

1652.0060 HEARING AND OTHER PROCEDURAL REQUIREMENTS.

Subpart 1. **Hearing and approval requirement.** Under section 147(f) of the code, in order to make the interest payable on a bond excludable from gross income for federal tax purposes, prior to the issuance of the bond, the authority or its designated representative must hold a public hearing on the issuance of the bond, and the issuance of the bond must be approved by an "applicable elected representative" of the state, which means, in this case, the governor or another elected official of the state designated by the governor. Notice of the hearing must be published at least 14 days before the hearing in a newspaper of general circulation in the state and where the property is being financed is or is to be located. The notice must set the date, time, place, and purpose of the hearing; the authority's intention to issue the bond; the maximum principal amount of the bond to be issued; the source of payment of the bond; the purpose for which the proceeds of the bond will be loaned to the borrower; the name of the borrower; and the location of the property being acquired with the proceeds of the loan or where it will be used.

Subp. 2. **Volume cap allocation requirement.** Under section 146 of the code, in order to make the interest payable on a bond excludable from gross income for federal tax purposes, the authority must obtain a volume cap allocation in an amount equal to the amount of the bond, pursuant to the state volume cap allocation law, Minnesota Statutes, chapter 474A. In order to obtain a volume cap allocation, the authority must submit an application for it to the state Department of Management and Budget together with a preliminary resolution of the authority approving the loan and the issuance of a bond to fund it, a statement of bond counsel that the proposed bond requires an allocation under Minnesota Statutes, chapter 474A, and a statement that the bond is a "qualified small issue bond" within the meaning of section 144 of the code. The authority has no control over whether a volume cap allocation will be received with respect to any volume cap application submitted by it.

Subp. 3. **Executive director authority.** If upon review of a loan application and all supporting documents and other information requested by the authority in connection with the application, the executive director or the program director determines that the application is in compliance with the program and parts 1652.0010 to 1652.0080, the executive director may:

A. cause a preliminary resolution approving the loan and the issuance of the bond requested by the application to be placed upon the agenda of the next meeting of the authority for consideration by it;

B. establish a date, time, and place of the public hearing required as described in subpart 1 and cause notice to be published, which date must be at least three business days after the meeting of the authority at which the preliminary resolution approving the loan and bond described in the notice will be considered by the authority;

C. conduct, or designate other members of the authority's staff to conduct, the public hearing; and

D. following adoption of the preliminary resolution by the authority, make application for a volume cap allocation as described in subpart 2.

Subp. 4. **Preliminary resolution.** The authority shall consider the adoption of the preliminary resolution described in subpart 3 at its first meeting following approval of an application by the executive director or program director.

Subp. 5. **Public hearing.** Each public hearing must be held at the offices of the authority during regular business hours on regular business days. A person appearing at the hearing must be allowed to present views either orally or in writing. The person conducting the hearing shall make a written record of the hearing and all information or views presented at the hearing. The record must be maintained as part of the public records of the authority.

Subp. 6. **Public approval.** Following the public hearing, if no information is presented indicating that the loan to be made and the bond to be issued are not in accordance with the program and parts 1652.0010 to 1652.0080, the executive director shall cause to be prepared and sent to the governor's office, or the office of the elected official of the state designated by the governor, a statement describing each bond or series of bonds it proposes to issue, along with a summary of the public comments received at the hearing. Any information received at the hearing must be presented to the authority at its next meeting, at which the authority shall confirm or take further action on the application in question that may be indicated.

Statutory Authority: *MS s 41C.13*

History: *17 SR 2323; L 2009 c 101 art 2 s 109*

Published Electronically: *August 7, 2009*