

STATE OF MINNESOTA

DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT

In the Matter of the Proposed  
Adoption of Rules Governing the  
Allocation of Industrial Development  
Bond Issuance Authority

STATEMENT OF NEED  
AND REASONABLENESS

The Department of Energy and Economic Development (Department) presents herein fact and justification establishing the need for and reasonableness of its proposed rules governing the allocation of industrial development bond issuance authority.

8300.2400 Allocation of Industrial Development Bond Issuance Authority

Minnesota Statutes, § 14.07 requires that agency rules comply with the requirements set out by the revisor regarding the form of the drafted rules. Subdivision headings in this section are to meet this requirement of compliance.

Subpart 1. Definitions. The definitions in Laws of Minnesota 1984, chapter 582, § 13 and in this subpart apply to subparts 2 and 3:

A. "Allocation" means the aggregate limit of industrial development bond issuance authority granted to the Department of Energy and Economic Development by Laws of Minnesota 1984, chapter 582, § 14, subdivision 3.

B. "Authority" means the Minnesota Energy and Economic Development Authority.

C. "Commissioner" means the commissioner of the Department of Energy and Economic Development or a designee.

D. "Department" means the Department of Energy and Economic Development.

E. "Supplemental allocation" means any additional amount of industrial development bond issuance authority that may be available for allocation or reallocation under Laws of Minnesota 1984, chapter 582, § 16.

Subpart 1. Definitions. Definitions in this section provide common terminology and meaning for terms used in discussing and understanding the substantive provisions of this proposed rule. The definition of allocation provides clarification for persons reading the rule and permits one word to replace the use of a cumbersome phrase to express what is meant by the aggregate limit of industrial development bond issuance authority granted to the Department by Laws of Minnesota 1984, chapter 582, § 14, subdivision 3. The definition of Authority as the Minnesota Energy and Economic Development Authority (Authority) while duplicating statutory language, is included because Laws of Minnesota 1984, chapter 582, § 13 does not include a definition of the Authority, and the definition will provide clarification for persons reading the rule. The Commissioner is given the power to administer statewide programs for the Authority (Laws of Minnesota 1983, Chapter 289, § 45, subdivision h). Department is defined because it is not included in the definitions of Laws of Minnesota

1984, chapter 582, § 13. The Department does not fit the definitions in Chapter 582, § 13 for either entitlement issuer or local issuer, although the Department is granted a bond issuance allocation in § 14, subdivision 3. Supplemental allocation is defined to provide clarification between the allocation of bond issuance authority given to the Department in § 14, subdivision 3 and the pool amount available to be allocated under § 16.

Subpart 2. Allocation. Under the authority granted in Laws of Minnesota 1984, chapter 582, § 1 and § 14, subdivision 3, the department shall allocate its total allocation to the authority by order of the commissioner if the authority meets the following requirements:

A. the authority operates programs of statewide application, including but not limited to business loans, small business loans, energy loans, farm loans, or pollution control loans located within a statewide jurisdiction;

B. the authority is a state entity or an agency with a statewide jurisdiction that has bond issuance authority and that is subject to the federal limitations act, but is not allocated bond issuance authority under Laws of Minnesota 1984, chapter 582, § 14; and

C. the authority submits a resolution requesting the allocation from the department on or after the effective date of the federal limitations act in 1984 and on or before January 1 of subsequent years.

Subpart 2. Allocation. This section reflects the need for the Department to adopt rules in order to allocate its allocation of bond issuance authority, pursuant to Laws of Minnesota 1984, chapter 582, § 1 as well as § 14, subdivision 3. It is reasonable that the Department gives all of its bond issuance authority to the Authority since the Department includes the staff appointed by the Commissioner to perform the duties of the Authority pursuant to Minnesota Statutes 116J.89, subdivision 10.

Laws of Minnesota 1984, chapter 582, § 1, clause (2) states that the rules governing the Department's allocation of its issuance authority shall contain criteria and procedures for the allocation of authority. In order to comply with the intent of the Statute, A to C of Subpart 2A are reasonable because the Authority is the only entity or agency granted the authority and funding to issue bonds which operates statewide programs which did not receive an allocation pursuant to chapter 582. This criteria supports and is consistent with the legislation in Minnesota Statutes 116J.89. Subpart 2B is reasonable because under chapter 582 the department is given an allocation of issuance authority to issue bonds, but does not have statutory authority to actually issue bonds nor any money allocated to it to issue bonds; whereas, the Authority has the funding and the authority, but has not been allocated bond issuance authority under Laws of Minnesota 1984, chapter 582, § 14. Subpart 2C is reasonable since it is consistent with the operating procedures of the Authority to pass a resolution to take an action. It also gives the Commissioner a control mechanism by which he can check on an annual

basis to make sure that the Authority does in fact operate programs within a statewide jurisdiction and that the Authority is not allocated bond issuance authority under the statute.

Subpart 3. Supplemental allocation. If the authority received all of the allocation under subpart 2 and if the authority submits a resolution to the Department requesting additional bond issuance allocation, the Department shall apply for a supplemental allocation from the pool amount on behalf of the authority according to Laws of Minnesota 1984, chapter 582, § 16, subdivision 1.

Subpart 3. Supplemental allocation. This section reflects the need for procedural clarification. Laws of Minnesota 1984, chapter 582, § 16 allows the Department to receive an allocation from the pool amount. The law does not provide for the Authority to receive an allocation from the pool; therefore, the process by which the Authority is to request the Department to make an application to the pool for a supplemental allocation is needed. Subpart 3 is reasonable because it is consistent with the operating procedures of the Authority to pass a resolution to take action. In addition, it provides the Authority an additional source of bonding authority above the allocation granted to the Department to operate its programs and fulfill the purposes of Minnesota Statutes 116J.89.