusted unemployment rate in the community where the proposed project is located measured as a percent of the state's unemployment rate, multiplied by ten.

The community seasonally unadjusted unemployment rate used in determining the points under clause (5) must be the rate for the county in which the proposed project is located unless an accurate rate may be estimated for a smaller geographic area or census tract. The commissioner of economic security must approve the rate used when an unemployment rate other than that for a county is used.

If the manufacturing project will retain jobs and the total score includes points calculated under clause (2), the issuer must certify to the commissioner that the proceeds of the small issue bonds are required to retain those jobs. The commissioner shall submit the information relating to the retaining of jobs to the commissioner of trade and economic development. The commissioner of trade and economic development must verify that the proceeds of the small issue bonds are required to retain the jobs referred to in the certification prior to the awarding of any points under this section.

Sec. 4. Minnesota Statutes 1996, section 474A.061, subdivision 1, is amended to read:

Subdivision 1. **APPLICATION.** (a) An issuer may apply for an allocation under this section by submitting to the department an application on forms provided by the department, accompanied by (1) a preliminary resolution, (2) a statement of bond counsel that the proposed issue of obligations requires an allocation under this chapter, (3) the type of qualified bonds to be issued, (4) an application deposit in the amount of one percent of the requested allocation before the last Monday in July, or in the amount of two percent of the requested allocation on or after the last Monday in July, and (5) a public purpose scoring worksheet for manufacturing project applications, and (6) a statement from the applicant or bond counsel as to whether the project preserves existing federally subsidized housing for residential rental project applications. The issuer must pay the application deposit by a check made payable to the department of finance. The Minnesota housing finance agency, the Minnesota rural finance authority, and the Minnesota higher education services office may apply for and receive an allocation under this section without submitting an application deposit.

(b) An entitlement issuer may not apply for an allocation from the housing pool or from the public facilities pool unless it has either permanently issued bonds equal to the amount of its entitlement allocation for the current year plus any amount of bonding authority carried forward from previous years or returned for reallocation all of its unused entitlement allocation. For purposes of this subdivision, its entitlement allocation includes an amount obtained under section 474A.04, subdivision 6. This paragraph does not apply to an application from the Minnesota housing finance agency for an allocation under subdivision 2a for cities who choose to have the agency issue bonds on their behalf.

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(c) If an application is rejected under this section, the commissioner must notify the applicant and return the application deposit to the applicant within 30 days unless the applicant requests in writing that the application be resubmitted. The granting of an allocation of bonding authority under this section must be evidenced by a certificate of allocation.

Sec. 5. Minnesota Statutes 1996, section 474A.061, subdivision 2a, is amended to read:

Subd. 2a. **HOUSING POOL ALLOCATION.** (a) On the first business day that falls on a Monday of the calendar year and the first Monday in February, the commissioner shall allocate available bonding authority in the housing pool to applications received by the Monday of the previous week for residential rental projects that are not restricted to persons who are 55 years of age or older and that meet the eligibility criteria under section 474A.047, except that allocations may be made to projects that are restricted to persons who are 55 years of age or older, if the project preserves existing federally subsidized housing. Projects that preserve existing federally subsidized housing shall be allocated available bonding authority in the housing pool for residential rental projects prior to the allocation of available bonding authority to other eligible residential rental projects. If an issuer that receives an allocation under this paragraph does not issue obligations equal to all or a portion of the allocation received within 120 days of the allocation or returns the allocation to the commissioner, the amount of the allocation is canceled and returned for reallocation through the housing pool.

(b) After February 1, and through February 15, the Minnesota housing finance agency may accept applications from cities for single-family housing programs which meet program requirements as follows:

(1) the housing program must meet a locally identified housing need and be economically viable;

(2) the adjusted income of home buyers may not exceed the greater of the agency's income limits or 80 percent of the area median income as published by the Department of Housing and Urban Development;

(3) house price limits may not exceed:

(i) the greater of agency house price limits or the federal price limits for housing up to a maximum of \$95,000; ~~or~~

(ii) for a new construction affordability initiative, the greater of 115 percent of agency house price limits or 90 percent of the median purchase price in the city for which the bonds are to be sold up to a maximum of \$95,000;

(iii) for new construction housing affordability initiatives located in the metropolitan area, as defined by section 473.121, subdivision 2, the lesser of the federal price limits or the amount determined by the metropolitan council as the maximum affordable house price under the Metropolitan Livable Communities Act. New construction housing affordability initiatives in the metropolitan area must meet one or more of the following criteria:

(A) the initiative provides financial resources unrelated to the costs of completion of the mortgage revenue bond sale to reduce the cost of the housing or to improve the terms

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of the mortgage loans provided through the bond sale. A financial contribution must be equal to or exceeding ten percent of the purchase price of each newly constructed home to be financed;

(B) the initiative provides that the local unit of government in the jurisdiction in which the housing is to be constructed takes affirmative steps to change local regulations in order to improve housing affordability. The steps must demonstrably reduce the cost of the housing by at least ten percent. The financial contribution and the affirmative steps to change regulation may be combined to meet the ten percent requirement; or

(C) the initiative supports the efforts of housing groups that support self-help or owner-built housing initiatives in which at least 15 percent of the labor or materials or both needed to complete the new housing is acquired or donated through the efforts of such groups; or

(iv) for a community revitalization initiative for existing housing in the metropolitan area, as defined by section 473.121, subdivision 2, the federal price limits for existing housing, provided the community revitalization initiative meets the following criteria:

(A) the community revitalization initiative is targeted to a specific geographic area within the community which is less than the entire community;

(B) the community revitalization initiative is located in a community in which the most recently available data establishes that the median purchase price for an existing home in the community exceeds the agency house price limits; and

(C) the community revitalization initiative provides financial resources unrelated to the costs of completion of the mortgage revenue bond sale to reduce the cost of the housing or to improve the terms of the mortgage loans provided through the bond sale. A financial contribution must be equal to or exceeding ten percent of the purchase price of each existing home to be financed.

Data establishing the median purchase price in the city must be included in the application by a city requesting house price limits higher than the housing finance agency's house price limits; and

(4) an application deposit equal to one percent of the requested allocation must be submitted before the agency forwards the list specifying the amounts allocated to the commissioner under paragraph (c). The agency shall submit the city's application and application deposit to the commissioner when requesting an allocation from the housing pool.

Applications by a consortium shall include the name of each member of the consortium and the amount of allocation requested by each member.

The Minnesota housing finance agency may accept applications from June 15 through June 30 from cities for single-family housing programs which meet program requirements specified under clauses (1) to (4) if bonding authority is available in the housing pool. Applications will be accepted from June 15 to June 30 only from cities that received an allotment in the same calendar year and used at least 75 percent of their allotment by June 1. Allocations will be made loan by loan, on a first come, first served basis among applicant cities. The agency must allot available bonding authority. For purposes of paragraphs (a) to (g), "city" means a county or a consortium of local government units

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that agree through a joint powers agreement to apply together for single-family housing programs, and has the meaning given it in section 462C.02, subdivision 6. "Agency" means the Minnesota housing finance agency.

(c) The total amount of allocation for mortgage bonds for one city is limited to the lesser of: (i) the amount requested, or (ii) the product of the total amount available for mortgage bonds from the housing pool, multiplied by the ratio of each applicant's population as determined by the most recent estimate of the city's population released by the state demographer's office to the total of all the applicants' population, except that each applicant shall be allocated a minimum of \$100,000 regardless of the amount requested or the amount determined under the formula in clause (ii). If a city applying for an allocation is located within a county that has also applied for an allocation, the city's population will be deducted from the county's population in calculating the amount of allocations under this paragraph.

Upon determining the amount of each applicant's allocation, the agency shall forward a list specifying the amounts allotted to each application and application deposit checks to the commissioner.

(d) The agency may issue bonds on behalf of participating cities. The agency shall request an allocation from the commissioner for all applicants who choose to have the agency issue bonds on their behalf and the commissioner shall allocate the requested amount to the agency. The agency may request an allocation at any time after the first Monday in February and through the last Monday in July, but may request an allocation no later than the last Monday in July. The commissioner shall return any application deposit to a city that paid an application deposit under paragraph (b), clause (4), but was not part of the list forwarded to the commissioner under paragraph (c).

(e) A city may choose to issue bonds on its own behalf or through a joint powers agreement or may use bonding authority for mortgage credit certificates and may request an allocation from the commissioner. If the total amount requested by all applicants exceeds the amount available in the pool, the city may not receive a greater allocation than the amount it would have received under the list forwarded by the Minnesota housing finance agency to the commissioner. No city may request or receive an allocation from the commissioner until the list under paragraph (c) has been forwarded to the commissioner. A city must request an allocation from the commissioner no later than 14 days before the unified pool is created pursuant to section 474A.091, subdivision 1. On and after the first Monday in February and through the last Monday in July, no city may receive an allocation from the housing pool which has not first applied to the Minnesota housing finance agency. The commissioner shall allocate the requested amount to the city or cities subject to the limitations under this paragraph.

If a city issues mortgage bonds from an allocation received under this paragraph, the issuer must provide for the recycling of funds into new loans. If the issuer is not able to provide for recycling, the issuer must notify the commissioner in writing of the reason that recycling was not possible and the reason the issuer elected not to have the Minnesota housing finance agency issue the bonds. "Recycling" means the use of money generated from the repayment and prepayment of loans for further eligible loans or for the redemption of bonds and the issuance of current refunding bonds.

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(f) No entitlement city or county or city in an entitlement county may apply for or be allocated authority to issue bonds or use mortgage credit certificates from the housing pool.

(g) A city that does not use at least 50 percent of their allotment by the date applications are due for the first allocation that is made from the housing pool for single-family housing programs in the immediately succeeding calendar year may not apply to the housing pool for a single-family mortgage bond or mortgage credit certificate program allocation or receive an allotment from the housing pool in the succeeding two calendar years. Each local government unit in a consortium must meet the requirements of this paragraph.

Sec. 6. Minnesota Statutes 1996, section 474A.061, subdivision 6, is amended to read:

Subd. 6. **DEADLINE FOR ISSUANCE OF SMALL ISSUE QUALIFIED BONDS.** If an issuer fails to notify the department before the last Monday in December of issuance of obligations pursuant to an allocation received for a small issue any qualified bond project, the allocation is canceled and the bonding authority is allocated to the department of finance for reallocation under section 474A.091, subdivision 6.

Sec. 7. Minnesota Statutes 1997 Supplement, section 474A.091, subdivision 3, is amended to read:

Subd. 3. **ALLOCATION PROCEDURE.** (a) The commissioner shall allocate available bonding authority under this section on the Monday of every other week beginning with the first Monday in August through and on the last Monday in November. Applications for allocations must be received by the department by the Monday preceding the Monday on which allocations are to be made. If a Monday falls on a holiday, the allocation will be made or the applications must be received by the next business day after the holiday.

(b) On or before September 1, allocations shall be awarded from the unified pool in the following order of priority:

- (1) applications for enterprise zone facility bonds;
- (2) applications for small issue bonds for manufacturing projects;
- (3) applications for small issue bonds for agricultural development bond loan projects;
- (4) applications for residential rental project bonds;
- (4) (5) applications for public facility projects funded by public facility bonds;
- (5) (6) applications for redevelopment bonds;
- (6) (7) applications for mortgage bonds; and
- (7) (8) applications for governmental bonds.

Allocations for residential rental projects may only be made during the first allocation in August. The amount of allocation provided to an issuer for a specific manufacturing project will be based on the number of points received for the proposed project under

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the scoring system under section 474A.045. Proposed manufacturing projects that receive 50 points or more are eligible for all of the proposed allocation. Proposed manufacturing projects that receive less than 50 points under section 474A.045 are only eligible to receive a proportionally reduced share of the proposed authority, based upon the number of points received. If there are two or more applications for manufacturing projects from the unified pool and there is insufficient bonding authority to provide allocations for all manufacturing projects in any one allocation period, the available bonding authority shall be awarded based on the number of points awarded a project under section 474A.045 with those projects receiving the greatest number of points receiving allocation first. If two or more applications receive an equal amount of points, available bonding authority shall be awarded by lot unless otherwise agreed to by the respective issuers.

(c)(1) From the first Monday in August through the last Monday in November, \$20,000,000 of bonding authority or an amount equal to the total annual amount of bonding authority allocated to the small issue pool under section 474A.03, subdivision 1, less the amount allocated to issuers from the small issue pool for that year, whichever is less, is reserved within the unified pool for small issue bonds to the extent such amounts are available within the unified pool. On the first Monday in September through the last Monday in November, \$2,500,000 of bonding authority or an amount equal to the total annual amount of bonding authority allocated to the public facilities pool under section 474A.03, subdivision 1, less the amount allocated to issuers from the public facilities pool for that year, whichever is less, is reserved within the unified pool for public facility bonds to the extent such amounts are available within the unified pool.

(2) The total amount of allocations for mortgage bonds from the housing pool and the unified pool may not exceed:

- (i) \$10,000,000 for any one city; or
- (ii) \$20,000,000 for any number of cities in any one county.

An allocation for mortgage bonds may be used for mortgage credit certificates.

(d) After September 1, allocations shall be awarded from the unified pool only for the following types of qualified bonds: small issue bonds, public facility bonds to finance publicly owned facility projects, residential rental project bonds, and enterprise zone facility bonds.

If there is insufficient bonding authority to fund all projects within any qualified bond category, allocations shall be awarded by lot unless otherwise agreed to by the respective issuers. If an application is rejected, the commissioner must notify the applicant and return the application deposit to the applicant within 30 days unless the applicant requests in writing that the application be resubmitted. The granting of an allocation of bonding authority under this section must be evidenced by issuance of a certificate of allocation.

Sec. 8. Minnesota Statutes 1997 Supplement, section 474A.091, subdivision 6, is amended to read:

Subd. 6. **FINAL ALLOCATION; CARRYFORWARD.** Any bonding authority remaining unissued by the Minnesota housing finance agency after the last Monday in December shall be carried forward into the next calendar year by the Minnesota housing finance agency in accordance with section 474A.131, subdivision 2.

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Sec. 9. REPEALER.

Minnesota Statutes 1996, section 474A.061, subdivision 3, is repealed.

Presented to the governor April 3, 1998

Signed by the governor April 6, 1998, 3:05 p.m.

CHAPTER 364—S.F.No. 2274

An act relating to liquor; regulating beer brewers and wholesalers; providing for the obligations of successors; allowing the commissioner of public safety to issue on-sale licenses to Giants Ridge and Ironworld Discovery Center; modifying restrictions for temporary on-sale licenses; authorizing issuance of temporary on-sale licenses to state universities; regulating malt liquor sampling; authorizing certain cities to issue additional on-sale licenses; amending Minnesota Statutes 1996, sections 325B.01; 325B.14; 340A.404, subdivision 10, and by adding a subdivision; 340A.410, subdivision 10; 340A.412, subdivision 4; and 340A.510, subdivision 2; Laws 1994, chapter 611, section 32, as amended.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1996, section 325B.01, is amended to read:

325B.01 DEFINITIONS.

Subdivision 1. As used in sections 325B.01 to 325B.17 and unless otherwise required by the context, the terms defined in this section have the meanings given them.

Subd. 2. "Agreement" means one or more of the following:

(a) A commercial relationship between a licensed beer wholesaler and a licensed brewer of a definite or indefinite duration, which is not required to be evidenced in writing;

(b) A relationship whereby the beer wholesaler is granted the right to offer and sell a brand or brands of beer offered by a brewer;

(c) A relationship whereby the beer wholesaler, as an independent business, constitutes a component of a brewer's distribution system;

(d) A relationship whereby the beer wholesaler's business is substantially associated with a brewer's brand or brands, designating the brewer;

(e) A relationship whereby the beer wholesaler's business is substantially reliant on a brewer for the continued supply of beer;

(f) A written or oral arrangement for a definite or indefinite period whereby a brewer grants to a beer wholesaler a license to use a brand, trade name, trademark, or service mark, and in which there is a community of interest in the marketing of goods or services at wholesale or retail.

Subd. 3. "Beer wholesaler" shall mean any licensed person importing or causing to be imported into this state or purchasing or causing to be purchased within this state, any

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