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October 31, 2019

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Wisconsin Housing and Economic Development Authority: 2019-20 Dividends for Wisconsin Plan -- Agenda Item VII

On August 21, 2019, the Wisconsin Housing and Economic Development Authority (WHEDA) Board voted unanimously to submit to the Governor the Authority's annual plan for encumbering its surplus reserves pursuant to s. 234.165 of the statutes. The plan lays out how 2018-19 fiscal year surplus funds are to be allocated in the following year to WHEDA programs for single- and multifamily housing, economic development, emergency and transitional housing grants, and Authority operations. WHEDA's surplus reserves as of June 30, 2019, totaled $16,721,900.

On September 27, 2019, the Governor submitted the plan to the presiding officers of the Assembly and Senate. On October 7, 2019, the Speaker of the Assembly referred the plan to the Assembly Committee on Housing and Real Estate. The statutes allow a standing committee 30 days to review the plan, and a committee may do either of the following: (a) request a meeting with the Authority to review the plan; or (b) object to a plan. The plan is approved if no standing committee objects within its review period.

On October 24, 2019, by a vote of 5 to 3, the Assembly Committee on Housing and Real Estate objected to the plan. By statute, if a standing committee objects to the surplus plan, the parts of the plan subject to the objection are referred to the Joint Committee on Finance. The Committee is then required to convene in executive session within 30 days of the referral by the standing committee to consider action on the plan. On October 25, 2019, the Assembly Committee on Housing and Real Estate referred the WHEDA surplus plan to the Committee.

BACKGROUND

WHEDA Surplus Reserves

Originally created in 1972 as the Wisconsin Housing Finance Authority, WHEDA's primary mission is to provide affordable housing for low- to moderate-income households in Wisconsin. The Wisconsin Constitution prohibits the state from issuing public debt for private purposes and "internal improvements," interpreted by the Wisconsin Supreme Court to include private housing. Thus, WHEDA was created as an independent authority so that it could issue bonds to support development of housing in the state. While WHEDA is an independent authority whose bonds the state does not have an enforceable legal obligation to honor in the event of default, the Legislature has created in statute a declaration of moral obligation to support certain WHEDA debt should the Authority ever be in default.

Because WHEDA exists as an independent authority, it has received funding from state appropriations only in rare circumstances, such as at the Authority's inception, and at the creation of certain programs. The Authority's primary sources of program funding have been proceeds from the issuance of taxable and tax-exempt bonds and notes, and funds in excess of required reserves. In general, the Authority's assets derive from income receivable on outstanding loans, including interest and fee income from its programs, and its liabilities derive from debt incurred on the sale of bonds and notes used to finance its programs.

WHEDA is required by statute to maintain an unencumbered general reserve fund, also referred to as a surplus fund, within its general fund, consisting of any Authority assets in excess of operating costs and required reserves. By statute, surplus reserves include assets of the Authority that are not needed: (a) to pay the cost of issuance of bonds or notes; (b) to make financially feasible loans to economic development and housing projects receiving proceeds from bond or note issues; or (c) to honor agreements with bondholders and noteholders. WHEDA is required to report its general fund's surplus amount annually to the Governor and Legislature. (It should be noted that WHEDA also administers certain economic development loan guarantees created by statute, although these programs and their reserves are administered separately from WHEDA's general reserves.)

Table 1 shows the Authority's financial position each of the last two fiscal years as of June 30. The Authority completed the 2018-19 fiscal year with assets and reserves exceeding liabilities by approximately $845 million. Of that balance, approximately $579 million was restricted for bond redemption funds and for programs for which the source of funding is outside the Authority. Restricted funds may only be used for permitted investments and permitted disbursements such as payment or repayment of principal, bond interest, and program expenses.

The $266 million difference between total and restricted reserves represents the Authority's general reserve fund. The statutes require WHEDA to establish a general reserve fund but provide discretion as to how certain assets of the fund are used. WHEDA encumbered $204 million as of June 30, 2019, for targeted single-family and multifamily housing programs, and economic development programs. An additional $45 million as of June 30, 2019, had been encumbered for

WHEDA operations. The 2019-20 plan lists and describes the allocations of WHEDA's unencumbered general reserves to be used in the 2019-20 fiscal year.

TABLE 1

WHEDA Combined Balance Sheet, 2018 and 2019 (June 30)

	2018	2019
Total restricted and unrestricted reserves	$758,387,000	$845,452,000
Restricted reserves for bond resolutions and other funds	- 509,219,600	- 579,343,000
General reserve fund balance	$249,167,400	$266,109,000
Other housing and economic development encumbrances	- 175,090,500	- 203,903,100
Less encumbered for WHEDA operations	- 44,658,900	- 45,484,000
Unencumbered general reserves ("Surplus" to Dividends for Wisconsin plan)	$29,418,100	$16,721,900

It should be noted a number of the housing and economic development program encumbrances are revolving loan funds that have portions of the reported encumbrance loaned out as principal. In these instances, the principal would be expected to return as loans mature, so the overall encumbrance is not diminished. However, while a particular encumbrance listed in the report may appear to grow in any year or over several years, that total encumbrance may not necessarily be immediately available to WHEDA for commitment.

WHEDA Dividends for Wisconsin Plan

Annually, WHEDA develops a plan for use of its surplus funds entitled "Dividends for Wisconsin." WHEDA's chairperson submits this plan to the Governor, who may modify it. The Governor must submit the plan to the Legislature and relevant standing committees in each house for review. If no standing committee objects to the plan, it is approved. If an objection is raised, it is referred to the Joint Committee on Finance, which is required to meet in executive session within 30 days to consider the objection.

Pursuant to 234.165(2)(b)6 of the statutes, the Joint Committee on Finance has several options for action on the Dividends plan. It may: (a) concur in the standing committee objections; (b) approve the plan submitted by the Governor, notwithstanding standing committee objections; (c) approve modifications to the plan, if the standing committee modified all or part of the plan; or (d) modify the portions of the plan objected to by the standing committee. The statutes provide that the Committee may make "modifications to the parts referred to it which are approved by the Governor." Thus, any modifications made to this plan would require approval of the Governor. Any whole or partial veto to s. 13.10 minutes associated with modifications made to the Dividends plan could be construed as disapproval, regardless of any subsequent veto override by the Committee. Additionally, although the Committee must meet in executive session within 30 days of standing committee referral, the Committee may take action any time after a referral.

The Legislature has not commonly exercised the statutory process for objecting to and amending a WHEDA Dividends plan. In 1984, the Legislature and Governor agreed to changes to a Dividends plan, but it is not clear any other objections or legislative modifications have occurred since the Dividends process was enacted in Chapter 349, Laws of 1981 (1981 Act 349). In objecting to the Dividends plan, the Assembly Committee on Housing and Real Estate did not recommend any specific modifications. In its motion of objection, the Committee noted Categories IV and V, related to housing grants or services, and Authority operations, respectively, gave insufficient consideration to rural worker housing.

ANALYSIS

Table 2 shows the annual surplus as of each June 30 for the last 15 years. Surpluses over the period total $130.3 million. The surplus for each of the last two fiscal years has been unusually high, and accounts for approximately 35% of the 15-year period. WHEDA has identified the June 30, 2019, surplus as primarily resulting from: (a) revenues from single-family housing programs, including additional interest proceeds from purchasing a portfolio of veterans housing loans from the Department of Veterans Affairs; and (b) income from the state low-income housing tax credit, which was created under 2017 Wisconsin Act 176 and has made two rounds of awards. Also, the larger amount in 2017-18 primarily reflects WHEDA's sale of its Madison office building to DOA, generating approximately $19 million, or 65% of that year's surplus revenues.

TABLE 2

WHEDA Surplus Funds, 2005-06 to 2019-20

Plan Year	Amount
2005-06	$8,066,300
2006-07	7,757,300
2007-08	5,627,600
2008-09	8,000,400
2009-10	3,453,000
2010-11	4,405,500
2011-12	14,316,100
2012-13	8,887,000
2013-14	1,352,900
2014-15	7,375,900
2015-16	3,694,000
2016-17	5,291,500
2017-18	5,943,200
2018-19	29,419,100
2019-20	16,721,900

Note: Amount reflects WHEDA surplus as of the close of the preceding June 30. The amount would be available for WHEDA expenditure or encumbrance in the fiscal year indicated.

Dividends plans allocate funding among the following categories: (a) single-family homeownership programs; (b) multifamily housing programs; (c) economic development programs; (d) services and grants, including grants for emergency and transitional housing typically provided to local governments and nonprofit organizations; and (e) WHEDA operations. Each Dividends plan is subject to public hearings and comment periods to solicit input for the programs or policy issues most worthy of receiving allocations under each plan. Each Dividends plan also typically describes the program needs identified prior to the plan's submittal for WHEDA Board review, as well as the goals WHEDA management and staff are attempting to achieve through implementation of the plan.

The attachment shows the allocations for each Dividends category for each plan year since 2005-06. Allocations of surplus funds to given funding categories have varied considerably from year to year. For instance, of the $14.3 million available as of June 30, 2011, and allocated for use in the 2011-12 fiscal year, WHEDA identified economic development financing as a primary need in the state, and subsequently allocated $12 million to new economic development lending programs. In certain other years, the Dividends plan has allocated significant portions of available funding to single-family and multifamily housing programs. WHEDA historically has made certain transfers from its unencumbered reserves to state agencies or the general fund, totaling $22.6 million since 2001-02. These transfers have been required under budget or budget adjustment legislation. However, no transfers have been made since 2012-13.

Table 3 shows the average percentage of funding assigned to each year's Dividends categories since 2005-06 as compared to the funding proposed under the 2019-20 plan. While allocations for single-family homeownership, multifamily housing programs, and housing grants and services do not significantly differ from average allocations, amounts proposed for Authority operations are relatively higher and amounts proposed for economic development programs are relatively lower. WHEDA reports that recently increased encumbrances for Authority operations are due to: (a) planned upgrades in information technology that had been deferred in the aftermath of the 2008 recession; and (b) additional cash financing for a new WHEDA headquarters, intended to reduce the use of bonding or other debt financing to acquire or construct a new facility. It is expected that any cash financing of WHEDA's new headquarters building would reduce future debt service costs, resulting in savings that would be included in future Dividends plans.

TABLE 3

Allocation of WHEDA Surplus Funds by Category

Dividends Category	Avg. Percentage Since 2005-06	2019-20 Percentage
Single-Family Homeownership	21.5%	23.9%
Multifamily Housing	25.1	29.9
Small Business and Economic Development	24.1	6.0
Housing Grants and Services	15.5	20.9
Authority Operations	3.6	19.3
State Transfers	10.2	0.0

Modifications the Legislature could consider making to WHEDA's Dividends plan could take several forms, including: (a) reallocating funding among different categories of the plan, as similar to modifications that were made to the 1984-85 plan; (b) reducing funding within certain categories and setting aside the proceeds for allocation in future Dividends plans, which may have the effect of smoothing an unusually large surplus into future allocations; or (c) transferring funding from WHEDA's programs to the state general fund or other state programs, as last occurred in 2012-13.

It should be noted that while certain budget legislation has occasionally required WHEDA to transfer funds to state programs or the general fund, WHEDA staff argue that regardless of the Authority's fund sufficiency, state-mandated transfers can be looked upon unfavorably by bond rating agencies as being contrary to WHEDA's general operational autonomy. WHEDA staff contend that transfers can make WHEDA reserves appear increasingly susceptible to further diversions, which ratings agencies may view as a risk to an entity being able to fulfill its obligations to creditors. An unfavorable outlook on WHEDA debt issuances would tend to increase its cost of borrowing, with those costs being passed on to WHEDA program participants and partnering financial institutions. However, it is not clear how much legislatively directed transfers would negatively impact WHEDA credit ratings, or the Authority's costs of financing relative to other market factors.

Given that the 2019-20 Dividends plan was approved unanimously by the WHEDA Board, the Committee could consider approving the 2019-20 plan, notwithstanding the objections of the Assembly Committee on Housing and Real Estate (Alternative 1). While the statutes require the Committee to consider the objection under executive session within 30 days, they do not require it to take action to modify the plan within that period. Thus, the Committee could also take no action, and consider modifications to the plan at a later date (Alternative 2).

ALTERNATIVES

1. Approve the 2019-20 Dividends for Wisconsin plan, as submitted by the Governor to the Legislature on October 7, 2019, notwithstanding the objections of the Assembly Committee on Housing and Real Estate.

2. Take no action. (The statutes allow the Committee to take action at a later date.)

Prepared by: Paul Ferguson and Rory Tikalsky
Attachment

ATTACHMENT

WHEDA Dividends for Wisconsin Plan Summary, 2005-06 to 2019-20

	Single Family		Multifamily		Economic Development		Grants/Services		Authority Operations		State Transfer		
Plan Year	Amount	Percentage	Amount	Percentage	Amount	Percentage	Amount	Percentage	Amount	Percentage	Amount	Percentage	Total
2019-20	$4,000,000	23.9%	$5,000,000	29.9%	$1,000,000	6.0%	$3,500,000	20.9%	$3,221,900	19.3%	$0	0.0%	$16,721,900
2018-19	2,000,000	6.8	15,800,000	53.7	7,000,000	23.8	3,119,100	10.6	1,500,000	5.1	0	0.0	29,419,100
2017-18	3,500,000	58.9	1,000,000	16.8	250,000	4.2	1,193,200	20.1	0	0.0	0	0.0	5,943,200
2016-17	2,500,000	47.2	1,800,000	34.0	0	0.0	991,500	18.7	0	0.0	0	0.0	5,291,500
2015-16	1,000,000	27.1	1,000,000	27.1	844,000	22.8	850,000	23.0	0	0.0	0	0.0	3,694,000
2014-15	2,000,000	27.1	1,000,000	13.6	3,675,900	49.8	700,000	9.5	0	0.0	0	0.0	7,375,900
2013-14	0	0.0	0	0.0	1,102,900	81.5	250,000	18.5	0	0.0	0	0.0	1,352,900
2012-13	387,000	4.4	2,400,000	27.0	4,100,000	46.1	1,100,000	12.4	0	0.0	900,000	10.1	8,887,000
2011-12	-	0.0	-	0.0	12,000,000	83.8	1,416,100	9.9	0	0.0	900,000	6.3	14,316,100
2010-11	2,755,500	62.5	700,000	15.9	-	0.0	725,000	16.5	0	0.0	225,000	5.1	4,405,500
2009-10	1,850,000	53.6	500,000	14.5	75,000	2.2	803,000	23.3	0	0.0	225,000	6.5	3,453,000
2008-09	1,900,000	23.7	1,500,000	18.7	150,000	1.9	1,450,400	18.1	0	0.0	3,000,000	37.5	8,000,400
2007-08	800,000	14.2	500,000	8.9	200,000	3.6	1,102,600	19.6	0	0.0	3,025,000	53.8	5,627,600
2006-07	2,675,000	34.5	1,000,000	12.9	500,000	6.4	1,582,300	20.4	0	0.0	2,000,000	25.8	7,757,300
2005-06	2,675,000	33.2	500,000	6.2	500,000	6.2	1,391,300	17.2	0	0.0	3,000,000	37.2	8,066,300
Totals	$28,042,500	21.5%	$32,700,000	25.1%	$31,397,800	24.1%	$20,174,500	15.5%	$4,721,900	3.6%	$13,275,000	10.2%	$130,311,700
Averages	$1,869,500	21.5%	$2,180,000	25.1%	$2,093,187	24.1%	$1,344,967	15.5%	$314,793	3.6%	$885,000	10.2%	$8,687,447