

which corresponds to the employer's reduced percentage of excess rank without adjusting the total taxable wages in each rank and without reranking employers in the rate table.

Sec. 2. This Act takes effect on the first computation date after this Act's enactment on which the unemployment compensation fund's balance is positive. However, this Act is null and void from its effective date if the final decision of the United States Department of Labor holds that this Act places Iowa's unemployment compensation law out of conformity with federal law.

Approved May 30, 1985

CHAPTER 225

BONDS

S.F. 449

AN ACT relating to bonding by amending the definition of small business for purposes of the Iowa housing finance authority's program for which bonds may be issued, by removing the limits on the amount of bonds and notes of the Iowa housing finance authority that may be outstanding or used for certain programs, and by providing for allocation of the state ceiling on private activity bonds for tax exempt purposes and making the provisions effective upon publication.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 220.1, subsection 28, unnumbered paragraph 1, Code 1985, is amended to read as follows:

"Small business" means a profit or nonprofit business entity organized for profit, including but not limited to an individual, partnership, corporation, joint venture, association or cooperative, to which the following apply:

Sec. 2. Section 220.26, subsections 1 and 3, Code 1985, are amended to read as follows:

1. The authority may issue its negotiable bonds and notes in principal amounts as, in the opinion of the authority, are necessary to provide sufficient funds for achievement of its corporate purposes, the payment of interest on its bonds and notes, the establishment of reserves to secure its bonds and notes, and all other expenditures of the authority incident to and necessary or convenient to carry out its purposes and powers. ~~However, the authority shall not have a total principal amount of bonds and notes outstanding at any time in excess of six hundred fifty million dollars plus a total of fifty million dollars for property improvement loans to finance solar and other renewable energy systems in housing as authorized by section 220.37 and to finance loans to provide solar and other renewable energy systems for and to increase the energy efficiency of small businesses under the Iowa small business loan program. Two hundred fifty million dollars of the total principal amount of bonds and notes may be issued pursuant to the small business loan program. The bonds and notes shall be deemed to be investment securities and negotiable instruments within the meaning of and for all purposes of the uniform commercial code.~~

3. The maximum amount of bonds and notes issued by the authority which may be outstanding at any time shall be set by statute. Bonds and notes must be authorized by a resolution of the authority. However, a resolution authorizing the issuance of bonds or notes may delegate to an officer of the authority the power to negotiate and fix the details of an issue of bonds or notes by an appropriate certificate of the authorized officer.

Sec. 3. NEW SECTION. 7C.1 SHORT TITLE.

This chapter shall be known and may be cited as the "Private Activity Bond Allocation Act."

Sec. 4. NEW SECTION. 7C.2 DECLARATION OF INTENT.

It is the intention of the general assembly in enacting this chapter to:

1. Implement Act section 621 of the Deficit Reduction Act of 1984, Pub. L. No. 98-369, by providing a different formula for allocating the state ceiling among the various governmental units which are authorized to issue private activity bonds under the laws of this state.

2. Maximize the availability of the state ceiling to the issuers of private activity bonds within the state and thereby maximize the economic benefit to the citizens of the state from the issuance of private activity bonds.

Sec. 5. NEW SECTION. 7C.3 DEFINITIONS.

For the purposes of this chapter, unless the context otherwise requires:

1. "Internal Revenue Code of 1954" means the Internal Revenue Code of 1954 as has been and may from time to time be amended.

2. "State ceiling" means the same as defined in section 103(n) of the Internal Revenue Code of 1954.

3. "Bond" or "private activity bond" means a private activity bond as defined in section 103(n) of the Internal Revenue Code of 1954.

4. "Issuer" means a city or county within the state or a not-for-profit corporation, agency, authority or other entity acting on behalf of a city, county, or the state which is authorized under the laws of the state to issue private activity bonds.

5. "Carryforward project" means carryforward project as defined in section 103(n) of the Internal Revenue Code of 1954.

6. "Allocation" means that portion of the state ceiling which is allocated and certified to an issuer by the governor's designee pursuant to section 7C.7 with respect to an issue of bonds for a specific project or purpose.

7. "Governor's designee" means the person, agency, or authority designated by the governor to administer this chapter.

Sec. 6. NEW SECTION. 7C.4 MAXIMUM AMOUNT OF BONDS.

The aggregate principal amount of bonds which may be issued by all issuers during a calendar year shall not exceed the state ceiling for that calendar year, except as provided in section 7C.8.

Sec. 7. NEW SECTION. 7C.5 FORMULA FOR ALLOCATION.

The state ceiling shall be allocated among all issuers on the basis of the chronological order of receipt by the governor's designee of the applications described in section 7C.6.

Sec. 8. NEW SECTION. 7C.6 APPLICATION FOR ALLOCATION.

An issuer which proposes to issue bonds for a particular project or purpose must make an application, which application may be made by the beneficiary of the project or purpose or by a person acting on behalf of the beneficiary, for an allocation of a portion of the state ceiling, prior to the issuance of the bonds, by submitting an application to the governor's designee, in the form prescribed by the governor's designee, which contains, where appropriate, the following information:

1. Name and mailing address of the issuer.
2. Name of the chief elected executive officer of the issuer.
3. Name or description and location by mailing address or other definitive description of the project for which the allocation is requested.
4. Name and mailing address of both the initial owner, beneficiary, or operator of the project and an appropriate person from whom information regarding the project or purpose can be obtained.
5. Date of adoption by the governing body of the issuer of an inducement or other preliminary resolution for the purpose of taking "official action" as required by the United States treasury regulations promulgated under section 103 of the Internal Revenue Code of 1954, if the bonds require the taking of "official action" under the Internal Revenue Code of 1954.
6. Amount of the state ceiling which the issuer is requesting be allocated to the bonds.
7. Other information which the governor's designee deems reasonably required to carry out the purposes of this chapter.

Sec. 9. NEW SECTION. 7C.7 CERTIFICATION OF ALLOCATION.

Upon the receipt of a completed application, the governor's designee shall promptly certify to the issuer the amount of the state ceiling allocated to the bonds for the purpose or project with respect to which the application was submitted. The allocation shall remain valid for ninety days from the date the allocation is certified, subject to the following conditions:

1. If the bonds are issued and delivered for the purpose or project within the ninety-day period, the issuer or the issuer's attorney shall within ten days following the issuance and delivery of the bonds notify the governor's designee, in such form or manner as the governor's designee may prescribe, of the date of issuance and the delivery of the bonds, and the actual principal amount of bonds issued and delivered. If the actual principal amount of bonds issued and delivered is less than the amount of the allocation, the amount of the allocation is automatically reduced to the actual principal amount of the bonds issued and delivered.

2. If the issuer does not reasonably expect to issue and deliver the bonds within the ninety-day period and evidence of an executed, valid and binding agreement to purchase the bonds is obtained from an entity with the legal ability to purchase and this agreement is filed with the governor's designee, the ninety-day allocation period is automatically extended for an additional thirty days. The allocation period shall not be extended beyond that additional thirty days.

3. The allocation is no longer valid after December 31 of the calendar year in which it is certified, except as provided in section 7C.8.

Sec. 10. NEW SECTION. 7C.8 STATE CEILING CARRYFORWARDS.

It is the intention of the general assembly that the maximum use be made of all carryforward provisions in section 103(n) of the Internal Revenue Code of 1954. Therefore, if the aggregate principal amount of bonds issued by all issuers in a calendar year is less than the state ceiling for that calendar year, an issuer may apply to the governor's designee for an allocation of a specified portion of the excess state ceiling to be applied to a specified carryforward project. The governor's designee shall determine the time and manner in which applications for an allocation of excess state ceiling shall be made. However, the procedures for applications shall comply with the carryforward provisions of section 103(n) of the Internal Revenue Code of 1954 and regulations promulgated under that section.

Sec. 11. NEW SECTION. 7C.9 NONBUSINESS DAYS.

If the expiration date of either the ninety-day period or the thirty-day extension period described in subsection 1 or 2 of section 7C.7 is a Saturday, Sunday or any day on which the offices of the state, banking institutions or savings and loan associations in the state are authorized or required to close, the expiration date is extended to the first day thereafter which is not a Saturday, Sunday or other previously described day.

Sec. 12. NEW SECTION. 7C.10 RESUBMISSION OF EXPIRED ALLOCATIONS.

If an allocation becomes no longer valid as provided in section 7C.7, the issuer may resubmit its application for the same project or purpose. The resubmitted application shall be treated as a new application and preference, priority, or prejudice shall not be given to the application or the issuer as a result of the prior application.

Sec. 13. NEW SECTION. 7C.11 PRIORITY ALLOCATIONS.

The governor's designee shall give priority in the allocation of the state ceiling to a project for which there was an inducement resolution or other comparable preliminary approval by an issuer before October 19, 1983, and which otherwise qualifies for priority under Act section 631(a)(3) of the Deficit Reduction Act of 1984, Pub. L. No. 98-369.

Sec. 14. NEW SECTION. 7C.12 AUTHORITY AND DUTIES OF THE GOVERNOR AND GOVERNOR'S DESIGNEE.

The governor shall designate a person, agency, or authority to administer this chapter. The person, agency, or authority so designated shall serve at the pleasure of the governor and shall be selected primarily for administrative ability and knowledge in the area of public finance.

In addition to the powers and duties specified in sections 7C.1 to 7C.11, the governor's designee:

1. Shall promulgate reasonable rules which are necessary or expedient to carry out the intent and purposes of the private activity bond allocation Act.
2. Shall maintain appropriate records of all applications filed by issuers pursuant to section 7C.6 and all bonds issued pursuant to these applications including, but not limited to, a daily accounting of the amount of the state ceiling available for allocation and the amount of the state ceiling which has been allocated but not used.

Sec. 15. This Act, being deemed of immediate importance, takes effect from and after its publication in the Iowa City Press-Citizen, a newspaper published in Iowa City, Iowa, and in the Muscatine Journal, a newspaper published in Muscatine, Iowa.

Approved May 30, 1985

I hereby certify that the foregoing Act was published in the Iowa City Press-Citizen, Iowa City, Iowa on June 7, 1985 and in the Muscatine Journal, Muscatine, Iowa on June 11, 1985.

MARY JANE ODELL, *Secretary of State*