

costs of investigation and reasonable attorney's fees, and receive other equitable relief as determined by the court.

Sec. 2. EFFECTIVE DATE. The amendment made to Minnesota Statutes 1978, Section 256B.35, by section 1, subdivision 1, is effective January 1, 1981.

Sec. 3. APPROPRIATION. The sum of \$452,500 is appropriated from the general fund to the commissioner of public welfare for purposes of section 1, subdivision 1. This appropriation is available until June 30, 1981.

Approved April 14, 1980

CHAPTER 564—H.F.No. 2023

An act relating to waste management; establishing a waste management board and a legislative commission; establishing a state government resource recovery program; establishing solid waste planning assistance and demonstration programs; providing for the issuance of state waste management bonds; providing for the establishment of solid waste management districts; requiring solid and hazardous waste management planning and development; establishing state and metropolitan procedures for the review and approval of permits for waste facilities; providing that certain solid waste disposal facilities are not exempt from real property taxes; authorizing the acquisition of property by purchase and eminent domain; authorizing debt; appropriating money; amending Minnesota Statutes 1978, Sections 116.06, Subdivisions 9, 10, 13, and by adding subdivisions; 116.07, Subdivisions 2, 4, 4a, and by adding subdivisions; 116.081, Subdivision 1; 116.101; 116.41; 272.02, Subdivision 1; 400.03, Subdivision 1; 400.04; 400.06; 400.07; 400.13; 400.16; 400.161; 473.121, by adding a subdivision; 473.149; 473.502; 473.516; 473.801, Subdivision 1; 473.802; 473.803; 473.811; 473.813; 473.823, Subdivision 3, and by adding subdivisions; Chapter 400, by adding a section; and Chapter 473, by adding sections; repealing Minnesota Statutes 1978, Sections 116F.02, Subdivisions 3, 4, and 5; 116F.03; 116F.04; 116F.05, Subdivision 2; 400.03, Subdivisions 2 to 7; 473.121, Subdivisions 27 to 31c; 473.823, Subdivisions 1, 2, and 4; and Laws 1978, Chapter 728, Section 7.

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

ARTICLE I

CITATION, PURPOSE, AND DEFINITIONS

Section 1. [115A.01] CITATION. Articles I to VIII shall be known as the waste management act of 1980.

Sec. 2. [115A.02] LEGISLATIVE DECLARATION OF POLICY; PURPOSES. It is the goal of articles I to VIII to improve waste management in the state to serve the following purposes:

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(a) Reduction in waste generated;

(b) Separation and recovery of materials and energy from waste;

(c) Reduction in indiscriminate dependence on disposal of waste;

(d) Coordination of solid waste management among political subdivisions;

(e) Orderly and deliberate development and financial security of waste facilities including disposal facilities.

Sec. 3. **[115A.03] DEFINITIONS.** Subdivision 1. For the purposes of articles I to VIII, the terms defined in this section have the meanings given them, unless the context requires otherwise.

Subd. 2. "Agency" means the pollution control agency.

Subd. 3. "Board" means the waste management board established in article II, section 1.

Subd. 4. "Cities" means statutory and home rule charter cities and towns authorized to plan under sections 462.351 to 462.364.

Subd. 5. "Collection" means the aggregation of waste from the place at which it is generated and includes all activities up to the time the waste is delivered to a waste facility.

Subd. 6. "Commercial waste facility" means a waste facility established and permitted to sell waste processing or disposal services to generators other than the owner and operator of the facility.

Subd. 7. "Construction debris" means waste building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition of buildings and roads.

Subd. 8. "Development region" means a region designated pursuant to sections 462.381 to 462.397.

Subd. 9. "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste into or on any land or water so that the waste or any constituent thereof may enter the environment or be emitted into the air, or discharged into any waters, including ground waters.

Subd. 10. "Disposal facility" means a waste facility permitted by the agency that is designed or operated for the purpose of disposing of waste on or in the land.

Subd. 11. "Generation" means the act or process of producing waste.

Subd. 12. "Generator" means any person who generates waste.

Subd. 13. "Hazardous waste" has the meaning given it in section 116.06, subdivision 13.

Subd. 14. "Intrinsic hazard" of a waste means the propensity of the waste to migrate in the environment, and thereby to become exposed to the public, and the significance of the harm or damage likely to result from exposure of natural resources or the public to the waste, as a result of such inherent or induced attributes of the waste as its chemical and physical stability, solubility, bioconcentrability, toxicity, flammability, and corrosivity.

Subd. 15. "Intrinsic suitability" of a land area or site means that, because of the inherent and natural attributes, physical features, and location of the land area or site, the waste facility proposed to be located in the area or site would not be likely to result in material harm to the public health and safety and natural resources and that therefore the proposed facility can reasonably be expected to qualify for permits in accordance with agency rules.

Subd. 16. "Legislative commission on waste management" or "legislative commission" means the commission established in article II, section 11.

Subd. 17. "Local government unit" means cities, towns, and counties.

Subd. 18. "Metropolitan area" has the meaning given it in section 473.121.

Subd. 19. "Metropolitan council" means the council established in chapter 473.

Subd. 20. "Metropolitan waste control commission" or "waste control commission" means the waste control commission established in chapter 473.

Subd. 21. "Mixed municipal solid waste" means garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities which is generated and collected in aggregate, but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, and other materials collected, processed, and disposed of as separate waste streams.

Subd. 22. "Natural resources" has the meaning given it in chapter 116B.

Subd. 23. "Person" has the meaning given it in section 116.06, but does not include the board.

Subd. 24. "Political subdivision" means any municipal corporation, governmental subdivision of the state, local government unit, special district, or local or regional board, commission, or authority authorized by law to plan or provide for waste management.

Subd. 25. "Processing" means the treatment of waste after collection and before disposal. Processing includes but is not limited to reduction, storage, separation, exchange, resource recovery, physical, chemical, or biological modification, and transfer from one waste facility to another.

Subd. 26. "Regional development commission" means a commission established pursuant to sections 462.381 to 462.397.

Subd. 27. "Resource recovery" means the reclamation for sale or reuse of materials, substances, energy, or other products contained within or derived from waste.

Subd. 28. "Resource recovery facility" means a waste facility established and used primarily for resource recovery.

Subd. 29. "Sewage sludge" means the solids and associated liquids in municipal wastewater which are encountered and concentrated by a municipal wastewater treatment plant for disposal at a sewage sludge disposal facility. Sewage sludge does not include incinerator residues and grit, scum, or screenings removed from other solids during treatment.

Subd. 30. "Sewage sludge disposal facility" means property owned or leased by a political subdivision and used for interim or final disposal or land spreading of sewage sludge.

Subd. 31. "Solid waste" has the meaning given it in section 116.06, subdivision 10.

Subd. 32. "Solid waste management district" or "waste district" means a geographic area extending into two or more counties in which the management of solid waste is vested in a special district established pursuant to article VIII.

Subd. 33. "Transfer station" means an intermediate waste facility in which waste collected from any source is temporarily deposited to await transportation to another waste facility.

Subd. 34. "Waste" means solid waste, sewage sludge, and hazardous waste.

Subd. 35. "Waste facility" means all property, real or personal, including negative and positive easements and water and air rights, which is or may be needed or useful for the processing or disposal of waste, except property for the collection of the waste and property used primarily for the manufacture of scrap metal or paper. Waste facility includes but is not limited to transfer stations, processing facilities, and disposal sites and facilities.

Subd. 36. "Waste management" means activities which are intended to affect or control the generation of waste and activities which provide for or control the collection, processing and disposal of waste.

ARTICLE II

WASTE MANAGEMENT BOARD;

LEGISLATIVE COMMISSION ON WASTE MANAGEMENT;

STATE GOVERNMENT RESOURCE RECOVERY PROGRAM

Section 1. [115A.04] WASTE MANAGEMENT BOARD; CREATION.

There is created in the executive branch a waste management board.

Sec. 2. [115A.05] **BOARD MEMBERSHIP.** Subdivision 1. GENERAL. The board shall be composed of nine permanent members. Temporary members shall be added pursuant to subdivision 3.

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Subd. 2. PERMANENT MEMBERS. Eight of the permanent members of the board shall be appointed by the governor, with the advice and consent of the senate, to represent diverse areas and interests within the state. One member shall be appointed from each congressional district in accordance with boundaries existing on January 1, 1980. The term of office and compensation of the eight members thus appointed, and the manner of removal and filling of vacancies, shall be as provided in section 15.0575, except that the initial term of all members shall be four years and the rate of compensation shall be \$50 per day spent on board activities. The ninth permanent member of the board shall be the chairperson who shall be appointed by the governor with the advice and consent of the senate. The chairperson shall serve at the pleasure of the governor for a term coterminous with that of the governor, except that the initial term of the chairperson shall be four years. The chairperson shall be the executive and operating officer of the board and shall determine the time and place of meetings, preside at meetings, appoint all board officers and hire and supervise all employees subject to the approval of the board, carry out the policy decisions of the board, and perform all other duties and functions assigned to him by the board or by law. No permanent member of the board shall hold other elected or appointed public office.

Subd. 3. TEMPORARY MEMBERS. For the purposes of each project review conducted by the board under article III and article IV, and for the purpose of preparing and adopting the hazardous waste management plan under section 8 and making decisions on the elements of the certification of need for disposal required under article III, six local representatives shall be added to the board as temporary voting members, as provided in article III, section 5, subdivision 4, and article IV, section 3. The provisions of section 15.075 relating to compensation, removal, and vacancy shall apply to temporary members except that the rate of compensation shall be \$50 per day spent on board activities.

Sec. 3. [115A.06] POWERS OF THE BOARD, Subdivision 1. GENERAL. The board shall have the powers and duties prescribed by articles I to VIII and all powers necessary or convenient to discharge its duties.

Subd. 2. RULES. Unless otherwise provided, the board shall promulgate rules in accordance with chapter 15 to govern its activities and implement articles I to VIII.

Subd. 3. ACTIONS. The board may sue and be sued.

Subd. 4. ACQUISITION OF SITES FOR HAZARDOUS WASTE FACILITIES. The board may direct the commissioner of administration to acquire by purchase, lease, condemnation, gift, or grant, any right, title, and interest in and to real property, including positive and negative easements and water, air, and development rights, for sites and buffer areas surrounding sites for hazardous waste facilities approved by the board pursuant to articles III and IV. Money for the acquisition of any real property and interest in real property pursuant to this subdivision shall come from the issuance of state waste management bonds in accordance with article VII. The property shall be leased to the owner and operator of the hazardous waste facility located thereon at a rate sufficient to pay debt

service on the bonds which provided funds used to acquire the property and to evaluate the eligibility of the property for inclusion in the inventory under section 6 or candidacy under article III. Any local government unit and the commissioners of transportation, natural resources, and administration may convey or allow the use of any property for such sites and areas, subject to the rights of the holders of any bonds issued with respect thereto, with or without compensation and without an election or approval by any other government agency. Land owned by the state may be exchanged for land not owned by the state for the purpose of providing a site and buffer area for a commercial hazardous waste facility, in accordance with the provisions of section 94.341 to 94.347 and other law. The commissioner of administration may hold the property for the purposes for which it was acquired, and may lease, rent, or dispose of the property so far as not needed for such purposes, upon the terms and in the manner the commissioner deems advisable. The right to acquire lands and property rights by condemnation shall be exercised in accordance with chapter 117. The commissioner of administration may take possession of any property for which condemnation proceedings have been commenced at any time after the issuance of a court order appointing commissioners for its condemnation. Where the property is acquired through eminent domain proceedings, the land owner's compensation shall be the fair market value of the property. Where the property is acquired by means other than through eminent domain proceedings, as by direct purchase or gift, the land owner's compensation shall be determined by the agreement of the parties involved. An award of compensation in a condemnation proceeding shall not be increased or decreased by reason of any increase or decrease in the value of the property caused by its designation in the inventory of sites and buffer areas under section 6 or as a candidate site under article III or its selection as a site or buffer area.

Subd. 5. RIGHT OF ACCESS. Whenever the board or the chairperson acting on behalf of the board deems it necessary to the accomplishment of its purposes, the board or any member, employee, or agent thereof, when authorized by it or the chairperson, may enter upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations, provided that the entrance and activity is undertaken after reasonable notice and during normal business hours and provided that compensation is made for any damages to the property caused by the entrance and activity.

Subd. 6. GIFTS AND GRANTS. The board, or the chairperson or commissioner of administration on behalf of the board, may apply for and accept gifts, loans, or other property from the United States, the state, or any person for any of the purposes of the board, may enter into any agreement required in connection therewith, and may hold, use, and dispose of the money or property in accordance with the terms of the gift, grant, loan or agreement.

Subd. 7. PROPERTY EXEMPT FROM TAXATION. Any real or personal property owned, used, or occupied by the board or the commissioner of administration for any purpose referred to in articles I to VIII is declared to be acquired, owned, used, and occupied for public and governmental purposes, and shall be exempt from taxation by the state or any political subdivision of or other govern-

mental unit of or within the state, provided that those properties shall be subject to special assessments levied for a local improvement in amounts proportionate to and not exceeding the special benefit received by the properties from the improvement. No possible use of the properties in any manner different from their use for hazardous waste management at the time shall be considered in determining the special benefit received by the properties.

Subd. 8. CONTRACTS. The board or the chairperson acting on behalf of the board may enter into any contract necessary or proper for the exercise of its powers or the accomplishment of its purposes.

Subd. 9. JOINT POWERS. The board or the chairperson acting on behalf of the board may act under the provisions of Minnesota Statutes, Section 471.59, or any other law providing for joint or cooperative action.

Subd. 10. RESEARCH. The board or the chairperson acting on behalf of the board may conduct research studies and programs, collect and analyze data, prepare reports, maps, charts, and tables, and order all necessary hearings and investigations in connection with its work and may advise and assist other government units on planning matters within the scope of its powers, duties, and objectives.

Subd. 11. EMPLOYEES; CONTRACTS FOR SERVICES. The board through its chairperson may employ persons and contract for services to perform research, engineering, legal, or other services necessary to carry out its functions.

Subd. 12. INSURANCE. The board through its chairperson may require any employee to obtain and file with it an individual bond or fidelity insurance policy. It may procure insurance in amounts it deems necessary to insure against liability of the board and employees or both, for personal injury or death and property damage or destruction, with the force and effect stated in Minnesota Statutes, Chapter 466, and against risks of damage to or destruction of any of its property as it deems necessary.

Sec. 4. [115A.07] DUTIES OF THE BOARD; GENERAL. Subdivision 1. INTERAGENCY COORDINATION. The chairperson of the board shall inform the state planning agency of the board's activities in accordance with section 4.191. The chairperson shall keep the agency informed of the board's activities, solicit the advice and recommendations of the agency, and coordinate its work with the regulatory and enforcement activities of the agency.

Subd. 2. BIENNIAL REPORT. Before November 15 of each even-numbered year the board through its chairperson shall prepare and submit to the legislative commission a report of the board's operations and activities pursuant to articles I to VIII and any recommendations for legislative action. The report shall include a proposed work plan for the following biennium.

Sec. 5. [115A.08] DUTIES OF THE BOARD; HAZARDOUS WASTE MANAGEMENT REPORTS. Subdivision 1. REPORT ON LIABILITY AND LONG-TERM CARE. By January 1, 1981, the board through its chairperson shall report and make recommendations to the legislative commission on the manage-

ment and financing of liability and post-closure monitoring and care for hazardous waste facilities in the state. The commissioner of economic development, in consultation with the chairperson of the board, shall conduct background research and shall report to the board by July 1, 1980, on the subject of the report required by this subdivision and on additional research needed to complete the report and recommendations.

Subd. 2. REPORT ON PRIVATE INVESTMENT IN HAZARDOUS WASTE MANAGEMENT. By January 1, 1981, the board through its chairperson shall report and make recommendations to the legislative commission on alternative state strategies to promote and secure private investment in hazardous waste management services, technologies, and facilities. The report at least shall evaluate: (a) strategies to promote and secure investments by generators in waste reduction, separation, pretreatment, and recovery; (b) strategies to secure generator assistance in the establishment and financing of hazardous waste facilities either directly through joint investment or indirectly through taxation; (c) strategies to protect the public against business failure by owners and operators of hazardous waste facilities; (d) strategies to promote and secure investment by the private waste management industry in hazardous waste facilities in the state. The report shall recommend priorities, objectives, and appropriate legislation for promoting and securing private investment in hazardous waste management. The commissioner of economic development, in consultation with the chairperson of the board, shall conduct background research and shall report to the board by July 1, 1980, on the subject of the report required by this subdivision and on additional research needed to complete the report and recommendations.

Subd. 3. REPORT ON INTERSTATE COOPERATION. By January 1, 1981, the board through its chairperson shall report and make recommendations to the legislative commission on actions to develop interstate cooperation in hazardous waste planning and management. The report shall make recommendations on uniformity of state laws, regulations, and enforcement and on coordination of decisions on facility development and use. The director of the state planning agency, in consultation with the chairperson of the board, shall conduct background research and shall report to the board by July 1, 1980, on the report required by this subdivision and on additional research needed to complete the report and recommendations.

Subd. 4. REPORT ON HAZARDOUS WASTE MANAGEMENT; DRAFT MANAGEMENT PLAN AND CERTIFICATION OF NEED. By January 1, 1982, the board through its chairperson shall report to the legislative commission on hazardous waste management. The report shall include at least:

(a) an evaluation of alternative disposal facilities, disposal facility technologies, and disposal facility design and operating specifications and an explanation of the preliminary design and operating specifications for disposal facilities selected for consideration under article III, section 6;

(b) an evaluation of prospects, strategies, and methods for developing commercial hazardous waste disposal facilities of various types, sizes, and functions;

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(c) an evaluation of all feasible and prudent alternatives to disposal, including waste reduction, separation, pretreatment, processing, and resource recovery, and the potential of the alternatives to reduce the need for and practice of disposal;

(d) an evaluation of feasible and prudent disposal abatement objectives, along with a description of hazardous waste management methods and technologies, private and government actions, facilities and services, development schedules, revenue-raising measures, and levels of public and private expenditure and effort necessary to the achievement of those objectives.

The report shall analyze the environmental, social, and economic effects of the alternatives and methods by which unavoidable adverse effects could be mitigated. The report shall include a draft hazardous waste management plan, based on the analysis in the report and proposed for adoption pursuant to section 8, and a draft certificate or certificates of need proposed for issuance under article III, section 7.

Subd. 5. REPORT ON MITIGATION OF LOCAL EFFECTS OF HAZARDOUS WASTE FACILITIES. By January 1, 1982, the board through its chairperson shall report and make recommendations to the legislative commission on methods of mitigating and compensating for the local risks, costs, and other adverse effects of various types of hazardous waste facilities and on methods of financing mitigation and compensation measures. The methods of mitigating and compensating to be considered shall include but not be limited to the following: payment outside of levy limitations in lieu of taxes for all property taken off the tax rolls; preference in reviews of applications for federal funds conducted by the metropolitan council and regional development commissions; payment of all costs to service the facilities including the cost of roads, monitoring, inspection, enforcement, police and fire, and litter clean up costs; payment for buffer zone amenities and improvement; local control over buffer zone design; a guarantee against any and all liability that may occur.

Subd. 6. PREPARATION OF HAZARDOUS WASTE REPORTS; PROCEDURES; PUBLIC INVOLVEMENT. By January 1, 1981, the board through its chairperson shall submit a proposed scope of work and work program for the hazardous waste reports required by subdivisions 4 and 5 to the legislative commission for review. During the preparation of the proposed scope of work and work plan and the reports, the board and the chairperson on behalf of the board shall encourage public debate and discussion of the issues relating to the reports. The board and the chairperson on behalf of the board shall meet with local officials and sponsor at least one public meeting in areas of the state affected by the inventory of preferred processing facility sites prepared pursuant to section 6. The board and the chairperson on behalf of the board shall follow the procedures set out in article III, section 5, for consulting with citizens in areas affected by the selection of candidate sites for disposal facilities. To assist it in preparing the reports required by subdivisions 4 and 5, the board through its chairperson shall make grants to each local project review committee established for a candidate site for disposal identified under article III. The grants may be used by the

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committee to employ staff, pay administrative expenses, or contract with affected units of government or qualified consultants. The board and the chairperson on behalf of the board shall request recommendations from the private waste management industry, the board's advisory councils, affected regional development commissions, and the metropolitan council and shall consult with them on the board's intended disposition of the recommendations. The reports of the board shall summarize the comments received and the board's response to the comments.

Sec. 6. [115A.09] DUTIES OF THE BOARD; INVENTORY OF PREFERRED SITES FOR HAZARDOUS WASTE PROCESSING FACILITIES.

Subdivision 1. BOARD RESPONSIBILITY. By November 1, 1981, the board shall prepare an inventory of preferred sites for commercial hazardous waste processing facilities. The inventory shall include at least three sites for each of the following categories of processing facilities: (a) a commercial chemical processing facility for hazardous waste, (b) a commercial incineration facility for hazardous waste, and (c) a commercial transfer and storage facility for hazardous waste.

Subd. 2. EVALUATION OF SITES. The board shall not be required to promulgate rules pursuant to chapter 15 to govern its evaluation and selection of sites under this section. The board and the chairperson on behalf of the board shall evaluate the sites in consultation with the board's advisory councils, the affected counties and regions, generators of hazardous waste, and prospective facility developers. The evaluation shall consider at least the consistency of sites with state and federal regulations, local land use and land use controls, the protection of agriculture and natural resources, existing and future development patterns, transportation and other services appropriate to the hazardous waste facilities, the quality of other potential sites, and the location of hazardous waste generators. No site shall be included in the inventory unless the agency certifies its intrinsic suitability for the use intended. No land shall be excluded from consideration for inclusion in the inventory except land determined by the agency to be intrinsically unsuitable for the use intended.

Subd. 3. PROCEDURES. The board shall propose the inventory of sites by June 1, 1981 by publication in the state register and newspapers of general circulation in the state and by mail to each regional development commission and local government unit containing a proposed site. Any person objecting to the agency's certification or the board's proposal of a site for inclusion in the inventory shall have 30 days in which to request a hearing. If a hearing is requested, the hearing shall be ordered by the chairperson of the board and shall be conducted by the state office of hearing examiners in a manner determined by the hearing examiner to be consistent with the completion of the proceedings and the examiner's report in the time allowed by this section. At the hearing, any county in which a site is proposed for inclusion in the inventory may propose an alternative site or sites within the county. The hearing examiner may consolidate hearings. When any site in the inventory becomes unavailable as a hazardous waste facility site, the inventory shall be amended, in the manner of its original adoption, provided, however, that during the period when the inventory is being amended any other site in the inventory may be reviewed and approved under article IV. No action

of the board shall be held invalid by reason of the board's failure to notify any of the entities listed in this subdivision.

Subd. 4. GRANTS; TECHNICAL ASSISTANCE. To assist counties participating in the inventory required by this section, the board through its chairperson may make grants to the counties to be used to employ staff, pay administrative expenses, or contract with qualified consultants. The board through its chairperson shall ensure the delivery to the counties of technical information and assistance by appropriate state agencies.

Sec. 7. [115A.10] DUTIES OF THE BOARD; HAZARDOUS WASTE FACILITIES; ENCOURAGEMENT OF PRIVATE ENTERPRISE. The board and the chairperson on behalf of the board shall encourage the development and operation of hazardous waste facilities by private enterprise to the extent practicable and consistent with the purposes of articles I to VIII and the board's hazardous waste management plan adopted pursuant to section 8. In preparing the reports under section 5 and the inventory of processing facility sites under section 6, in adopting the management plan, and in its actions and decisions under articles III and IV, the board and the chairperson on behalf of the board shall solicit the active participation of private waste management firms and shall so conduct its activities as to encourage private permit applications for facilities needed in the state. The board shall promulgate rules for accepting, evaluating, and selecting applications for permits for the construction and operation of facilities at sites preferred or selected by the board pursuant to section 6 or article III. The rules shall include standards and procedures for making determinations on the minimum qualifications, including technical competence and financial capability, of permit applicants. The rules shall include standards and procedures for soliciting and accepting bids or permit applications and for selecting developers and operators of hazardous waste disposal facilities at sites chosen by the board pursuant to article III, which shall include a preference for qualified permit applicants who control a site chosen by the board.

Sec. 8. [115A.11] HAZARDOUS WASTE MANAGEMENT PLAN. Subdivision 1. CONTENTS. By May 1, 1982, the board shall adopt a hazardous waste management plan. The plan shall include at least the following elements:

(a) an estimate of the types and volumes of hazardous waste which will be generated in the state through the year 2000;

(b) specific and quantifiable objectives for reducing to the greatest feasible and prudent extent the need for and practice of disposal, through waste reduction, pretreatment, processing, and resource recovery;

(c) a description of the minimum disposal capacity and capability needed to be developed within the state for use through the year 2000, based on the achievement of the objectives under clause (b).

The plan shall require the establishment of at least one commercial disposal facility in the state.

Subd. 2. PROCEDURE. The plan shall be based upon the reports prepared pursuant to section 5. The plan shall not be subject to the rule-making or contested case provisions of chapter 15. Following the submission of the report on hazardous management required under section 5, subdivision 4, the board shall hold a public hearing on the draft plan and draft certificate or certificates of need contained in the report. Notices of the draft plan and the draft certificate or certificates and notice of the hearing shall be published in the state register and newspapers of general circulation in the state. The hearing shall be ordered by the chairperson of the board and shall be conducted by the state office of hearing examiners in a manner consistent with the completion of the proceedings in the time allowed by this section. A majority of the permanent members of the board shall attend the hearing. In connection with the hearing, the chairperson of the board shall provide copies of the studies and reports on which the draft plan and certification of need are based and shall make an affirmative presentation showing the need for and reasonableness of the draft plan and certification of need. Following the hearing, the board shall revise the plan and the certificate or certificates of need as it deems appropriate, shall make a written response to the testimony received at the hearing explaining its disposition of any recommendations made with respect to the plan and certification, and shall finally adopt a plan in accordance with this section and issue a certificate or certificates of need in accordance with article III, section 7.

Sec. 9. [115A.12] ADVISORY COUNCILS. Subdivision 1. SOLID AND HAZARDOUS WASTE MANAGEMENT. The chairperson of the board shall establish a solid waste management advisory council and a hazardous waste management planning council broadly representative of the geographic areas and interests of the state. The councils shall have not less than nine nor more than 18 members each. The membership of the solid waste council shall consist of one-third citizen representatives, one-third representatives from local government units, and one-third representatives from private solid waste management firms. The solid waste council shall contain at least one member experienced in each of the following areas: state and municipal finance; solid waste collection, processing, and disposal; and solid waste reduction and resource recovery. The membership of the hazardous waste advisory council shall consist of one-third citizen representatives, one-third representatives from local government units, and one-third representatives of hazardous waste generators and private hazardous waste management firms. The chairpersons of the advisory councils shall be appointed by the chairperson of the board. The chairperson of the board shall provide administrative and staff services for the advisory councils. The advisory councils shall have such duties as are assigned by law or the chairperson of the board. The solid waste advisory council shall make recommendations to the board on its solid waste management activities. The hazardous waste advisory council shall make recommendations to the board on its activities under article II, sections 5, 6, 7, and 8, and article III, sections 3, 4, 6, and 7. Members of the advisory councils shall serve without compensation but shall be reimbursed for their reasonable expenses as determined by the chairperson of the board.

Subd. 2. TECHNICAL ADVISORY COUNCIL. The chairperson of the board shall establish an interagency technical advisory council to advise the board and the chairperson on such matters as the board, through its chairperson, deems necessary. The members of the council shall be the commissioner of health; the commissioner of agriculture; the commissioner of natural resources; the commissioner of economic development; the director of the pollution control agency; the director of the energy agency; the director of the state planning agency; and such other heads of agency as the chairperson of the board deems necessary; or their designees. The council shall meet at the call of the chairperson of the board who shall serve as chairperson of the council. The members, collectively and individually shall advise the board and the chairperson on matters within their various areas of expertise and shall provide technical assistance and information as requested by the board through its chairperson.

Sec. 10. [115A.13] BOARD; EXPIRATION. The board shall cease to exist on June 30, 1987.

Sec. 11. [115A.14] LEGISLATIVE COMMISSION ON WASTE MANAGEMENT. Subdivision 1. CREATION, MEMBERSHIP, VACANCIES. There is created in the legislative branch a legislative commission on waste management. The commission shall consist of ten members appointed as follows:

(1) Five members of the senate to be appointed by the subcommittee on committees and to serve until their successors are appointed;

(2) Five members of the house to be appointed by the speaker and to serve until their successors are appointed;

(3) Vacancies occurring on the commission shall not affect the authority of the remaining members of the commission to carry out the functions thereof, and such vacancies shall be filled in the same manner as the original positions.

Subd. 2. STAFF. The commission is authorized, without regard to the civil service laws and regulations, to appoint and fix the compensation of such additional legal and other personnel and consultants as may be necessary to enable it to carry out its functions, or to contract for services to supply necessary data, except that any state employees subject to the civil service laws and regulations who may be assigned to the commission shall retain civil service status without interruption or loss of status or privilege. The staff shall be hired and supervised for the commission by the executive director of the legislative commission on Minnesota resources.

Subd. 3. DATA FROM STATE AGENCIES; AVAILABILITY. The commission may request information from any state officer or agency in order to assist it in carrying out its duties and such officer or agency is authorized and directed to promptly furnish any data required, subject to applicable requirements or restrictions imposed by sections 15.162 to 15.17.

Subd. 4. POWERS AND DUTIES. The commission shall review the biennial report of the board. The commission shall oversee the activities of the board under articles I to VIII and the activities of the agency under articles V and VI,

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and direct such changes or additions in the work plan of the board and agency as it deems fit. The commission may conduct public hearings and otherwise secure data and expressions of opinion. The commission shall make such recommendations as it deems proper to assist the legislature in formulating legislation. Any data or information compiled by the commission shall be made available to any standing or interim committee of the legislature upon request of the chairperson of the respective committee.

Subd. 5. STUDY. The commission shall study alternative methods of insuring that an adequate supply of solid waste will be available to resource recovery facilities and report to the appropriate policy committees of the house of representatives and senate before January 1, 1982. The commission shall, at a minimum, consider the relative merits of the required use provisions described in article VIII, section 9, article IX, section 8, and article X, section 14, and other mechanisms designed to facilitate resource recovery by raising costs of landfill alternatives or lowering costs of disposal at resource recovery facilities.

Subd. 6. EXPIRATION. The provisions of this section shall expire on June 30, 1987.

Sec. 12. [115A.15] STATE GOVERNMENT RESOURCE RECOVERY.
Subdivision 1. ESTABLISHMENT OF PROGRAM. There is established within state government a resource recovery program to promote the reduction of waste generated by state agencies, the separation and recovery of recyclable and reuseable commodities, the procurement of recyclable commodities and commodities containing recycled materials, and the uniform disposition of recovered materials and surplus property. The program shall be administered by the commissioner of administration.

Subd. 2. DUTIES OF COMMISSIONER. The commissioner of administration shall develop policies to reduce the volume of waste generated by state agencies. The commissioner shall develop and institute procedures for the separation, collection, and storage of used commodities wherever feasible in state agencies and shall establish policies for the reuse, sale, or disposition of recovered materials and surplus property. The commissioner shall promote and publicize the waste reduction and waste separation and recovery procedures on an on going basis to all state employees. The commissioner shall issue guidelines for the procurement of recyclable commodities and commodities containing recycled materials that include definitions of recycled materials, the percentage of recycled materials to be contained in each commodity and performance specifications. To the extent practicable, the guidelines shall be written so as to give preference to recyclable commodities and commodities containing recycled materials. The commissioner shall inform state agencies whenever recycled commodities are available for purchase. The commissioner shall investigate opportunities for the inclusion of local governments and regional agencies in administrative programs to reduce, separate, and recover waste materials. The commissioner shall investigate opportunities for the inclusion of local governments and regional agencies in the resource recovery program.

Subd. 3. POWERS OF COMMISSIONER. The commissioner of administration shall have such powers as are necessary to implement and operate the program. All state agencies shall comply with the policies, guidelines, and procedures established by the commissioner pursuant to this section. The commissioner shall have the power to issue orders to compel compliance.

Subd. 4. STAFF. The commissioner of administration shall employ an administrator to manage the resource recovery program and other staff and consultants as are necessary to carry out the program.

Subd. 5. REPORTS. By January 1, 1981, and each odd-numbered year thereafter, the commissioner of administration shall submit a report to the governor and to the legislative commission summarizing past activities and proposed goals of the program for the following biennium. By July 1, 1980, and each even numbered year thereafter the directors of the energy agency and the pollution control agency shall submit recommendations to the commissioner regarding the operation of the program.

Subd. 6. RESOURCE RECOVERY REVOLVING ACCOUNT. Upon the certification of the commissioner of administration, the commissioner of finance shall establish an account in the general services revolving fund, effective June 30, 1980, for the operation of the state government resource recovery program. The revolving account shall consist of all funds appropriated by the state for the program and all revenues resulting from the sale of used commodities made available for sale as a result of the resource recovery program. The account may be used for all activities associated with the program including payment of administrative and operating costs.

ARTICLE III COMMERCIAL HAZARDOUS WASTE DISPOSAL FACILITIES

Section 1. [115A.18] LEGISLATIVE FINDINGS; PURPOSE. The legislature finds that proper management of hazardous waste generated in the state is needed to conserve and protect the natural resources in the state and the health, safety, and welfare of its citizens, that the establishment of safe disposal facilities is necessary to properly manage the waste, that this cannot be accomplished solely by the activities of private persons and political subdivisions acting alone or jointly, and that therefore it is necessary to provide a procedure for making final determinations on the locations, sizes, types, and functions of such facilities.

Sec. 2. [115A.19] PROCEDURE NOT EXCLUSIVE. The procedure established by this article for the permitting of hazardous waste disposal facilities shall not preclude the issuance of permits by the agency pursuant to section 116.07 for disposal facilities at sites not reviewed under this article.

Sec. 3. [115A.20] EVALUATION OF SITES. The board shall not be required to promulgate rules pursuant to chapter 15 to govern its evaluation and selection of sites for commercial disposal facilities under this article. In evaluating and selecting sites for disposal facilities, the board shall consider at least the following factors:

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(a) economic feasibility, including proximity to concentrations of generators of the types of hazardous wastes likely to be proposed and permitted for disposal;

(b) intrinsic suitability of the sites;

(c) federal and state pollution control and environmental protection rules;

(d) the risk and effect for local residents, units of government, and the local public health, safety, and welfare, including such dangers as an accidental release of wastes during transportation to a facility or at a facility, water, air, and land pollution, and fire or explosion;

(e) the consistency of a facility with, and its effect on, existing and planned local land use and development; local laws, ordinances, and permits; and local public facilities and services;

(f) the adverse effects of a facility at the site on agriculture and natural resources and opportunities to mitigate or eliminate such adverse effects by stipulations, conditions, and requirements respecting the design and operation of a disposal facility at the proposed site.

No land shall be excluded from consideration except land determined by the agency to be intrinsically unsuitable for the use intended.

Sec. 4. [115A.21] CANDIDATE SITES. Subdivision 1. SELECTION. By August 1, 1981, the board shall select six locations in the state, no more than one site per county, as candidate sites for commercial disposal facilities for hazardous waste. No location shall be selected as a candidate site unless the agency certifies its intrinsic suitability for the use intended. The board shall consult with the agency and the private waste management industry in selecting candidate sites. Any sites proposed in applications for permits for disposal facilities being reviewed by the agency on August 1, 1981, may be included by the board as candidate sites, provided the agency certifies the intrinsic suitability of the sites.

Subd. 2. PROCEDURE. As soon as practicable, the board through its chairperson shall publish a request soliciting proposals and permit applications for hazardous waste disposal facilities from potential developers and operators of such facilities. Notice of the request shall be published in the state register and newspapers of general circulation in the state and shall be transmitted to all regional development commissions, the metropolitan council, and all counties in the state. The board may select conceptual design and operating specifications for a variety of hazardous waste disposal facilities in sufficient detail and extent in the judgment of the board to assist the evaluation of sites and the selection of candidate sites. By November 1, 1980, the board through its chairperson shall notify each regional development commission, or the metropolitan council, and each local government unit within whose jurisdiction the board intends to search for candidate sites. The notification shall explain the selection of the jurisdiction as a search area; shall summarize any conceptual specifications and the evaluation factors, criteria, standards, and procedures the board intends to use in selecting candidate sites; and shall describe the relationship of the candidate site selection process to the other review procedures under this article and the hazardous waste

reports and plans required under article II. The notification shall request recommendations and suggestions from each such commission, the metropolitan council, and local government unit on the criteria, standards, and procedures the board should use in selecting candidate sites within the time allowed. The board through its chairperson shall make a written response to any recommendations, explaining its disposition of the recommendations. By May 1, 1981, the board shall propose at least six locations as candidate sites and shall publish notice in the state register and newspapers of general circulation in the state and shall notify by mail all regional development commissions, or the metropolitan council, and local government units containing a proposed candidate site. Any person objecting to the agency's certification or the board's proposal of a site for candidacy shall have 30 days in which to request a hearing. If a hearing is requested, the hearing shall be ordered by the chairperson of the board and shall be conducted in a manner consistent with the completion of the proceedings and the examiner's report to the agency and board in the time allowed by this section. The hearing examiner may consolidate hearings. No action of the board shall be held invalid by reason of the board's failure to notify any of the entities listed in this subdivision.

Subd. 3. MORATORIUM. A moratorium is hereby imposed on all development, except hazardous waste facilities, within each proposed or candidate site identified pursuant to this section and in a buffer area identified by the board surrounding and at least equal in area to the site. The moratorium on candidate sites and buffer areas shall extend until six months following final action of the board pursuant to this article. No development shall be allowed to occur within a proposed site or buffer area during the period of the moratorium. No land use control of any political subdivision shall permit development, nor shall any political subdivision sanction or approve any subdivision, permit, license, or other authorization which would allow development to occur.

Sec. 5. [115A.22] PARTICIPATION BY AFFECTED LOCALITIES. Subdivision 1. GENERAL. In order systematically to involve those who would be affected most directly by disposal facilities in all decisions leading to their establishment, the board's decisions on reports referred to in subdivision 7, the preliminary specifications under section 6, and the certification of need required under section 7 shall not be made until after the establishment of local project review committees for each candidate site, with representation on the board, pursuant to this section.

Subd. 2. ESTABLISHMENT OF LOCAL PROJECT REVIEW COMMITTEES. A local project review committee shall be established for each location selected as a candidate site. The local committee shall exist, and its members shall serve, so long as the location for which the committee was formed is a candidate site or, for the site or sites finally chosen, until the commencement of the operation of the facility at that site.

Subd. 3. MEMBERSHIP ON LOCAL COMMITTEES. By September 1, 1981, the governor shall appoint the chairperson and members of each local project review committee, ensuring a balanced representation of all parties with a legitimate and direct interest in the outcome of the project review. The governor

shall consult particularly with affected local units of government before selecting members. Members may be added to the local committee from time to time by the governor.

Subd. 4. APPOINTMENT OF TEMPORARY BOARD MEMBERS. By October 1, 1981, each local committee shall select a temporary board member to be added to the board for the purposes of the reports, certifications, and review conducted under this article. Temporary board members may be members of the local project review committee, and they shall be residents of the county where the candidate site is located.

Subd. 5. DUTIES OF LOCAL COMMITTEES. During the review, the local project review committee shall: inform affected local communities, government units, and residents of the proposed land containment and disposal facilities and of the planning and environmental review process relating to the proposed facilities; solicit and record local attitudes and concerns respecting the proposed facilities and represent and communicate such attitudes and concerns to the board, the legislative commission, the environmental quality board, the agency, and other units and agencies of government; and act as a forum for the exchange of local attitudes and concerns and the development, where possible, of local consensus.

Subd. 6. TECHNICAL ASSISTANCE; GRANTS. To assist local project review committees to participate in the certification of need and the review process, the board through its chairperson shall make grants to the committees to be used to employ staff, pay administrative expenses, or contract with qualified consultants. The board through its chairperson shall ensure the delivery to the committees of technical information and assistance by appropriate state agencies.

Subd. 7. HAZARDOUS WASTE MANAGEMENT REPORTS. The chairperson and the board shall prepare and submit the hazardous waste management reports required by article 11, section 5, subdivisions 4 and 5, in consultation with the local project review committees. The chairperson and the board shall request recommendations from the local committees and shall consult with the committees on the board's intended disposition of the recommendations. The reports of the board shall summarize the recommendations of the committees and the board's response to the recommendations. Before submitting the reports, the board shall hold at least one public meeting in each county in which a candidate site is located. A majority of the permanent members shall be present at each meeting. Notice of the meeting shall be published in a newspaper or newspapers of general circulation in the area for two successive weeks ending at least 15 days before the date of the meeting. The notice shall describe the proposed facilities, the proposed location, the purpose of the board's report to the legislature, and the subsequent and related activities of the board.

Sec. 6. [115A.23] DISPOSAL FACILITIES; PRELIMINARY DESIGN AND OPERATING SPECIFICATIONS. By January 1, 1982, the board shall select, for further study and consideration, design and operating specifications for a variety of disposal facilities for hazardous waste in sufficient detail and extent in the judgment of the agency to allow the agency to begin preparing an environmental

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impact statement on the alternative facilities at each of the candidate sites pursuant to section 8. The preliminary design and operating specifications shall not be final and shall not preclude the consideration of other specifications nor foreclose the subsequent addition by the board of other disposal facility alternatives.

Sec. 7. [115A.24] CERTIFICATION OF NEED. By May 1, 1982, on the basis of and consistent with its hazardous waste management plan adopted under article 11, section 8, the board shall issue a certificate or certificates of need for disposal facilities for hazardous wastes in the state. The certificate or certificates shall indicate the types and volumes of waste for which disposal facilities are and will be needed through the year 2000 and the number, types, sizes, general design and operating specifications, and function or use of the disposal facilities needed in the state. The board shall certify need only to the extent that the board has determined that there are no feasible and prudent alternatives including waste reduction, separation, pretreatment, processing, and resource recovery which would minimize adverse impact upon natural resources, provided that the board shall require the establishment of at least one commercial disposal facility in the state. Economic considerations alone shall not justify certification nor the rejection of alternatives. Alternatives that are speculative and conjectural shall not be deemed to be feasible and prudent. The certificate or certificates shall not be subject to the provisions of chapter 15 but shall be the final determination required on the matters decided by the certificate or certificates and shall have the force and effect of law. The certificate or certificates shall not be amended for five years. The board and the permitting agencies, in reviewing and selecting sites, completing environmental impact statements, and issuing approvals and permits for waste disposal facilities described in the certificate or certificates of need, shall not reconsider matters determined in the certification. The board and the permitting agencies shall be required to make a final decision approving the establishment of facilities consistent with the certification. The board and the permitting agencies shall be required to make a final decision approving the establishment of at least one commercial disposal facility for hazardous waste in the state.

Sec. 8. [115A.25] AGENCY; ENVIRONMENTAL REVIEW PROCEDURES. **Subdivision 1. ENVIRONMENTAL IMPACT STATEMENT.** An environmental impact statement meeting the requirements of chapter 116D shall be completed by the agency on disposal facilities at each candidate site. The statement shall be finally accepted or rejected within 120 days following the issuance of a certificate or certificates of need under section 7.

Subd. 2. PUBLIC DISCLOSURE. Before commencing preparation of the environmental impact statement, the agency shall issue a document summarizing and making full disclosure of the intended objectives and contents of the environmental impact statement and the environmental review. Announcement of the disclosure shall be published in the state register. The disclosure shall:

(a) identify the candidate sites;

(b) summarize preliminary design and operating specifications and indicate where and when the specifications are available for inspection;

(c) describe as fully as possible the object of the review, including the significant actions, issues, alternatives, types of impacts, and compensation and mitigation measures expected to be addressed in the statement; the depth of the analysis expected; and subjects which the statement will not address in depth because they have been disposed of previously or because they are believed to be insignificant or remote and speculative;

(d) identify, by reference and brief summary, any related planning activities and environmental reviews which have been, are being, or will be conducted, and the substantive, chronological, and procedural relationship between the proposed review and the other activities and reviews;

(e) identify the membership and address of the local project review committees and the names of the local representatives on the board;

(f) summarize the comments and suggestions received from the public pursuant to subdivision 3 and the agency's response.

Subd. 3. PUBLIC PARTICIPATION PROCEDURES. The public disclosure document shall be issued following diligent effort to involve the public in determining the objective and contents of the environmental impact statement. At least one public meeting shall be held in each county with a candidate site. The advice of the board, facility developers, state agencies, the local project review committees, and local units of government shall be actively solicited. The agency may engage the state hearing examiner to conduct meetings and make recommendations concerning the review. Each local project review committee shall present to the agency a written report summarizing local concerns and attitudes about the proposed action and the specific issues which the local communities and residents wish to see addressed in the environmental review.

Sec. 9. [115A.26] AGENCIES; PERMIT CONDITIONS. Within 60 days following the acceptance of the final environmental impact statement, and after consulting with the board, facility developers, affected local government units, and the local project review committees, each permitting state agency shall issue a notice of intent to issue permits, indicating the terms, conditions, and requirements of agency approval for all permits needed at each candidate site for the establishment of the facilities described in the board's certification of need. The agency decisions shall be consistent with the establishment of facilities in accordance with the certification of need.

Sec. 10. [115A.27] HEARINGS. Subdivision 1. AGENCY HEARINGS. Any person objecting to a notice of intent to issue permits shall have 30 days in which to request a hearing. The hearing shall be ordered by the commissioner or director of the agency involved and shall be conducted by the state office of hearing examiners in the manner provided for contested cases in chapter 15. The hearing examiner may consolidate hearings on agency notices as he deems appropriate. The hearing shall be held in the county where the candidate site is located.

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A majority of the permanent members of the board shall be present at the agency hearing. The proceeding shall be completed and the examiner's report submitted to the permitting agency within 90 days following the issuance of the agency's notice of intent. Within 60 days following the hearing examiner's report and after consulting with the board, facility developers, affected local government units, and the local project review committee, the permitting agency shall revise its notice of intent as it deems appropriate and shall reissue the notice.

Subd. 2. BOARD HEARINGS. Within 90 days following the issuance of agency notice of intent under section 9, the board shall conduct a hearing in each county containing a candidate site, for the purpose of receiving testimony on the sites and facilities to be established. The hearings shall be ordered by the chairperson of the board and shall be conducted concurrently with any agency hearing regarding the site held pursuant to subdivision 1. The subject of the board hearing shall not extend to matters previously decided in the board's certificate of need. The hearing shall be conducted for the board by the state office of hearing examiners in a manner determined by the hearing examiner to be consistent with the completion of the proceedings in the time allowed. The proceedings shall not be deemed a contested case under chapter 15. A majority of the permanent members of the board shall be present at the hearing.

Sec. 11. [115A.28] FINAL ACTION. Subdivision 1. DECISION OF BOARD. Within 60 days following final agency decisions on permits pursuant to section 9 and section 10, subdivision 1, and after consulting with private facility developers, the agency, affected local government units, and the local project review committees, the board shall finally select the site or sites for the facilities and shall submit or cause to be submitted final permit applications. If the chairperson of the board determines that an agency notice of intent has been substantially revised following hearings held pursuant to section 10, subdivision 1, the chairperson shall order a public hearing to receive further testimony on the sites and facilities to be established. The proceeding shall be conducted as provided in section 10, subdivision 2, except that hearings shall not be separately held in the affected counties and the issues relating to all agency notices shall be considered at one hearing. The board's decision and final permit applications shall embody all terms, conditions, and requirements of the permitting agencies, provided that the board may: (a) finally resolve any conflicts between state agencies regarding permit terms, conditions, and requirements, and (b) require more stringent terms, conditions, and requirements respecting the facility as may be consistent with the certification of need and the agency rules and permit conditions. The board's resolution of conflicts under clause (a) shall be in favor of the more stringent terms, conditions, and requirements. The board's decision and the permit applications shall provide for the establishment of facilities consistent with the board's certification of need.

Subd. 2. BOARD'S DECISION PARAMOUNT. The board's decision under subdivision 1 shall be final and shall supersede and preempt requirements of state agencies and political subdivisions, excepting only those terms, conditions, and requirements of permitting agencies embodied in the board's decision and except as provided in subdivision 3. The permitting agencies shall issue permits within 60

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days following and in accordance with the board's final decision, and all permits shall conform to the terms, conditions, and requirements of the board's decision. No charter provision, ordinance, regulation, permit, or other requirement of any state agency or political subdivision shall prevent or restrict the establishment, operation, expansion, continuance, or closure of a facility in accordance with the final decision of the board and permits issued pursuant thereto.

Subd. 3. LOCAL REQUIREMENTS. A political subdivision may impose reasonable requirements respecting the construction, inspection, operation, monitoring, and maintenance of a facility. Any such requirements shall be subject to review by the agency to determine their reasonableness and consistency with the establishment and use of a facility in accordance with the final decision of the board and permits issued pursuant thereto. The agency may approve, disapprove, suspend, modify, or reverse any such requirements. The decision of the agency shall be final.

Sec. 12. [115A.29] RECONCILIATION AND INTERVENTION PROCEDURES. Subdivision 1. REPORTS TO LEGISLATIVE COMMISSION. At least 30 days before making final decisions on final site selection and permit application under section 11, the board through its chairperson may report to the legislative commission describing permit conditions or requirements being considered which are not within the existing authority of the agency or the board or which would require legislation or public financial assistance. The report shall not raise issues previously decided by the board's certification of need. In any such report the chairperson of the board may request intervention in the review pursuant to subdivisions 2 and 3.

Subd. 2. PRE-INTERVENTION ASSESSMENT. If the legislative commission determines that intervention might be warranted under the terms of subdivision 1, the commission may suspend the review process for up to 60 days to allow a pre-intervention assessment. The pre-intervention assessment shall be conducted by an independent, impartial, and qualified public intervenor appointed by the commission with the advice and consent of the parties to the dispute. The intervenor shall report to the commission. The report shall include:

(a) an assessment of whether the dispute is ripe for mediation and whether the parties are willing to mediate;

(b) an assessment of whether, within the terms of subdivision 1, substantive issues exist which were not decided by the certification of need and which cannot be resolved effectively through normal administrative and judicial procedures;

(c) a preliminary definition of the facts and issues in dispute and actions and decisions being considered;

(d) a description of the diverse parties having a legitimate and direct interest in the outcome of the dispute.

Subd. 3. SUSPENSION OF REVIEW PROCESS; INTERVENTION PROCEEDING. Following the report of the intervenor, the legislative commission may suspend the review process for an additional period not to exceed 90 days for

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an intervention proceeding. The intervention proceeding shall not consider issues previously decided by the board's certification of need. The intervenor shall be in charge of the intervention proceeding and may call for such participation and establish such procedures as he deems necessary and appropriate to facilitate agreement. The intervenor shall keep the chairperson of the legislative commission informed on the progress of the intervention proceeding, particularly with respect to agreements or proposed agreements which may require action or decisions not within the authority of the agency or board, legislative action, or public financial assistance. The intervenor shall make recommendations to the commission respecting any such agreements or proposed agreements. The commission may make recommendations to the intervenor respecting any such agreement or proposed agreement. If the commission approves of an agreement, or a decision based upon an agreement, which requires action or decisions not within the authority of the agency or board, legislative action, or public financial assistance, the commission shall cause the matter and recommendations to be submitted to the legislature for consideration.

Sec. 13. [115A.30] JUDICIAL REVIEW. Any civil action maintained by or against the agency or board under this article shall be brought in the county where the board is located and shall take precedence over all other matters of a civil nature and be expedited to the maximum extent possible. Any person aggrieved by a final decision of the board authorizing facilities under this article may appeal therefrom within 30 days as provided in chapter 15. No civil action shall be maintained pursuant to section 116B.03 with respect to conduct taken by a person pursuant to any environmental quality standard, limitation, regulation, rule, order, license, stipulation agreement or permit issued by the board under this article. Notwithstanding any provision of chapter 116B to the contrary, in any action brought under that chapter with respect to any decision or conduct undertaken by any person or the board or agency pursuant to this article after the period for appeal under this section has lapsed, the plaintiff shall have the burden of proving that the evidence required under section 116B.10 was not reasonably available within the time provided for appeal. The trial court shall, upon motion of any prevailing non-governmental party, award costs, disbursements, reasonable attorney's fees, and reasonable expert witness fees, if the court finds the action hereunder was commenced or defended in bad faith or was frivolous.

ARTICLE IV

Section 1. [115A.32] RULES. The board shall promulgate rules pursuant to chapter 15 to govern its activities under article IV.

Sec. 2. [115A.33] ELIGIBILITY; REQUEST FOR REVIEW. The following persons shall be eligible to request supplementary review by the board pursuant to this article: (a) a generator of sewage sludge within the state who has been issued permits by the agency for a facility to dispose of sewage sludge or solid waste resulting from sewage treatment; (b) a political subdivision which has been issued permits by the agency, or a political subdivision acting on behalf of a person who has been issued permits by the agency, for a solid waste facility which is no larger than 250 acres, not including any proposed buffer area, and located outside the metropolitan area; (c) a generator of hazardous waste within the state

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who has been issued permits by the agency for a hazardous waste facility to be owned and operated by the generator, on property owned by the generator, and to be used by the generator for managing the hazardous wastes produced by the generator only; (d) a person who has been issued permits by the agency for a commercial hazardous waste processing facility at a site included in the board's inventory of preferred sites for such facilities adopted pursuant to article II, section 6. The metropolitan waste control commission shall not be eligible to request review under clause (a) for a sewage sludge disposal facility. The metropolitan waste control commission shall not be eligible to request review under clause (a) for a solid waste facility with a proposed permitted life of longer than four years. The board may require completion of a plan conforming to the requirements of article V, section 5, before granting review under clause (b). A request for supplementary review shall show that the required permits for the facility have been issued by the agency and that a political subdivision has refused to approve the establishment or operation of the facility.

Sec. 3. [115A.34] APPOINTMENT OF TEMPORARY BOARD MEMBERS. Within 45 days of the submission of a request determined by the board to satisfy the requirements for review under this article, temporary board members shall be added to the board for the purpose of the supplementary review. Three members shall be selected by the governing body of the city or town in which the chairperson of the waste management board determines the facility would be principally located, and three members shall be selected by the governing body of the county in which the chairperson of the waste management board determines the proposed facility would be principally located. If the proposed facility is located in unorganized territory, all six members shall be selected by the governing board of the county. Temporary members shall be residents of the county in which the proposed facility would be located and shall be selected to represent broadly the local interests that would be directly affected by the proposed facility. At least one member appointed by the city or town shall live within one mile of the proposed facility, and at least one member appointed by the county shall be a resident of a city or town in which the proposed facility would be located. Temporary board members shall serve for terms lasting until the board has taken final action on the facility.

Sec. 4. [115A.35] REVIEW PROCEDURE. The board shall meet to commence the supplementary review within 90 days of the submission of a request determined by the board to satisfy the requirements for review under this section. At the meeting commencing the review the chairperson shall recommend and the board establish a scope and procedure, in accordance with the rules of the board, for review and final decision on the proposed facility. The procedure shall require the board to make a final decision on the proposed facility within 90 days following the commencement of review. The procedure shall require the board to hold, at the call of the chairperson, at least one public hearing in the county within which the proposed facility would be located. A majority of permanent members of the board shall be present at the hearing. The hearing shall be conducted for the board by the state office of hearing examiners in a manner determined by the hearing examiner to be consistent with the expeditious comple-

tion of the proceedings as required by this article. The hearing shall not be deemed a contested case under chapter 15. Notice of the hearing shall be published in a newspaper or newspapers of general circulation in the area for two successive weeks ending at least 15 days before the date of the meeting. The notice shall describe the proposed facility, its location, the permits, and the board's scope and procedure for review. The notice shall identify a location or locations within the city or town and county where the permit applications, the agency permits, and the board's scope and procedure for review are available for review and where copies may be obtained.

Sec. 5. [115A.36] SCOPE AND CONTENT OF REVIEW. In its review and final decision on the proposed facility, the board shall consider at least the following matters:

(a) the risk and effect of the proposed facility on local residents, units of government, and the local public health, safety, and welfare, including such dangers as an accidental release of wastes during transportation to the facility, water, air, and land pollution, and fire or explosion where appropriate, and the degree to which the risk or effect may be alleviated;

(b) the consistency of the proposed facility with, and its effect on, existing and planned local land use and development; local laws, ordinances, and permits; and local public facilities and services;

(c) the adverse effects of the facility on agriculture and natural resources and opportunities to mitigate or eliminate the adverse effects by additional stipulations, conditions, and requirements respecting the proposed facility at the proposed site;

(d) the need for the proposed facility, especially its contribution to abating solid and hazardous waste disposal, the availability of alternative sites, and opportunities to mitigate or eliminate need by additional and alternative waste management strategies or actions of a significantly different nature;

(e) whether, in the case of solid waste resource recovery facilities, the applicant has considered the feasible and prudent waste processing alternatives for accomplishing the purposes of the proposed project and has compared and evaluated the costs of the alternatives, including capital and operating costs, and the effects of the alternatives on the cost to generators.

Sec. 6. [115A.37] FINAL DECISION OF BOARD. Subdivision 1. APPROVAL OR DISAPPROVAL. In its final decision on the proposed facility, the board may either approve or disapprove the proposed facility at the proposed site. The board's approval shall embody all terms, conditions, and requirements of the permitting agencies, provided that the board may: (a) finally resolve any conflicts between state agencies regarding permit terms, conditions, and requirements, and (b) require more stringent permit terms, conditions, and requirements respecting the design, construction, operation, inspection, monitoring, and maintenance of the proposed facility at the proposed site. The board's resolution of conflicts under clause (a) shall be in favor of the more stringent terms, conditions, and requirements.

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Subd. 2. DECISION PARAMOUNT. The decision of the board to approve a facility shall be final and shall supersede and preempt requirements of state agencies and political subdivisions, excepting only those terms, conditions, and requirements of permitting agencies embodied in the board's approval and except as provided in subdivision 3. The permitting agencies shall issue or amend the permits for the facility within 60 days following and in accordance with the final decision of the board, and all permits shall conform to the terms, conditions, and requirements of the board's decision. No charter provision, ordinance, regulation, permit, or other requirement of any state agency or political subdivision shall prevent or restrict the establishment, operation, expansion, continuance, or closure of the facility in accordance with the final decision of the board and permits issued pursuant thereto.

Subd. 3. LOCAL REQUIREMENTS. A political subdivision may impose reasonable requirements respecting the construction, inspection, operation, monitoring, and maintenance of a facility. Any such requirements shall be subject to review by the agency to determine their reasonableness and consistency with the establishment and use of a facility in accordance with the final decision of the board and permits issued pursuant thereto. The agency may approve, disapprove, suspend, modify, or reverse any such requirements. The decision of the agency shall be final.

Sec. 7. [115A.38] RECONCILIATION PROCEDURES. Subdivision 1. REPORTS TO LEGISLATIVE COMMISSION. At least 30 days before making a final decision under section 6 in a review brought pursuant to section 2, clause (d), the board through its chairperson may report to the legislative commission describing permit conditions or requirements being considered which are not within the existing authority of the agency or the board or which would require legislation or public financial assistance. In any such report the chairperson of the board may request intervention in the review pursuant to subdivisions 2 and 3.

Subd. 2. PRE-INTERVENTION ASSESSMENT. If the legislative commission determines that intervention might be warranted under the terms of subdivision 1, the commission may suspend the review process for up to 60 days to allow a pre-intervention assessment. The pre-intervention assessment shall be conducted by an independent, impartial, and qualified public intervenor appointed by the commission with the advice and consent of the parties to the dispute. The intervenor shall report to the commission. The report shall include:

(a) an assessment of whether the dispute is ripe for mediation and whether the parties are willing to mediate;

(b) an assessment of whether, within the terms of subdivision 1, substantive issues exist which cannot be resolved effectively through normal administrative and judicial procedures;

(c) a preliminary definition of the facts and issues in dispute and actions and decisions being considered;

(d) a description of the diverse parties having a legitimate and direct interest in the outcome of the dispute.

Subd. 3. SUSPENSION OF REVIEW PROCESS; INTERVENTION PROCEEDING. Following the report of the intervenor, the legislative commission may suspend the review process for an additional period not to exceed 90 days for an intervention proceeding. The intervenor shall be in charge of the intervention proceeding and may call for such participation and establish such procedures as he deems necessary and appropriate to facilitate agreement. The intervenor shall keep the chairman of the legislative commission informed on the progress of the intervention proceeding, particularly with respect to agreements or proposed agreements which may require action or decisions not within the authority of the agency or board, legislative action, or public financial assistance. The intervenor shall make recommendations to the commission respecting any such agreements or proposed agreements. The commission may make recommendations to the intervenor respecting any such agreement or proposed agreement. If the commission approves of an agreement, or a decision based upon an agreement, which requires action or decisions not within the authority of the agency or board, legislative action, or public financial assistance, the commission shall cause the matter and recommendations to be submitted to the legislature for consideration.

Sec. 8. [115A.39] JUDICIAL REVIEW. Judicial review with respect to conduct or decisions in supplementary reviews brought pursuant to section 2, clauses (c) or (d), shall be as provided in article III, section 13.

ARTICLE V

SOLID WASTE MANAGEMENT PLANNING ASSISTANCE PROGRAM

Section 1. [115A.42] ESTABLISHMENT AND ADMINISTRATION. There is established a planning assistance program to provide technical and financial assistance to political subdivisions of the state for the purpose of encouraging and improving regional and local solid waste management planning activities and efforts. The program shall be administered by the agency pursuant to rules promulgated under chapter 15, except in the metropolitan area where the program shall be administered by the metropolitan council pursuant to chapter 473. The agency and the metropolitan council shall ensure conformance with federal requirements and programs established pursuant to the Resource Conservation and Recovery Act of 1976 and amendments thereto.

Sec. 2. [115A.43] ELIGIBLE RECIPIENTS. Political subdivisions shall be eligible for assistance under the program.

Sec. 3. [115A.44] FINANCIAL ASSISTANCE. Eligible recipients may receive grants for up to 50 percent of the cost of the planning activity, except that planning by a regional development commission and joint planning by two or more contiguous counties or political subdivisions located in two or more contiguous counties may receive grants for up to 100 percent of the cost of the planning activity. Financial assistance provided under the program may be used to employ staff, contract with other units of government or qualified consultants, and pay such other planning expenses as the agency or metropolitan council may allow.

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Sec. 4. [115A.45] TECHNICAL ASSISTANCE. The agency and metropolitan council shall provide for technical assistance for eligible recipients. The agency and metropolitan council shall provide model plans for regional and local solid waste management. The agency and metropolitan council may contract for the delivery of technical assistance by a regional development commission, any state or federal agency, or private consultants. The agency shall prepare and publish an inventory of sources of technical assistance for solid waste planning, including studies, publications, agencies, and persons available.

Sec. 5. [115A.46] CONTENTS. Political subdivisions preparing plans under this article are encouraged to consult with persons presently providing solid waste collection, processing, and disposal services in the preparation of the plan. Plans prepared by local units of government in the metropolitan area shall conform to the requirements of chapter 473. Plans prepared by political subdivisions outside the metropolitan area with assistance from the program shall conform to the requirements of this section. The plans shall describe existing collection, processing, and disposal systems, including schedules of rates and charges, financing methods, environmental acceptability, and opportunities for improvements in the systems. The plans shall include an estimate of the land disposal capacity in acre-feet which will be needed through the year 2000, on the basis of current and projected waste generation practices. The plans shall contain an assessment of opportunities to reduce the need for land disposal through waste reduction and resource recovery, the alternative degrees of reduction achievable, and a comparison of the costs of alternatives, including capital and operating costs, and the effects of the alternatives on the cost to generators. The plans shall establish a siting procedure and development program to assure the orderly location, development, and financing of new or expanded solid waste facilities and services sufficient for a prospective ten-year period, including estimated costs and implementation schedules, proposed procedures for operation and maintenance, estimated annual costs and gross revenues, and proposals for the use of facilities after they are no longer needed or usable. The plans shall describe existing and proposed county and municipal ordinances and license and permit requirements relating to solid waste management and shall describe existing and proposed regulation and enforcement procedures. Plans for location, establishment, operation, maintenance, and post-closure use of facilities and facility sites, for ordinances, and for licensing, permit, and enforcement activities shall be consistent with the rules adopted by the agency pursuant to chapter 116. The plans shall address the resolution of conflicting, duplicative, or overlapping local management efforts. The plans shall address the establishment of joint powers management programs or waste management districts where appropriate. The plans shall address other matters as the rules of the agency may require consistent with the purposes of article V.

ARTICLE VI

SOLID WASTE MANAGEMENT DEMONSTRATION PROGRAM

Section 1. [115A.49] ESTABLISHMENT; PURPOSES AND PRIORITIES.

There is established a solid waste management demonstration program to encourage and assist cities, counties, and solid waste management districts in the

development and implementation of solid waste management projects of potential state wide application or significance and to transfer the knowledge and experience gained from such projects to other communities in the state. The program shall be administered so as to demonstrate the application of feasible and prudent alternatives to disposal, including waste reduction; waste separation by generators, collectors, and other persons; and waste processing. The program shall be administered by the agency and the board in accordance with the requirements of article VI and rules promulgated by the agency and the board pursuant to chapter 15. In administering the program, the agency and the board shall give priority to areas where natural geologic and soil conditions are unsuitable for land disposal of solid waste and areas where the capacity of existing solid waste disposal facilities is determined by the agency or the board to be less than five years. In areas outside the metropolitan area, the agency and the board shall also give priority to projects serving more than one local government unit.

Sec. 2. [115A.50] **ELIGIBLE RECIPIENTS.** Eligible recipients for assistance under the program shall be limited to cities, counties, and solid waste management districts established pursuant to article VIII. Eligible recipients may apply for assistance under sections 4 and 5 on behalf of other persons.

Sec. 3. [115A.51] **APPLICATION REQUIREMENTS.** Applications for assistance under the program shall demonstrate: (a) that the project is conceptually and technically feasible; (b) that affected political subdivisions are committed to implement the project, to provide necessary local financing, and to accept and exercise the government powers necessary to the project; (c) that operating revenues from the project, considering the availability and security of sources of solid waste and of markets for recovered resources, together with any proposed federal, state, or local financial assistance, will be sufficient to pay all costs over the projected life of the project; (d) that the applicant has evaluated the feasible and prudent alternatives to disposal and has compared and evaluated the costs of the alternatives, including capital and operating costs, and the effects of the alternatives on the cost to generators. The agency or the board may require completion of a comprehensive solid waste management plan conforming to the requirements of article V, section 5, before accepting an application.

Sec. 4. [115A.52] **TECHNICAL ASSISTANCE FOR DEMONSTRATION PROJECTS.** The agency and the board shall ensure the delivery of the technical assistance necessary for proper implementation of each demonstration project funded under the program. The agency and the board may contract for the delivery of technical assistance by any state or federal agency, a regional development commission, the metropolitan council, or private consultants and may use program funds to reimburse the agency, commission, council, or consultants. The agency and the board shall prepare and publish an inventory of sources of technical assistance, including studies, publications, agencies, and persons available. The agency and the board shall ensure statewide benefit from projects assisted under the demonstration program by developing exchange and training programs for local officials and employees and by using the experience gained in demonstration projects to provide technical assistance and education for other solid waste management projects in the state.

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Sec. 5. [115A.53] WASTE REDUCTION AND SEPARATION PROJECTS.

The agency shall provide technical assistance and grants to projects which demonstrate waste reduction; waste separation by generators, collectors, and other persons; and collection systems for separated waste. Activities eligible for assistance under this section include legal, financial, economic, educational, marketing, social, governmental, and administrative activities related to the implementation of the project. Preliminary planning and development, feasibility study, and conceptual design costs shall also be eligible activities, but no more than 20 percent of program funds shall be used to fund those activities. The rules of the agency shall prescribe the level or levels of local funding required for grants under this section.

Sec. 6. [115A.54] WASTE PROCESSING FACILITIES. Subdivision 1. PURPOSES; PUBLIC INTEREST; DECLARATION OF POLICY. The legislature finds that the establishment of waste processing facilities and transfer stations serving such facilities is needed to manage properly the solid waste generated in the state and to conserve and protect the natural resources in the state and the health, safety, and welfare of its citizens; that opportunities to establish the facilities and transfer stations are not being fully realized by individual political subdivisions or by agreements among subdivisions; and that therefore it is necessary to provide capital assistance to stimulate and encourage the acquisition and betterment of the facilities and transfer stations.

Subd. 2. ADMINISTRATION; ASSURANCE OF FUNDS. The board shall provide technical and financial assistance for the acquisition and betterment of the facilities and transfer stations from revenues derived from the issuance of bonds authorized by article VII, section 2. Of money appropriated for the purposes of the demonstration program, at least 70 percent shall be distributed as loans, and the remainder shall be distributed as grants. An individual project may receive assistance totaling up to 100 percent of the capital cost of the project and grants up to 50 percent of the capital cost of the project. No grant or loan shall be disbursed to any recipient until the board has determined the total estimated capital cost of the project and ascertained that financing of the cost is assured by funds provided by the state, by an agency of the federal government within the amount of funds then appropriated to that agency and allocated by it to projects within the state, by any person, or by the appropriation of proceeds of bonds or other funds of the recipient to a fund for the construction of the project.

Subd. 3. OBLIGATIONS OF RECIPIENT. No grant or loan for any project shall be disbursed until the governing body of the recipient has made an irrevocable undertaking, by resolution, to use all funds made available exclusively for the capital cost of the project and to pay any additional amount by which the cost of the project exceeds the estimate by appropriation to the construction fund of additional funds or proceeds of additional bonds of the recipient. The resolution shall also indicate that any subsequent withdrawal of allocated or additional funds of the recipient will impair the obligation of contract between the state of Minnesota, the recipient, and the bondholders. The resolution shall pledge payment to the debt service account of all revenues of the project to the extent that they exceed costs and shall also obligate the recipient to levy a tax sufficient

to make timely payments under the loan agreement, if a deficiency occurs in the amount of user charges, taxes, special assessments, or other moneys pledged for payment under the loan agreement. Each loan made to a recipient shall be secured by resolutions adopted by the board and the governing body of the recipient, obligating the recipient to repay the loan to the state treasurer in annual installments including both principal and interest. Installments shall be in an amount sufficient to pay the principal amount within the period required by the agency. The interest on the loan shall be calculated on the declining balance at a rate not less than the average annual interest rate on the state bonds of the issue from which proceeds of the loan were made. The resolution shall obligate the recipient to provide money for the repayment from user charges, taxes, special assessments or any other funds available to it.

ARTICLE VII

STATE WASTE MANAGEMENT BONDS

Section 1. [115A.57] WASTE MANAGEMENT FUND. Subdivision 1. CREATION; RECEIPTS. The commissioner of finance shall maintain a Minnesota state waste management fund. The fund shall receive the proceeds of state bonds and other money appropriated to the fund and disburse money for the acquisition of real property and interests in real property for hazardous waste facility sites and surrounding buffer areas, as authorized by article II, section 3, subdivision 4, and money to be granted or loaned to political subdivisions pursuant to the waste processing facility capital assistance program created by article VI, section 6. The commissioner of finance and state treasurer shall deposit in the fund as received (a) all proceeds of Minnesota state waste management bonds, except accrued interest and premiums received upon the sale of the bonds; (b) all other money appropriated by law for purposes stated in article VII, and (c) all money granted to the state for those purposes by the federal government or any agency thereof. All the receipts are annually appropriated for the purposes of the fund, and shall remain available until expended.

Subd. 2. DISBURSEMENTS. Disbursements from the fund shall be made at the times and in the amounts authorized by the board in accordance with applicable state laws and the board's rules.

Sec. 2. [115A.58] MINNESOTA STATE WASTE MANAGEMENT BONDS. Subdivision 1. AUTHORITY TO ISSUE BONDS. The commissioner of finance shall sell bonds of the state of Minnesota for the prompt and full payment of which, together with interest, the full faith, credit, and taxing powers of the state are irrevocably pledged. Bonds shall be sold only upon request of the board and in the amount as may otherwise be authorized by this or a subsequently enacted law which authorizes the sale of additional bonds and the deposit of the proceeds in the state waste management fund. Any authorized amount of bonds in this law or any subsequently enacted law authorizing the issuance of bonds for the purposes of the state waste management fund, together with this section, constitute complete authority for the issue. The bonds shall not be subject to restrictions or limitations contained in any other law.

Subd. 2. ISSUANCE OF BONDS. Upon request by the board and upon authorization as provided in subdivision 1, the commissioner of finance shall sell Minnesota state waste management bonds. The bonds shall be in the aggregate amount requested, and sold upon sealed bids upon the notice, at the price, in the form and denominations, bearing interest at the rate or rates, maturing in the amounts and on the dates (without option of prepayment or subject to prepayment upon the notice and at the times and prices), payable at the bank or banks within or outside the state (with provisions for registration, conversion, and exchange and for the issuance of notes in anticipation of the sale or delivery of definitive bonds), and in accordance with any further provisions as the commissioner of finance shall determine. The sale is subject to the approval of the attorney general, but not subject to the provisions of Minnesota Statutes, Sections 15.0411 to 15.0422. The bonds shall be executed by the commissioner of finance and attested by the state treasurer under their official seals. The signatures of the officers on the bonds and any interest coupons and their seals may be printed, lithographed, engraved, or stamped thereon, except that each bond shall be authenticated by the manual signature on its face of one of the officers or of an officer of a bank designated by them as authenticating agent. The commissioner of finance shall ascertain and certify to the purchasers of the bonds the performance and existence of all acts, conditions, and things necessary to make them valid and binding general obligations of the state of Minnesota, subject to the approval of the attorney general.

Subd. 3. EXPENSES. All expenses incidental to the sale, printing, execution, and delivery of bonds pursuant to this section, including but not limited to actual and necessary travel and subsistence expenses of state officers and employees for these purposes, and any expenses of litigation relating to the validity of the bonds, shall be paid from the waste management fund, and the amounts necessary are appropriated from that fund.

Subd. 4. DEBT SERVICE ACCOUNT IN THE STATE WASTE MANAGEMENT FUND. The commissioner of finance shall maintain in the Minnesota state waste management fund a separate account to be called the state waste management debt service account. It shall record receipts of premium and accrued interest, loan repayments, project revenue or other money transferred to the fund and income from the investment of the money and record any disbursements to pay the principal and interest on waste management bonds. Income from investment shall be credited to the account in each fiscal year. The amount credited shall be equal to the average return that year on all funds invested by the state treasurer, as determined by the treasurer, times the average balance in the account that year.

Subd. 5. APPROPRIATIONS TO DEBT SERVICE ACCOUNT; APPROPRIATION FROM ACCOUNT TO PAY DEBT SERVICE. The premium and accrued interest received on each issue of Minnesota state waste management bonds, and all payments received in repayment of loans and other revenues received are appropriated to the debt service account. All income from the investment of the Minnesota state waste management fund is appropriated to the debt service account. In order to reduce the amount of taxes otherwise required to be

levied, there is also appropriated to the debt service account from any funds available in the general fund on November 1 in each year, a sum of money sufficient in amount, when added to the balance then on hand, to pay all principal and interest on Minnesota waste management bonds due and to become due before July 1 in the second ensuing year. So much of the debt service account of the state waste management fund as is necessary to pay principal and interest on waste management bonds is annually appropriated from the debt service account for the payment of principal and interest of the waste management bonds. All funds appropriated by this subdivision shall be available in the debt service account prior to any levy of the tax in any year required by the Minnesota Constitution, Article XI, Section 7.

Subd. 6. SECURITY. On or before December 1 in each year the state auditor shall levy on all taxable property within the state whatever tax may be necessary to produce an amount sufficient, with all money currently credited to the debt service account, to pay the entire amount of principal and interest currently due and the principal and interest to become due before July 1 in the second year thereafter on Minnesota waste management bonds. This tax shall be levied upon all real property used for the purposes of a homestead, as well as other taxable property, notwithstanding the provisions of Minnesota Statutes, Section 273.13, Subdivisions 6 and 7, and shall be subject to no limitation of rate or amount until all the bonds and interest thereon are fully paid. The proceeds of this tax are appropriated to the debt service account. The principal of and interest on the bonds are payable from the proceeds of this tax.

Sec. 3. [115A.59] BOND AUTHORIZATION AND APPROPRIATION OF PROCEEDS. The commissioner of finance is authorized, upon request of the board, to sell Minnesota state waste management bonds in the amount of up to \$8,800,000 for the purpose of the waste processing facility capital assistance program under article VI, section 6, and in the amount of up to \$6,200,000 for the purpose of acquiring real property and interests in real property for hazardous waste facility sites and buffer areas as authorized by article II, section 3, subdivision 4. The bonds shall be sold in the manner and upon the conditions prescribed in article VII, section 2, and in the Minnesota Constitution, Article XI, Sections 4 to 7. The proceeds of the bonds, except as provided in article VII, section 2, subdivision 5, are appropriated to the Minnesota state waste management fund. The amount of bonds issued pursuant to this authorization shall not exceed at any time the amount needed to produce a balance in the waste management fund equal to the aggregate amount of the loans and grants then approved and not previously disbursed, plus the amount of the loans and grants to be approved in the current and the following fiscal year, as estimated by the board.

ARTICLE VIII

SOLID WASTE MANAGEMENT DISTRICTS

Section 1. [115A.62] PURPOSE; PUBLIC INTEREST; DECLARATION OF POLICY. The legislature finds that the development of integrated and coordinated solid waste management systems is needed to manage properly the solid waste generated in the state and to conserve and protect the natural resources in the state and the health, safety, and welfare of its citizens; that this need cannot

always be met solely by the activities of individual political subdivisions or by agreements among subdivisions; and that therefore it is necessary to establish a procedure for the creation of solid waste management districts having the powers and performing the functions prescribed in article VIII.

Sec. 2. [115A.63] SOLID WASTE MANAGEMENT DISTRICTS. Subdivision 1. LEGAL STATUS. Solid waste management districts established pursuant to article VIII shall be public corporations and political subdivisions of the state.

Subd. 2. ESTABLISHMENT BY BOARD. The board may establish waste districts as public corporations and political subdivisions of the state, define the powers of such districts in accordance with article VIII, define and alter the boundaries of the districts as provided in article VIII, section 3, and terminate districts as provided in article VIII, section 5. The board shall promulgate rules pursuant to chapter 15 governing the establishment, alteration, and termination of districts.

Subd. 3. RESTRICTIONS. No waste district shall be established within the boundaries of the Western Lake Superior Sanitary District established by Laws 1971, Chapter 478, as amended. No waste district shall be established wholly within one county. The board shall not establish a waste district within or extending into the metropolitan area, nor define or alter the powers or boundaries of a district, without the approval of the metropolitan council. The council shall not approve a district unless the articles of incorporation of the district require that the district will have the same procedural and substantive responsibilities, duties, and relationship to the metropolitan agencies as a metropolitan county. The board shall not establish a district unless the petitioners demonstrate that they are unable to fulfill the purposes of a district through joint action under Minnesota Statutes, Section 471.59. The board shall require the completion of a comprehensive solid waste management plan conforming to the requirements of article V, section 5, by petitioners seeking to establish a district.

Sec. 3. [115A.64] PROCEDURE FOR ESTABLISHMENT AND ALTERATION. Subdivision 1. LOCAL PETITION. Waste districts shall be established and their powers and boundaries defined or altered by the board only after petition requesting the action jointly submitted by the governing bodies of petitioners comprising at least one-half of the counties partly or wholly within the district. A petition for alteration shall include a resolution by the board of directors of the district approving the alteration.

Subd. 2. PETITION CONTENTS. A petition requesting establishment or alteration of a waste district shall contain the information the board may require, including at least the following:

(a) the name of the proposed district;

(b) a description of the territory and political subdivisions within and the boundaries of the proposed district or alteration thereto, along with a map showing the district or alteration;

(c) resolutions of support for the district, as proposed to the board, from the governing body of each of the petitioning counties;

(d) a statement of the reason, necessity, and purpose for the district, plus a general description of the solid waste management improvements and facilities contemplated for the district showing how its activities will accomplish the purpose of the district and the purposes for waste resource districts stated in article VIII;

(e) articles of incorporation stating the powers of the district consistent with article VIII, including a statement of powers proposed pursuant to sections 9 and 10.

After the petition has been filed, no petitioner may withdraw from it except with the written consent of all other petitioners filed with the board.

Subd. 3. LOCAL REVIEW AND COMMENT. At least 60 days before submitting the petition to the board, the petitioners shall publish notice of the petition in newspapers of general circulation in the proposed district and shall cause a copy of the petition to be served upon the agency, the governing body of each political subdivision which is wholly or partly within the proposed district or is affected by the proposed alteration and each regional development commission affected by the proposed district or alteration. Each entity receiving service shall have 60 days within which to comment to the petitioners on the petition and the proposed district or alteration. Proof of service, along with any comments received, shall be attached to the petition when it is submitted to the board.

Subd. 4. REVIEW PROCEDURES. Upon receipt of the petition, the chairperson of the board shall determine whether the petition conforms in form and substance to the requirements of law and rule. If the petition does not conform to the requirements, the chairperson shall return it immediately to the petitioners with a statement describing the deficiencies and the amendments necessary to rectify them. If the petition does conform to the requirements, and if comments have been received objecting to the establishment or alteration of the district as proposed, the chairperson shall request the office of hearing examiners to conduct a hearing on the petition. The hearing shall be conducted in the proposed district in the manner provided in chapter 15 for contested cases. If no comments have been received objecting to the establishment of the district as proposed, the board may proceed to grant or deny the petition without the necessity of conducting a contested case hearing. If the petition conforms to the requirements of law and rule, the chairperson shall also immediately submit the petition to the solid waste and the technical advisory councils of the board for review and recommendation and shall forward the petition to the director of the agency, who shall prepare and submit to the board a report containing recommendations on the disposition of the petition. The director's report shall contain at least the director's findings and conclusions on whether the proposed boundaries, purposes, powers, and management plans of the district or alteration thereto serve the purposes of waste resource districts, are appropriately related to the waste generation, collection, processing, and disposal patterns in the area, and are generally consistent with the purposes of the agency's regulatory program.

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Subd. 5. CORRECTIONS ALLOWED. No petition submitted by the requisite number of counties shall be void or dismissed on account of defects exposed in the hearing documents or report. The board shall permit the petition to be amended in form and substance to conform to the facts by correcting any errors in the description of the territory or any other defects.

Subd. 6. BOARD ORDER. After considering the reports of the hearing examiner, if a contested case hearing has been held, and the recommendations of the advisory councils director of the agency, the board shall make a final decision on the petition. If the board finds and determines that the establishment or alteration of a district as proposed in the petition would not be in the public interest and would not serve the purposes of article VIII, it shall give notice to the petitioners of its intent to deny the petition. If a contested case hearing has not been held, the petitioners may request a hearing within 30 days of the notice of intent to deny the petition. The request shall be granted. Following the hearing and the report of the hearing examiner, the board shall make a final decision on the petition and mail a copy of its decision to the governing body of each affected political subdivision. If the board finds and determines that the establishment or alteration of a district as proposed in the petition would be in the public interest and would serve the purposes of article VIII, it shall, by order, establish the district, define its boundaries, and give it a corporate name by which, in all proceedings, it shall thereafter be known. The order shall include articles of incorporation stating the powers of the district and the location of its registered office. Upon the filing of a certified copy of the order of the board with the secretary of state, the district shall become a political subdivision of the state and a public corporation, with the authority, power, and duties prescribed in article VIII and the order of the board. At the time of filing, a copy of the order shall be mailed by the board to the governing body of each political subdivision wholly or partly within the district or affected by the alteration of the district.

Sec. 4. [115A.65] PERPETUAL EXISTENCE. A waste district created under the provisions of article VIII shall have perpetual existence to the extent necessary to perform all acts necessary and proper for carrying out and exercising the powers and duties expressly given in it. A district shall not be terminated except pursuant to article VIII, section 5.

Sec. 5. [115A.66] TERMINATION. Subdivision 1. PETITION. Proceedings for the termination of a district shall be initiated by the filing of a petition with the board. The petition shall be submitted by the governing bodies of not less than one-half of the counties which are wholly or partly in the district. The petition shall state that the existence of the district is no longer in the public interest. The petitioners shall publish notice of the petition in newspapers of general circulation in the district and shall cause to be served upon each political subdivision wholly or partly within the district a copy of the petition, and proof of service shall be attached to the petition filed with the board.

Subd. 2. BOND; PAYMENT OF COSTS. If the petition is dismissed or denied, the petitioners shall be required to pay all costs and expenses of the proceeding for termination. At the time of filing the petition a bond shall be filed

by the petitioners with the board in such sum as the board determines to be necessary to ensure payment of costs.

Subd. 3. HEARING; DECISION. If objection is made to the board against the petition for termination, a contested case hearing on the petition shall be held in the waste district pursuant to chapter 15. If the board determines that the termination of the district as proposed in the petition would not be in the public interest, the board shall give notice to the petitioner of its intent to deny the petition. If a contested case hearing has not been held, the petitioner may request a hearing within 30 days of the notice of intent to deny the petition. The request shall be granted. Following the hearing and the report of the hearing examiner, the board shall make a final decision on the petition. If the petition is dismissed all costs of the proceeding shall be assessed against the petitioner. If the board determines that the existence of the district is no longer in the public interest, the board shall by its findings and order terminate the district. Upon the filing of a certified copy of the findings and order with the secretary of state the district shall cease to be a public corporation and a political subdivision of the state.

Subd. 4. LIMITATION. The board shall not entertain a petition for termination of a district within five years from the date of the formation of the district nor shall the board entertain a petition for termination of the same district more often than once in five years.

Sec. 6. [115A.67] ORGANIZATION OF DISTRICT. The governing body of each county wholly or partly within the district shall appoint two persons to serve on the first board of directors of the district. The first chairperson of the board of directors shall be appointed by the chairperson of the waste management board and shall be a local elected official within the district. The first chairperson shall serve for a term of two years. Thereafter the chairperson shall be elected from outside the board of directors by majority vote of the board of directors. The first meeting of the board of directors shall be held at the call of the chairperson, after notice, for the purpose of proposing the bylaws, electing officers and for any other business that comes before the meeting. The bylaws of the district, and amendments thereto, shall be adopted by a majority vote of the board of directors unless the certificate of incorporation requires a greater vote. The bylaws shall state:

(a) the manner and time of calling regular meetings of the representatives and the board of directors, not less than once annually;

(b) the title, manner of selection, and term of office of officers of the district;

(c) the term of office of members of the board of directors, the manner of their removal, and the manner of filling vacancies on the board of directors;

(d) the powers and duties of the board of directors consistent with the order and articles of incorporation establishing the district;

(e) the definition of a quorum for meetings of the board of directors, which shall be not less than a majority of the members;

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(f) the compensation and reimbursement for expenses for members of the board of directors, which shall not exceed that provided for in section 15.0575, subdivision 3; and

(g) such other provisions for regulating the affairs of the district as the board of directors shall determine to be necessary.

Sec. 7. [115A.68] REGISTERED OFFICE. Every district shall maintain an office in this state to be known as its registered office. When a district desires to change the location of its registered office, it shall file with the secretary of state, the board, and the director of the agency, a certificate stating the new location by city, town, or other community and the effective date of change. When the certificate has been duly filed, the board of directors may make the change without any further action.

Sec. 8. [115A.69] POWERS. Subdivision 1. GENERAL. A district shall have all powers necessary or convenient to perform its duties, including the powers provided in this section.

Subd. 2. ACTIONS. The district may sue and be sued, and shall be a public body within the meaning of chapter 562.

Subd. 3. ACQUISITION OF PROPERTY. The district may acquire by purchase, lease, condemnation, gift, or grant, any right, title, and interest in and to real or personal property deemed necessary for the exercise of its powers or the accomplishment of its purposes, including positive and negative easements and water and air rights. Any local government unit and the commissioners of transportation, natural resources, and administration may convey to or permit the use of any property or facilities by the district, subject to the rights of the holders of any bonds issued with respect thereto, with or without compensation and without an election or approval by any other government agency. The district may hold the property for its purposes, and may lease or rent the property so far as not needed for its purposes, upon the terms and in the manner as it deems advisable. The right to acquire lands and property rights by condemnation shall be exercised in accordance with Minnesota Statutes, Chapter 117. The district may take possession of any property for which condemnation proceedings have been commenced at any time after the issuance of a court order appointing commissioners for its condemnation.

Subd. 4. RIGHT OF ENTRY. Whenever the district deems it necessary to the accomplishment of its purposes, the district or any member, employee, or agent thereof, when authorized by it, may enter upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations, provided that the entrance and activity is undertaken after reasonable notice and during normal business hours and provided that compensation is made for any damage to the property caused by the entrance and activity.

Subd. 5. GIFTS AND GRANTS. The district may apply for and accept gifts, loans, or other property from the United States, the state, or any person for any of its purposes, may enter into any agreement required in connection there-

with, and may hold, use, and dispose of the money or property in accordance with the terms of the gift, grant, loan or agreement.

Subd. 6. PROPERTY EXEMPT FROM TAXATION. Any real or personal property owned, used, or occupied by the district for any authorized purpose is declared to be acquired, owned, used and occupied for public and governmental purposes, and shall be exempted from taxation by the state or any political subdivision of the state, provided that those properties shall be subject to special assessments levied by a political subdivision for a local improvement in amounts proportionate to and not exceeding the special benefit received by the properties from the improvement. No possible use of the properties in any manner different from their use for solid waste management at the time shall be considered in determining the special benefit received by the properties. All bonds, certificates of indebtedness or other obligations of the district shall be exempted from taxation by the state or any political subdivision of the state. Interest on the obligations of the district shall be exempted from taxation in the same manner provided for interest on obligations qualifying under Minnesota Statutes, Section 290.08, Subdivision 7.

Subd. 7. FACILITIES AND SERVICES. The district may construct, equip, develop, enlarge, improve, and operate solid waste facilities and services as it deems necessary and may negotiate contracts for the use of public or private facilities and services. The district shall contract with private persons for the construction, maintenance, and operation of facilities and services where the facilities and services are adequate and available for use and competitive with other means of providing the same service.

Subd. 8. RATES; CHARGES. The district may establish and collect rates and charges for the facilities and services provided by the district any may negotiate and collect rates and charges for facilities and services contracted for by the district. The board of directors of the district may agree with the holders of district obligations which are secured by revenues of the district as to the maximum or minimum amounts which the district shall charge and collect for services provided by the district. Before establishing or raising any rates and charges the board of directors shall hold a public hearing regarding the proposed rates and charges. Notice of the hearing shall be published at least once in a legal newspaper of general circulation throughout the area affected by the rates and charges. Publication shall be no more than 45 days and no less than 15 days prior to the date of the hearing.

Subd. 9. DISPOSITION OF PROPERTY. The district may sell or otherwise dispose of any real or personal property acquired by it which is no longer required for accomplishment of its purposes. The property shall be sold in the manner provided by Minnesota Statutes, Section 458.196, insofar as practical. The district shall give notice of sale which it deems appropriate. When the district determines that any property which has been acquired from a government unit without compensation is no longer required, the district shall transfer it to the government unit.

Subd. 10. DISPOSITION OF PRODUCTS AND ENERGY. The district may use, sell, or otherwise dispose of all of the products and energy produced by its facilities. The district may, on a competitive basis, enter into short or long term contracts, make spot sales, solicit bids, enter into direct negotiations, deal with brokers, or use such other methods of disposal as it chooses, provided that the dealings of the district shall be on a competitive basis so as not to create an unfair or unreasonable advantage or restraint of trade on the part of the district. The district shall give particular consideration to the needs of purchasers in this state and shall actively promote sales to such purchasers so long as this can be done at prices and under conditions that meet constitutional requirements and that are consistent with the district's object of being financially self supporting to the greatest extent possible.

Subd. 11. CONTRACTS. The district may enter into any contract necessary or proper for the exercise of its powers or the accomplishment of its purposes.

Subd. 12. JOINT POWERS. The district may act under the provisions of Minnesota Statutes, Section 471.59, or any other law providing for joint or cooperative action between government units.

Subd. 13. RESEARCH. The district may conduct research studies and programs, collect and analyze data, prepare reports, maps, charts, and tables, and conduct all necessary hearings and investigations in connection with its work and may advise and assist other government units on planning matters within the scope of its powers, duties, and objectives.

Subd. 14. EMPLOYEES; CONTRACTS FOR SERVICES. The district may employ persons or firms and contract for services to perform engineering, legal or other services necessary to carry out its functions.

Subd. 15. INSURANCE. The district may require any employee to obtain and file with it an individual bond or fidelity insurance policy. It may procure insurance in amounts it deems necessary to insure against liability of the board of directors and employees or both, for personal injury or death and property damage or destruction, with the force and effect stated in Minnesota Statutes, Chapter 466, and against risks of damage to or destruction of any of its facilities, equipment, or other property as it deems necessary.

Subd. 16. REVIEW OF PROJECTS. The district may require that persons shall not acquire, construct, alter, reconstruct or operate a solid waste facility within the district without prior consultation with and approval of the district.

Sec. 9. [115A.70] DESIGNATION OF RESOURCE RECOVERY FACILITIES; REQUIRED USE. Subdivision 1. GENERAL. A district may be authorized by the order and articles of incorporation establishing the district to require that all or any portion of the solid waste that is generated within its boundaries or any service area thereof and is deposited within the state be taken for processing to a resource recovery facility or a transfer station serving a facility designated by the district.

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Subd. 2. STANDARDS. In determining whether to designate and require use of resource recovery facilities the district shall consider whether:

(a) the required use will result in the recovery of resources or energy from materials which would otherwise be wasted;

(b) the required use will lessen the demand for and use of land disposal;

(c) the required use is necessary for the financial support of the facility;

(d) less restrictive methods for ensuring an adequate solid waste supply are available;

(e) all other feasible and prudent waste processing alternatives for accomplishing the purposes of the proposed designation have been considered and the costs of the alternatives, including capital and operating costs, and the effects of the alternatives on the cost to generators have been compared and evaluated.

Subd. 3. EXEMPTION. The district shall not designate and require use of facilities for materials which are separated from solid waste and recovered for reuse or recycling by the generator, by a private person under contract with the generator or by a licensed solid waste collector.

Subd. 4. PROCEDURE. The district shall proceed as follows when designating and requiring use of facilities:

(a) The district shall notify those persons whom the district has determined should use the facilities. Notification to political subdivisions, landfill operators, and licensed solid waste collectors shall be in writing. All other persons shall be notified at least by publication in a legal newspaper or newspapers having general circulation in the area. The notification shall specify types and quantities of solid wastes, plans for use of the solid wastes, the point of delivery of the solid wastes, and the fee to be charged. During a period of 90 days following the notification, the district shall negotiate with the persons within the areas to be served in order to develop contractual agreements on the terms of required use of the designated facilities.

(b) If contracts have not been made at the end of the 90 day period, or if persons subject to the required use have not made arrangements sufficient to justify exemption under subdivision 3, the district shall hold a public hearing to take testimony on the required use of the designated facilities. The hearing shall be preceded by the notice required under clause (a).

(c) If contracts have not been made within 30 days after the public hearing, or if persons subject to the required use have not made arrangements sufficient to justify exemption under subdivision 3, the district may order any person identified in the notice of the district to use the designated facilities, starting at a specified date which shall be at least 30 days after the order has been issued.

No designation shall be invalid by reason of the district's failure to provide written notice to any of the entities listed in this subdivision.

Subd. 5. SERVICE GUARANTEE. The district shall not arbitrarily terminate, suspend, or curtail services provided to any person required pursuant to this section to use designated facilities without the consent of the person or without just cause.

Subd. 6. TERMINATION. Use required under contract or order pursuant to this section may be terminated by a person upon an adequate showing to the district that the solid waste has value and that arrangements have been made by the person sufficient to justify exemption under subdivision 3, unless the district determines that the requirement must be continued to assure delivery of waste necessary to the financial support of the district facilities.

Sec. 10. [115A.71] BONDING POWERS. Subdivision 1. GENERAL. A district may exercise the bonding powers provided in this section to the extent the powers are authorized by the order of the waste management board establishing the district and by its articles of incorporation.

Subd. 2. DEBT. The district's bonds shall be sold, issued, and secured in the manner provided in chapter 475 for revenue bonds and the district shall have the same powers and duties as a municipality and its governing body in issuing revenue bonds under that chapter. No election shall be required. The bonds may be sold at any price and at public or private sale as determined by the district and shall not be subject to any limitation as to rate.

Subd. 3. REVENUE BONDS. A district may borrow money and incur indebtedness by issuing bonds and obligations which are payable solely:

(a) from revenues, income, receipts, and profits derived by the district from its operation and management of solid waste facilities;

(b) from the proceeds of warrants, notes, revenue bonds, debentures, or other evidences of indebtedness issued and sold by the district which are payable solely from such revenues, income, receipts, and profits;

(c) from federal or state grants, gifts, or other moneys received by the district which are available therefor.

Every issue of revenue bonds by the district shall be payable out of any funds or revenues from any facility of the district, subject only to agreements with the holders of particular bonds or notes pledging particular revenues or funds. If any facility of the district is funded in whole or in part by Minnesota waste management bonds issued under article VII, the state bonds shall take priority. The district may provide for priorities of liens in the revenues between the holders of district obligations issued at different times or under different resolutions. The district may provide for the refunding of any district obligation through the issuance of other district obligations entitled to rights and priorities similar in all respects to those held by the obligations that are refunded.

Sec. 11. [115A.72] AUDIT. The board of directors, at the close of each year's business, shall cause an audit of the books, records and financial affairs of the district to be made by a certified public accountant or the state auditor.

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Copies of a written report of the audit, certified to by the auditors, shall be placed and kept on file at the principal place of business of the district and shall be filed with the secretary of state and the board.

ARTICLE IX NONMETROPOLITAN COUNTIES

Section 1. Minnesota Statutes 1978, Section 400.03, Subdivision 1, is amended to read:

400.03 DEFINITIONS. Subdivision 1. For the purposes of sections 400.01 to 400.17 the terms defined in this section have the meaning given them. The terms defined in Minnesota Statutes 1969, chapter 116 and article 1, section 3, also apply to the terms used in sections 400.01 to 400.17.

Sec. 2. Minnesota Statutes 1978, Section 400.04, is amended to read:

400.04 SOLID WASTE MANAGEMENT PROGRAM. Subdivision 1. **GENERAL.** Any county may conduct a solid waste management program which may include activities authorized by sections 400.01 to 400.17 and such other activities as are necessary and convenient to effectively carry out the purposes of sections 400.01 to 400.17.

Subd. 2. **ACQUISITION OF REAL PROPERTY.** A county may acquire by gift, lease, purchase or eminent domain as provided by law any land or interest in land upon such terms and conditions as it shall determine, including the use of contracts for deed, within or outside of the county, which the board deems suitable for these purposes; provided that no such land or interest in land situated in any other county shall be acquired without the approval by resolution of the county board thereof.

Subd. 3. **ACQUISITION, CONSTRUCTION AND OPERATION OF PROPERTY AND FACILITIES.** A county may acquire, construct, enlarge, improve, repair, supervise, control, maintain, and operate any and all solid waste facilities and other property and facilities needed, used, or useful for a solid waste management program purposes, and may purchase and lease materials, equipment, machinery and such other personal property as is necessary for such purposes upon terms and conditions determined by the board including the use of conditional sales contracts and lease-purchase agreements. A county may employ such personnel as are reasonably necessary for the care, maintenance and operation of such property and facilities. A county shall contract with private persons for the construction, maintenance, and operation of solid waste facilities where the facilities are adequate and available for use and competitive with other means of providing the same service.

Subd. 4. **MANAGEMENT AND SERVICE CONTRACTS.** A county may enter into contracts for the construction, installation, maintenance and operation of property and facilities on private or public lands and may contract for the furnishing of solid waste management services.

Subd. 5. **PLANS.** The county may provide for surveys and plans to determine locations available, appropriate, and suitable for property and facilities

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needed for the program, and plans for the improvement of sites property and facilities.

Subd. 6. **EXPENDITURE OF FUNDS.** A county is authorized to expend funds for the purposes enumerated in this section and for any other activities necessary to an efficient solid waste management program.

Sec. 3. Minnesota Statutes 1978, Section 400.06, is amended to read:

400.06 **INSPECTION; COOPERATION WITH AGENCY.** All counties shall provide for the periodic inspection of mixed municipal solid waste collection, storage, transportation and disposal facilities and mixed municipal solid waste management property and facilities located and being operated within their respective boundaries to determine whether such the property and facilities are being maintained and operated in compliance with applicable county ordinances and rules, regulations, standards, orders, permits, and requirements of the agency. In the event that such the property and facilities are not so in compliance, the county board shall take such actions as are necessary to assure future compliance with all applicable ordinances, rules, regulations, standards and requirements, according to law, and shall cooperate with the agency in obtaining and maintaining such compliance. All inspectors provided or used by the county under this section shall be certified by the agency in accordance with section 116.41.

Sec. 4. Minnesota Statutes 1978, Section 400.07, is amended to read:

400.07 **DEVELOPMENT OF RESOURCE RECOVERY SYSTEMS.** All counties shall cooperate with the agency in the planning, development and implementation of resource recovery systems for the recovery and use of materials and energy from solid waste, and toward that end, shall modify applicable county ordinances consistent with rules, regulations and standards of the agency concerning this subject.

Sec. 5. Minnesota Statutes 1978, Section 400.13, is amended to read:

400.13 **SOLID WASTE MANAGEMENT FUND.** Any county owning or operating solid waste management property or facilities pursuant to section 400.04, subdivision 3, and establishing fees for the provision of services by the county pursuant to section 400.08, shall continuously maintain a special account on its official books and records designated as the solid waste management fund, to which it shall credit all receipts from the rates and charges authorized in section 400.08 and from the sale of real or personal property pertaining to the solid waste disposal system management purposes, and the proceeds of all gifts, grants, loans, and issues of bonds for the such purposes of the system, and to which it shall charge all costs of the acquisition, construction, enlargement, improvement, repair, supervision, control, maintenance, and operation of the system and of all facilities included therein property, facilities, and services. Separate accounts may be established within this fund for the segregation of revenues pledged for the payment of bonds or loans, or money granted or borrowed for use for a specific purpose.

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Sec. 6. Minnesota Statutes 1978, Section 400.16, is amended to read:

400.16 SOLID WASTE AND SEWAGE SLUDGE DISPOSAL REGULATIONS. The county may by ordinance establish and ~~from time to time~~ revise rules, regulations, and standards for solid waste and sewage sludge management and land pollution, relating to (a) the location, sanitary operation, and maintenance of solid waste ~~management~~ facilities and sewage sludge disposal facilities by the county and any municipality or other public agency and by private operators; (b) the collection, ~~transportation, storage~~ processing, and disposal of solid waste and sewage sludge; (c) the amount and type of equipment required in relation to the amount and type of material received at any solid waste facility or sewage sludge disposal facility; (d) the control of salvage operations, water or air or land pollution, and rodents at such facilities; (e) the termination or abandonment of such facilities or activities; and (f) ~~such~~ other matters relating to such facilities as may be determined necessary for the public health, welfare, and safety. The county may issue permits or licenses for solid waste facilities and may require that such facilities be registered with an appropriate county office. The county shall adopt the ordinances for mixed municipal solid waste management. The county may issue shall make provision for issuing permits or licenses for mixed municipal solid waste management facilities and may shall require that such facilities be registered with an appropriate county office. No permit or license shall be issued for a mixed municipal solid waste facility unless the applicant has demonstrated to the satisfaction of the county board the availability of revenues necessary to operate the facility in accordance with applicable state and local laws, ordinances, and rules. The county ordinance may shall require appropriate procedures for termination or abandonment of any mixed municipal solid waste facilities or services, which shall include provision for long term monitoring for possible land pollution, and for the payment by the owners or operators thereof, or both, of any costs incurred by the county in completing such procedures. The county may require such procedures and payments with respect to any facilities or services regulated pursuant to this section. In the event the operators or owners fail to complete such procedures in accordance with the ordinance, the county may recover the costs of completion in a civil action in any court of competent jurisdiction or, in the discretion of the board, the costs may be certified to the county auditor as a special tax against the land to be collected as other taxes are collected. The ordinance may be enforced by injunction, action to compel performance, or other appropriate action in the district court. Any ordinance enacted under this section shall embody minimum standards and requirements established by rule of the agency.

Sec. 7. Minnesota Statutes 1978, Section 400.161, is amended to read:

400.161 HAZARDOUS WASTE REGULATIONS. The county may by ordinance establish and ~~from time to time~~ revise rules, regulations, and standards ~~for hazardous waste management~~ relating to (a) identification of hazardous waste, (b) the labeling and classification of hazardous waste, (c) the ~~handling~~, collection, transportation processing, disposal, and storage of hazardous waste, (d) ~~the ultimate disposal site of the hazardous waste~~, and (e) ~~such~~ other matters as may be determined necessary for the public health, welfare and safety. The county may

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issue permits or licenses for hazardous waste generation and may require the generators be registered with a county office. The ordinance may require appropriate procedures for the payment by the generator of any costs incurred by the county in completing such procedures. If the generator fails to complete such procedures, the county may recover the costs of completion in a civil action in any court of competent jurisdiction or, in the discretion of the board, the costs may be certified to the county auditor as a special tax against the land as other taxes are collected. The ordinance may be enforced by injunction, action to compel performance, or other action in district court. Any ordinance under this section shall embody standards and requirements established by rule of the agency. Issuing, denying, modifying, imposing conditions upon, or revoking permits pursuant to the provisions of this section or regulations promulgated hereunder shall be subject to review, denial, suspension, modification, and reversal by the pollution control agency. The pollution control agency shall after written notification have 15 days to review, deny, suspend, modify, or reverse the action of the county. After 15 days, the action of the county board shall be final subject to appeal to the district court as provided in section 115.05.

Sec. 8. Minnesota Statutes 1978, Chapter 400, is amended by adding a section to read:

[400.162] COUNTY DESIGNATION OF RESOURCE RECOVERY FACILITY. Except within the metropolitan area, the Western Lake Superior Sanitary District established by Laws 1971, Chapter 478, as amended, and any solid waste management district established under article VIII, any county may require that all or any portion of the solid waste that is generated within the boundaries of the county or any service area thereof and is disposed of in the state be delivered to a resource recovery facility designated by the county board or a transfer station serving such a facility, provided that the designation is approved by the waste management board. The board may require the county to complete a comprehensive solid waste management plan conforming to the requirements of article V, section 5. In establishing, continuing, and terminating the designation, the county shall be governed by all standards, exemptions, procedures, and other requirements provided in article VIII, section 9, subdivisions 2 to 6.

**ARTICLE X
SOLID WASTE AND SEWAGE SLUDGE MANAGEMENT:
METROPOLITAN AREA**

Section 1. Minnesota Statutes 1978, Section 473.121, is amended by adding a subdivision to read:

Subd. 36. The definitions of terms relating to waste in chapter 116 and article I, section 3, also apply to the same terms relating to waste used in chapter 473.

Sec. 2. Minnesota Statutes 1978, Section 473.149, is amended to read:

473.149 SOLID WASTE COMPREHENSIVE PLANNING. Subdivision 1. **POLICY PLAN; GENERAL REQUIREMENTS.** ~~By July 1, 1978, The metropol-~~

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itan council shall prepare and by resolution adopt as part of its development guide a long range policy plan for ~~the collection and processing of solid and hazardous waste management~~ in the metropolitan area. When adopted, the plan shall be followed in the metropolitan area. The plan shall substantially conform to all policy statements, purposes, goals, standards, maps and plans in development guide sections and plans adopted by the council, provided that no land shall be thereby excluded from consideration as a solid waste facility site except land determined by the agency to be intrinsically unsuitable for such use. The plan shall include goals and policies for ~~the collection and processing of solid and hazardous waste management~~ in the metropolitan area and, to the extent appropriate, statements and information similar to that required under section 473.146, subdivision 1. The plan shall include criteria and standards for solid waste facilities and solid waste facility sites respecting the following matters: general location; capacity; operation; processing techniques; environmental impact; effect on existing, planned, or proposed collection services and waste facilities; and economic viability. For solid waste facilities owned or operated by public agencies or supported primarily by public funds or obligations, the plan shall include additional criteria and standards respecting financial self-sufficiency based upon competitive rates and charges to ensure that the facilities are operated on a competitive basis so as not to create an unfair or unreasonable advantage or restraint of trade in relation to comparable private facilities existing in the area. In developing the plan the council shall consider the orderly and economic development, public and private, of the metropolitan area; the preservation and best and most economical use of land and water resources in the metropolitan area; the protection and enhancement of environmental quality; the conservation and reuse of resources and energy; the preservation and promotion of conditions conducive to efficient, ~~low cost,~~ competitive, and adaptable systems of waste collection and processing management; and the orderly resolution of questions concerning changes in systems of waste collection and processing management. Criteria and standards for solid and hazardous waste facilities shall be consistent with regulations adopted by the pollution control agency pursuant to chapter 116 and section 473.823. ~~The hazardous waste portion of the policy plan shall be approved by the pollution control agency in accordance with its standards and regulations prior to adoption by the council shall be at least as stringent as the guidelines, regulations, and standards of the federal environmental protection agency.~~

Subd. 2. DISPOSAL CAPACITY ESTIMATE. By July 1, 1980, the council shall adopt by resolution an estimate of the added solid waste disposal capacity needed in appropriate sectors of the metropolitan area in annual increments through the year 1990 and thereafter in five year increments through the year 2000. The council's estimate shall be based upon existing and projected solid waste generation rates without regard to potential waste reduction, separation, and recovery activity except that provided by services and facilities in operation or under construction.

Subd. 2a. DISPOSAL ABATEMENT REPORT. By January 1, 1981, the council shall prepare and submit a report to metropolitan counties on potentials

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for abating the need for and practice of land disposal of mixed municipal solid waste in the metropolitan area, for use by the counties in developing land disposal abatement plans pursuant to section 473.803, subdivision 1b. The report shall contain an analysis of abatement achievable through waste reduction, waste separation, waste processing, and resource recovery. The report shall contain specific and quantifiable alternative abatement objectives and degrees of abatement, along with solid waste management methods and technologies, private and government actions, facilities and services, development schedules, revenue-raising measures, and levels of public and private expenditure and effort necessary to the achievement of those alternative objectives and degrees of abatement. The report shall recommend priorities and objectives for abating, immediately and over specified time periods, the disposal of mixed municipal solid waste in the metropolitan area. During the preparation of the report, the council shall encourage public debate and discussion of the issues relating to land disposal abatement and shall hold a public meeting on the issues in each metropolitan county.

Subd. 2b. INVENTORY OF SOLID WASTE DISPOSAL SITES. By October 1, 1981, the council shall adopt by resolution an inventory of eligible solid waste disposal sites and buffer areas within the metropolitan area. The council's inventory shall be composed of the sites and buffer areas proposed by the counties and reviewed and approved by the council pursuant to section 473.803, subdivision 1a. If a county does not have an approved inventory, the council shall adopt the required inventory for the county, following investigations by the council and public hearings as the council deems appropriate. The council's inventory shall satisfy all requirements and standards described in section 473.803, subdivision 1a, for sites and buffer areas proposed by counties. For sites and buffer areas included in the council's inventory, the moratorium imposed under section 473.803, subdivision 1a, shall extend until October 1, 1983.

Subd. 2c. REPORT ON LOCAL EFFECTS OF SOLID WASTE DISPOSAL FACILITIES; REPORT TO LEGISLATURE. By January 1, 1982, the council shall report to the legislative commission on methods of mitigating and compensating for the local risks, costs, and other adverse effects of solid waste disposal facilities and on methods of financing mitigation and compensation measures. The methods of mitigating and compensating to be considered shall include but not be limited to the following: payment outside of levy limitations in lieu of taxes for all property taken off the tax rolls; preference for the city or town containing a facility in federal A-95 reviews conducted by the council; payment of all costs to service the facilities including the costs of roads, monitoring, inspection, enforcement, police and fire, and litter clean up costs; payment for buffer zone amenities and improvements; city or town control over buffer zone design; elimination of the tipping charge for solid waste collected in the city or town; a guarantee against any and all liability that may occur; payment for reclamation of closed sites to local design specifications.

Subd. 2d. LAND DISPOSAL ABATEMENT PLAN. By January 1, 1983, after considering county land disposal abatement proposals submitted pursuant to section 473.803, subdivision 1b, the council shall amend its policy plan to include specific and quantifiable objectives for abating the land disposal of mixed munic-

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ipal solid waste. The plan shall include a reduced estimate, based on the council's abatement objectives, of the added solid waste disposal capacity needed in appropriate sectors of the metropolitan area, stated in annual increments through the year 1990 and thereafter in five year increments through the year 2000. The objectives in the plan shall be based upon standards for county resource recovery and waste reduction and separation programs and activities. The plan shall include standards and procedures to be used by the council in determining that metropolitan counties have not implemented the council's land disposal abatement plan and have not met the standards for county abatement programs and activities. The council shall report to the legislative commission on its abatement plan and on legislation that may be required to implement the plan.

Subd. 2e. SOLID WASTE DISPOSAL FACILITIES DEVELOPMENT SCHEDULE. By January 1, 1983, after requesting and considering recommendations from the counties, cities, and towns, the council as part of its policy plan shall determine the number of sites to be acquired within each metropolitan county for solid waste disposal facilities in accordance with section 16. The council shall adopt a schedule for development of disposal facilities by each such county through the year 2000. The schedule shall be based upon the council's reduced estimate of the disposal capacity needed because of the council's land disposal abatement plan. The schedule may include procedures to be used by counties in selecting sites for acquisition pursuant to section 16. The schedule shall include standards and procedures for council certification of need pursuant to section 473.823. The schedule shall include a facility closure schedule and plans for post-closure management and disposition, for the use of property after acquisition and before facility development, and for the disposition of property and development rights, as defined in section 16, no longer needed for disposal facilities.

Subd. 3. PREPARATION AND ADOPTION. The solid waste policy plan shall be prepared, adopted, and amended in accordance with section 473.146, subdivision 2, provided that the procedural duties and responsibilities established therein for the affected metropolitan commission shall extend to the metropolitan counties and the pollution control agency. In addition to the requirements of section 473.146, subdivision 2, the council shall send notice of any hearing to the pollution control agency and the governing body of each metropolitan county and each local governmental unit, as defined in section 473.801, wherein a solid waste facility is or may be located in accordance with the plan. Any comprehensive ~~solid and hazardous waste~~ plan adopted by the council prior to the effective date of this act shall remain in force and effect until a policy plan is while new or amended plans are being prepared in accordance with subdivision 1 and adopted by the council. By October 1, 1976, the council shall adopt either interim policies or amendments to the existing comprehensive plan establishing standards and criteria for the review under section 473.823 of permit applications for solid waste facilities used primarily for resource recovery. For permit applications received by the council prior to October 1, 1976, the council may extend the time period provided for review under section 473.823 until 60 days after the adoption of the interim policies or amendments. ~~No metropolitan county, local government unit, commission, or person shall acquire, construct, improve or operate any solid waste~~

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facility in the metropolitan area except in accordance with the council's plan and section 473.823, provided that no solid waste facility in use when a plan is adopted shall be discontinued solely because it is not located in an area designated in the plan as acceptable for the location of such facilities.

Subd. 4. **ADVISORY COMMITTEE.** The council shall establish an advisory committee to aid in the preparation of the policy plan ~~and~~, the performance of the council's responsibilities under subdivisions 2 to 2e, the review of county master plans and reports and applications for permits for waste facilities, under sections 473.151 and 473.801 to 473.823 and sections 14 to 16, and other duties determined by the council. The committee shall consist of one-third citizen representatives, one-third representatives from metropolitan counties and municipalities, and one-third representatives from private waste management firms. From October 1, 1981 to January 1, 1983, for the purpose only of participating in the preparation of the legislative report required by subdivision 2c and the land disposal abatement plan required by subdivision 2d, additional members shall be included on the advisory committee sufficient to assure that at least one-third of the members of the committee are residents of cities or towns containing eligible solid waste disposal sites included in the council's disposal site inventory, and that counties containing three sites have at least two additional members and counties containing one or two sites have at least one additional member. A representative from the pollution control agency, one from the waste management board established under article II, section 1, and one from the Minnesota health department shall serve as ex officio members of the committee.

Sec. 3. Minnesota Statutes 1978, Chapter 473, is amended by adding a section to read:

[473.153] COMPREHENSIVE DISPOSAL FACILITIES PLAN FOR SEWAGE SLUDGE AND SOLID WASTE FROM SEWAGE TREATMENT. Subdivision 1. FACILITIES REQUIRED. Except as provided in subdivision 7 and article IV, section 2, all sewage sludge disposal facilities and facilities for the disposal of solid waste generated by the metropolitan waste control commission shall be established and operated in accordance with this section and section 473.516. The council and the commission shall establish at least one facility for sewage sludge disposal and at least one facility for solid waste disposal.

Subd. 2. **CANDIDATE SITE SELECTION.** By July 1, 1981, the council shall select three candidate sites for the disposal of the commission's sewage sludge and three candidate sites for the disposal of the commission's solid waste, together with appropriate surrounding buffer areas. The council shall evaluate sites for candidacy on the basis of at least the following factors: local land use and land use controls, the protection of agriculture and natural resources, existing and future development patterns, transportation facilities, distance from the points of generation, and the intrinsic suitability of sites compared with other potential sites. Notwithstanding any plan, charter provision, law, ordinance, regulation, or other requirement of the council, counties, or local units of government, no land shall be excluded from consideration for candidacy except land determined by the agency to be intrinsically unsuitable. No site shall be selected for candidacy unless

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the agency certifies its apparent intrinsic suitability for the use intended, based on preliminary environmental analysis and on-site surveys and investigations conducted by the agency. In selecting candidate sites, the council shall prefer land which is capable of being returned to its existing use or the use anticipated in a plan of a metropolitan agency, county, or local unit of government use after closure of a disposal facility.

Subd. 3. MORATORIUM. A moratorium is hereby imposed on development within the area of each proposed site and buffer area selected by the council. The moratorium shall extend until six months following the council's decision under subdivision 6. No development shall be allowed to occur within the area of a proposed site or buffer area during the period of the moratorium. No county, city, or town land use control shall permit such development, nor shall any county, city, or town sanction or approve any subdivision, permit, license, or other authorization which would allow such development to occur.

Subd. 4. ADVISORY COMMITTEE. For the purposes only of advising the council on decisions under this section, additional members shall be added to the advisory committee established by section 473.149, subdivision 4, sufficient to assure that each city and town containing a candidate site has at least one representative on the committee.

Subd. 5. ENVIRONMENTAL AND PERMIT REVIEW. An environmental impact statement meeting the requirements of chapter 116D shall be completed on each candidate site, provided that the statement shall be finally accepted or rejected within 280 days of the selection of candidate sites. Within 90 days following the acceptance of the statement, the agency shall indicate the conditions and terms of approval of all permits needed at each candidate site.

Subd. 6. COUNCIL SITE SELECTION. Within 90 days following the agency's decision on permit conditions and terms, the council shall select at least one of the candidate sites for acquisition and development by the commission as a sewage sludge disposal facility and at least one of the candidate sites for acquisition and development by the commission as a solid waste disposal facility. Before its selection the council shall consult with the advisory committee and affected counties, cities, and towns.

Subd. 7. EXEMPTIONS. Nothing in this section shall be construed to preclude the commission from continuing to use existing sewage sludge disposal facilities. In addition, to the same extent and upon the same conditions as sewage sludge may be applied on private property pursuant to section 473.516, subdivisions 3 and 4, the commission may use any site owned by the commission for the purpose of landspreading sewage sludge for a period no longer than four years. Any property currently used by the commission and permitted by the agency for disposing of the commission's solid waste may continue to be used for that purpose by the commission, as permitted by the agency, for a period not to exceed four years.

Sec. 4. Minnesota Statutes 1978, Section 473.502, is amended to read:

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473.502 **LEGISLATIVE PURPOSE AND POLICY.** The legislature determines that in the metropolitan area there are serious problems of water pollution and processing and disposal of sewage and waste resulting from sewage treatment, which cannot be effectively or economically dealt with by existing local government units in the area under existing laws. The legislature therefore declares that for the protection of the public health, safety, and welfare of the area, for the preservation and best use of waters and other natural resources of the state in the area, for the prevention, control and abatement of water pollution in the area, and for the efficient and economic collection, treatment and disposal of sewage and waste resulting from sewage treatment it is necessary to assign to the metropolitan council the responsibility of carrying on a continuous, long-range program of planning with respect thereto and to establish a waste control commission, which, together with the council, can take over, acquire, construct, operate, and maintain all interceptors and treatment works and waste facilities necessary for the collection, treatment and disposal of sewage and waste resulting from sewage treatment in the metropolitan area, and can take over, acquire, construct, operate, and maintain waste facilities in the metropolitan area.

Sec. 5. Minnesota Statutes 1978, Section 473.516, is amended to read:

473.516 **WASTE FACILITIES; SEWAGE SLUDGE DISPOSAL.** Subdivision 1. ACQUISITION AND OPERATION. Without limiting the grant or enumeration of any of the powers conferred on the council or commission under sections 473.501 to 473.549, the commission shall have the specific power to acquire by purchase, lease, condemnation, gift or grant any real or personal property including development rights as defined in section 16, positive and negative easements and water and air rights, and it may construct, enlarge, improve, replace, repair, maintain and operate ~~hazardous~~ waste facilities in the metropolitan area deemed to be necessary or convenient in connection with the processing or disposal of hazardous waste resulting from sewage treatment, and the commission may contract for the maintenance and operation of such waste facilities, subject to the bidding requirements of section 473.523. The commission may accept for processing ~~hazardous~~ waste derived from outside the metropolitan area in the state, as well as ~~hazardous~~ waste derived from within the metropolitan area, and may fix and collect fees and charges for the acceptance of ~~hazardous~~ waste as the commission determines to be reasonable.

Subd. 2. GENERAL REQUIREMENTS. With respect to its activities under this section, the commission shall be subject to and comply with the applicable provisions of this chapter. Property acquired by the commission under this section shall be subject to the provisions of section 473.545. Any site or facility owned or operated for or by the commission shall conform to the policy plan adopted by the council under section 473.149 and shall be authorized in accordance with the commission's development program and capital budget approved by the council. The commission shall contract with private persons for the construction, maintenance, and operation of waste facilities, subject to the bidding requirements of section 473.523, where the facilities are adequate and available for use and competitive with other means of providing the same service.

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Subd. 3. LOCAL RESTRICTIONS. Counties and local units of government may impose conditions respecting the construction, operation, inspection, monitoring, and maintenance of a waste facility of the commission and conditions respecting the sale, gift, delivery, storage, use, and disposal of sewage sludge of the commission on private property as a soil conditioner or amendment, but only in the manner and only to the extent authorized and approved by the council and the agency as being consistent with the establishment and use of the commission's waste facilities and the disposal of the commission's sewage sludge on private property in accordance with the council's plan, adopted under section 3, and agency permits and rules. Counties may exercise the enforcement powers granted under section 473.811, subdivision 5c, in the manner and to the extent authorized and approved in accordance with this subdivision.

Subd. 4. TECHNICAL MONITORING; SEWAGE SLUDGE DISPOSAL. Each sewage sludge disposal facility of the waste control commission, or site used for the disposal of sewage sludge of the commission, shall be required to have an agency permit issued pursuant to agency rules for permitting sewage sludge disposal facilities and sites. Each permit shall require a regular monitoring and testing program to be carried out by the waste control commission. A regular inspection program shall be conducted by the agency or a county under contract to the agency. The commission shall reimburse the agency quarterly for the cost of the program, and the amounts reimbursed are hereby appropriated to the agency for the purposes of the program.

Sec. 6. Minnesota Statutes 1978, Section 473.801, Subdivision 1, is amended to read:

473.801 **DEFINITIONS.** Subdivision 1. For the purposes of sections 473.801 to 473.823 and sections 14 to 17 the terms defined in this section have the meanings given them.

Sec. 7. Minnesota Statutes 1978, Section 473.802, is amended to read:

473.802 **LEGISLATIVE PURPOSE AND POLICY.** The legislature determines that for the protection of the public health, safety, and welfare of the people of the metropolitan area, for the prevention, control and abatement of pollution of air and waters of the state in the metropolitan area, and for the efficient and economic ~~collection and processing~~ management of solid and hazardous waste in the metropolitan area, it is necessary to ~~authorize the agency to regulate the handling of hazardous waste and the location and operation of waste facilities in the area; to authorize the metropolitan council to carry on a continuous, long range program of planning with respect to solid and hazardous waste collection and processing management, and to establish criteria and standards and approve permits for solid waste facilities in the area, and to provide funds for the acquisition of property for solid waste disposal purposes; and to authorize the metropolitan counties if necessary to acquire, construct, operate and maintain solid waste facilities, to plan for and regulate solid waste collection services and facilities, to collect data on solid and hazardous waste collection and processing management systems and procedures, and to assist state agencies to regulate the handling management~~ of hazardous waste. The legislature declares that a public purpose is

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served by the recovery and utilization of resources from solid waste and hazardous waste where economically viable and compatible with source reduction. The plans, criteria, standards and regulations of the agency, council and metropolitan counties shall, to the extent practicable, encourage ownership and operation of solid waste facilities by private industry.

Sec. 8. Minnesota Statutes 1978, Section 473.803, is amended to read:

473.803 METROPOLITAN COUNTY PLANNING. Subdivision 1. **COUNTY MASTER PLANS; GENERAL REQUIREMENTS.** Each metropolitan county, following adoption or revision of the council's solid and hazardous waste policy plan and in accordance with the dates specified therein, and after consultation with all affected municipalities local government units, shall prepare and submit to the council for its approval, a county solid and hazardous waste master plan to implement the policy plan. The master plan shall be revised and resubmitted at such times as the council's policy plan may require. The master plan shall describe county solid and hazardous waste activities, functions, and facilities; the existing system of solid and hazardous waste generation, collection, and processing, and disposal within the county; existing and proposed county and municipal ordinances and license and permit requirements relating to solid waste facilities and hazardous and solid waste generation, collection, and processing, and disposal; existing or proposed municipal, county, or private solid waste facilities and collection services within the county together with schedules of existing rates and charges to users and statements as to the extent to which such facilities and services will or may be used to implement the policy plan; and any solid waste facility which the county owns or plans to acquire, construct, or improve together with statements as to the planned method, estimated cost and time of acquisition, proposed procedures for operation and maintenance of each facility; an estimate of the annual cost of operation and maintenance of each facility; an estimate of the annual gross revenues which will be received from the operation of each facility; and a proposal for the use of each facility after it is no longer needed or usable as a waste facility. The master plan shall, to the extent practicable, encourage ownership and operation of solid waste facilities by private industry. For solid waste facilities owned or operated by public agencies or supported primarily by public funds or obligations, the master plan shall contain policies to ensure financial self sufficiency based upon competitive rates and charges that the facilities are operated on a competitive basis so as not to create an unfair or unreasonable advantage or restraint of trade in relation to comparable private facilities existing in the area.

Subd. 1a. PROPOSED INVENTORY OF DISPOSAL SITES. By June 1, 1981, each county shall adopt, by resolution of its governing body, an inventory of four proposed sites in the county suitable for mixed municipal solid waste disposal facilities and one proposed site in the county suitable for the disposal of demolition debris and shall submit the inventory to the council for approval or disapproval. The council shall evaluate and approve or disapprove each proposed site in accordance with the standards set out in this subdivision. Except as otherwise provided in this subdivision, each site shall satisfy the standards and criteria in federal and state regulations and the council's policy plan for solid waste

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management. In proposing and approving sites for the inventory, the counties and the council shall prefer land which is capable of being returned to its existing use or the use anticipated in a plan of a metropolitan agency, county, or local unit of government use after closure of a disposal facility. Each site shall contain no less than 80 acres and no more than 250 acres. Each proposed site shall be surrounded by a buffer area at least equal to the area of the site. No site shall be proposed by the county or approved by the council unless the agency certifies its intrinsic suitability for the use intended, based on preliminary environmental analysis and on site surveys and investigations conducted by the county or agency. Notwithstanding any plan, charter provision, law, ordinance, regulation, or other requirement of any state agency or political subdivision, no land shall be excluded from consideration for inclusion in the inventory except land determined by the agency to be intrinsically unsuitable. The council shall evaluate each site with respect to local land use and land use controls, the protection of agriculture and natural resources, existing and future development patterns, transportation facilities and other services and facilities appropriate to land disposal facilities, the quality of other potential sites, and patterns of generation of solid waste. The council shall notify a county of any site proposed by the county which the council disapproves and shall allow the county 60 days to propose an alternative site. If the county fails to propose an alternative acceptable to the council in the time allowed, the council shall propose a site acceptable to it for inclusion in the inventory of sites in that county. If in the council's judgment a county does not contain the requisite number of satisfactory sites, the council may reduce the number of sites required of that county. A moratorium is hereby imposed on development within the area of each site and buffer area proposed by a county, pending the council's adoption of an inventory pursuant to section 473.149, subdivision 2b. For sites and buffer areas included in the council's inventory, the moratorium shall extend until October 1, 1983. No development shall be allowed to occur within the area of a site or buffer area during the period of the moratorium. No county, city, or town land use control shall permit such development, nor shall any county, city, or town sanction or approve any subdivision, permit, license, or other authorization which would allow such development to occur.

Subd. 1b. LAND DISPOSAL ABATEMENT. By April 1, 1982, after considering the council's disposal abatement report submitted to the counties pursuant to section 473.149, subdivision 2a, each county shall submit to the council a proposal to reduce to the greatest feasible and prudent extent the need for and practice of land disposal of mixed municipal solid waste. The proposal shall address at least waste reduction, separation, and resource recovery. The proposal shall include objectives, immediately and over specified time periods, for reducing the land disposal of mixed municipal solid waste generated within the county. The proposal shall describe specific functions to be performed and activities to be undertaken by the county and cities and towns within the county to achieve the objectives and shall describe the estimated cost, proposed manner of financing, and timing of the functions and activities. The proposal shall include alternatives which could be used to achieve the objectives if the proposed functions and activities are not established. By June 1, 1983, each county shall revise its master plan to include a land disposal abatement element to implement the

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council's land disposal abatement plan adopted under section 473.149, subdivision 2d, and shall submit the revised plan to the council for review under subdivision 2. The proposal and master plan revision required by this subdivision shall be prepared in consultation with cities and towns within the county, particularly the cities and towns in which a solid waste disposal facility is or may be located pursuant to the county master plan.

Subd. 2. **COUNCIL REVIEW.** The council shall review each master plan or revision thereof to determine whether it is consistent with the council's policy plan. If it is not consistent, the council shall disapprove and return the plan with its comments to the county for revision and resubmittal. The county shall have 90 days to revise and resubmit the plan for council approval. Any county solid or ~~hazardous~~ waste plan or report approved by the council prior to April 9, 1976, shall remain in effect until a new master plan is submitted to and approved by the council in accordance with this section.

Subd. 3. **ANNUAL REPORT.** Each metropolitan county shall prepare and submit annually to the council for its approval a report containing information, as the council may prescribe in its policy plan, concerning solid and hazardous waste generation, ~~collection, and processing and management~~ within the county. The report shall include a statement of progress in achieving the land disposal abatement objectives of the council's policy plan and county master plan. The report shall include a schedule of rates and charges in effect or proposed for the use of any solid waste facility owned or operated by or on its behalf, together with a statement of the basis for such charges.

Sec. 9. Minnesota Statutes 1978, Section 473.811, is amended to read:

473.811 COUNTIES AND LOCAL UNITS OF GOVERNMENT; WASTE MANAGEMENT. Subdivision 1. **COUNTY ACQUISITION OF FACILITIES.** To accomplish the purpose specified in section 473.803, each metropolitan county may acquire by purchase, lease, gift or condemnation as provided by law, upon such terms and conditions as it shall determine, including contracts for deed and conditional sales contracts, solid waste facilities or properties or easements or development rights, as defined in section 16, for solid waste facilities which are in accordance with regulations adopted by the agency, the policy plan adopted by the council and the county master plan as approved by the council, and may improve or construct improvements on any property or facility so acquired. No metropolitan city, county or town shall own or operate a hazardous waste facility. Each metropolitan county is authorized to levy a tax in anticipation of need for expenditure for the acquisition and betterment of solid waste facilities. If ~~such~~ a tax is levied in anticipation of need, the purpose must be specified in a resolution of the county directing that the levy and the proceeds of the tax may be used only for that purpose. Until so used, the proceeds shall be retained in a separate fund or invested in the same manner as surplus in a sinking fund may be invested under section 475.66. The right of condemnation shall be exercised in accordance with chapter 117. ~~A metropolitan county may acquire property for and operate a solid waste facility within the boundaries of any city or town in the metropolitan area, without complying with the provisions of any zoning ordinance adopted after April 15, 1969.~~

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Subd. 1a. RIGHT OF ACCESS. Whenever the county deems it necessary to the evaluation of a waste facility for enforcement purposes or to the evaluation of a site or buffer area for inclusion in the inventory of disposal sites pursuant to section 473.149, subdivision 2b, and section 473.803, subdivision 1a, or for final acquisition under section 16, the county or any member, employee, or agent thereof, when authorized by it, may enter upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations, provided that the entrance and activity is undertaken after reasonable notice and during normal business hours and provided that compensation is made for any damage to the property caused by the entrance and activity.

Subd. 2. COUNTY FINANCING OF FACILITIES. Each metropolitan county may by resolution authorize the issuance of bonds to provide funds for the acquisition or betterment of solid waste facilities or property or property rights for a solid waste facility, or for refunding any outstanding bonds issued for any such purpose, and may pledge to the payment of the bonds and the interest thereon, its full faith, credit and taxing powers, or the proceeds of any designated tax levies, or the gross or net revenues or charges to be derived from any facility operated by or for the county, or any combination thereof. Taxes levied for the payment of the bonds and interest shall not reduce the amounts of other taxes which the county is authorized by law to levy. No election shall be required to authorize the issuance of the bonds. Except as otherwise provided, the bonds shall be issued and sold in accordance with the provisions of chapter 475.

Subd. 3. COUNTY OPERATION OF FACILITIES. Each metropolitan county may operate and maintain solid waste facilities, and for this purpose may employ all necessary personnel, may adopt regulations governing operation, and may establish and collect reasonable, non-discriminatory rates and charges for the use of the facilities by any local government unit or person, estimated to be sufficient, with any other moneys appropriated for the purpose, to pay all costs of acquisition, operation and maintenance. Each metropolitan county may use itself or sell all or any part of materials or energy recovered from solid waste to private interests or public agencies for consumption or reuse by them. Section 471.345 and Laws 1951, Chapter 556, as amended shall not apply to the sale of the materials or energy provided that the dealings of each county shall be on a competitive basis so as not to create an unfair or unreasonable advantage or restraint of trade on the part of the county.

Subd. 4. COUNTY CONTRACTS. Each metropolitan county may contract for the use of existing public or private solid waste facilities and may contract with any person for the operation and maintenance of any solid waste facility owned by the county. The contract shall provide for the operation and maintenance of the facility in accordance with any regulations, criteria, and standards of the agency, the metropolitan council and the county relating thereto.

Subd. 4a. ORDINANCES; GENERAL CONDITIONS; RESTRICTIONS; APPLICATION. Ordinances of counties and local government units related to or affecting waste management shall embody plans, policies, rules, standards and requirements adopted by any state agency authorized to manage or plan for or

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regulate the management of waste and the waste management plans adopted by the council and shall be consistent with county master plans approved by the council. Except as provided in this subdivision, a metropolitan county may acquire a site and buffer area for a solid waste disposal facility anywhere within the county without complying with local ordinances, if the action is approved by the council as being taken pursuant to the policy plan and the development schedule adopted under section 473.149, subdivision 2e, and the provisions of section 16, and the county may establish and operate or contract for the establishment or operation of a disposal facility at the a site without complying with local ordinances, if the council certifies need under section 13. With the approval of the council, local government units may impose and enforce reasonable conditions respecting the construction, operation, inspection, monitoring, and maintenance of the disposal facilities. No local government unit shall prevent the establishment or operation of any solid waste facility in accordance with the council's decision under section 12, except that, with the approval of the council, the local government unit may impose reasonable conditions respecting the construction, inspection, monitoring, and maintenance of a facility.

Subd. 5. ORDINANCES; SOLID WASTE COLLECTION AND TRANSPORTATION. Each metropolitan county may adopt ordinances governing the collection of solid waste. The ordinances shall not prevent the hauling of solid waste from one county to another. Each municipality and town local unit of government within the metropolitan area shall adopt an ordinance governing the collection of solid waste within its boundaries. If the county within which it is located has adopted an ordinance, the municipality or town local unit shall adopt either the county ordinance by reference or a more strict ordinance. A hauler who qualified under the ordinance of the municipality where he is making pickups may transport solid waste on streets and highways in other municipalities within the county without conforming to their ordinances. Ordinances of counties and local government units may establish reasonable conditions respecting but shall not prevent the transportation of solid waste by a licensed collector through and between counties and local units, except as required for the enforcement of any designation of a facility by the council pursuant to section 14. A licensed collector or a metropolitan county or local government unit may request review by the council of an ordinance adopted under this subdivision. The council shall approve or disapprove the ordinance within 60 days of the submission of a request for review. The ordinance shall remain in effect unless it is disapproved. Ordinances of counties and local units of government shall provide for the enforcement of any designation of facilities by the council under section 14. Nothing in this subdivision shall be construed to limit the authority of the local government unit to regulate and license collectors of solid waste or to require review or approval by the council for ordinances regulating collection.

Subd. 5a. ORDINANCES; SOLID WASTE FACILITIES. Each metropolitan county shall by ordinance establish and from time to time revise rules, regulations, and standards for solid waste facilities within the county, relating to location, sanitary operation, periodic inspection and monitoring, maintenance, termination and abandonment, and other pertinent matters. The county ordinance shall

require permits or licenses for solid waste facilities and shall require that such facilities be registered with a county office.

Subd. 5b. ORDINANCES; HAZARDOUS WASTE MANAGEMENT. Each metropolitan county shall by ordinance establish and revise rules, regulations, and standards for ~~hazardous waste management~~ relating to (a) the identification of hazardous waste, (b) the labeling and classification of hazardous waste, (c) the ~~handling,~~ collection, storage, transportation ~~and storage,~~ processing, and disposal of hazardous waste, and (d) ~~the ultimate disposal site of hazardous waste; and (e)~~ other matters necessary for the public health, welfare and safety. The county shall require permits or licenses for the generation, collection, ~~and processing,~~ and disposal of hazardous waste and shall require registration with a county office. ~~Any ordinance enacted under this subdivision shall embody regulations, standards, and requirements adopted by the agency and goals, policies, criteria, and standards adopted by the council and shall be consistent with the county master plan approved by the council. County ordinances adopted pursuant to this subdivision shall not apply to the location or operation of any hazardous waste facility owned or operated by the waste control commission under section 473.516. Issuing, denying, suspending, modifying, imposing conditions upon, or revoking hazardous waste permits or licenses, and county hazardous waste regulations and ordinances, shall be subject to review, denial, suspension, modification, and reversal by the agency. The agency shall after written notification have 15 days to review, suspend, modify, or reverse the action of the county. After this period, the action of the county board shall be final subject to appeal to the district court in the manner provided in section 415.05. Any ordinance enacted shall be published in accordance with the provisions of section 375.51 chapter 15.~~

Subd. 5a 5c. COUNTY ENFORCEMENT. Each metropolitan county shall be responsible for insuring that waste facilities, solid waste collection operations licensed or regulated by the county and hazardous waste generation, ~~and collection,~~ and ~~processing~~ operations are brought into conformance with, or terminated and abandoned in accordance with, applicable county ordinances; rules, regulations and requirements of the ~~agency state;~~ and ~~goals, policies, criteria, and standards~~ the policy plan of the council. Counties may provide by ordinance that operators or owners or both of such facilities or operations shall be responsible to the county for satisfactorily performing the procedures required. If operators or owners or both fail to perform, the county may recover the costs incurred by the county in completing the procedures in a civil action in any court of competent jurisdiction or, in the discretion of the board, the costs may be certified to the county auditor as a special tax against the land. The ordinances may be enforced by action in district court. The county may prescribe a criminal penalty for the violation of any ordinance enacted under this section not exceeding the maximum which may be specified for a misdemeanor.

Subd. 6. GRANTS AND LOANS TO COUNTIES. Each metropolitan county may accept gifts, may apply for and accept grants or loans of money or other property from the United States, the state, the metropolitan council, any local government unit, or any person, to accomplish the purposes specified in sections 473.149, 473.151, and 473.801 to 473.823 ~~and sections 14 to 17,~~ may enter

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into any agreement required in connection therewith, and may hold, use, and dispose of the money or property in accordance with the terms of the gift, grant, loan or agreement relating thereto.

Subd. 7. **JOINT ACTION.** Each metropolitan county and local government unit may act together with any county, city, or town within or without the metropolitan area under the provisions of section 471.59 or any other appropriate law providing for joint or cooperative action between government units, to accomplish any purpose specified in sections 473.149, 473.151, and 473.801 to 473.823 and sections 14 to 17.

Subd. 8. **COUNTY SALE OR LEASE.** Each metropolitan county may sell or lease any facilities or property or property rights previously used or acquired to accomplish the purposes specified by sections 473.149, 473.151, and 473.801 to 473.823 and sections 14 to 17. Such property may be sold in the manner provided by section 458.196. Each metropolitan county may convey to or permit the use of any such property by a local government unit, with or without compensation, without submitting the matter to the voters of the county. No real property or property rights acquired pursuant to this section, may be disposed of in any manner unless and until the county shall have submitted to the agency and the metropolitan council for review and comment the terms on and the use for which the property will be disposed of. The agency and the council shall review and comment on the proposed disposition within 60 days after each has received the data relating thereto from the county.

Subd. 9. **SOLID AND HAZARDOUS WASTE FUND.** All moneys received by any metropolitan county from any source specified in sections 473.149, 473.151, and 473.801 to 473.823 and sections 14 to 17 shall be paid into the county treasury, placed in a special fund designated as the county solid and hazardous waste fund, and used only for the purposes authorized in those sections, as appropriated by the county board, subject to any lawful restrictions, conditions, or pledges applicable thereto.

Sec. 10. Minnesota Statutes 1978, Section 473.813, is amended to read:

473.813 CITIES, COUNTIES, TOWNS; SOLID WASTE CONTRACTS.

Subdivision 1. Notwithstanding any contrary provision of law or charter, and in addition to the powers or authority granted by any other law or charter, a city, county, or town in the metropolitan area may directly negotiate and enter into contracts, for a term not to exceed 30 years, for the delivery of solid waste to a waste facility and the processing of solid waste. Contracts made by direct negotiations shall be approved by resolution adopted by the governing body of the city, county, or town.

Subd. 2. Before a city, county, or town ~~may enter~~ enters into any contract pursuant to subdivision 1, ~~which contract~~ is for a period of more than five years, the city, county, or town shall submit the proposed contract and a description of the proposed activities under the contract to the council for review and approval. The council shall approve the proposed contract if it determines that the contract ~~will not adversely affect collection rates and charges during the term of the~~

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~~contract and that the contract~~ is consistent with the council's plan, permits issued under section 473.823, and county reports or master plans approved by the council. The council may consolidate its review of contracts submitted under this section with its review of related permit applications submitted under section 473.823 and for this purpose may delay the review required by this section.

Sec. 11. Minnesota Statutes 1978, Section 473.823, Subdivision 3, is amended to read:

Subd. 3. **SOLID WASTE FACILITIES; REVIEW PROCEDURES.** ~~The agency may prescribe permit and permit application forms; and may request applicants to submit in writing all information deemed relevant by the agency. The agency shall request applicants for solid waste facility permits to submit all information deemed relevant by the council to its review, including without limitation information relating to the geographic areas and population served; the need, the effect on existing facilities and services, the anticipated public cost and benefit, the anticipated rates and charges, the manner of financing, the effect on metropolitan plans and development programs, the supply of waste, anticipated markets for any product, and alternative means of disposal or energy production. The agency, or any employee or agent thereof, when authorized by it, may examine any books, papers, records or memoranda of the applicant pertaining to its waste facility, and may enter on any property, public or private, for the purpose of obtaining information, conducting surveys or making investigations relative to the location or operation of a waste facility. The agency may issue permits for the operation of waste facilities by any metropolitan county or commission, local government unit or person where the operation thereof is consistent with applicable regulations adopted by the agency pursuant to subdivision 1, provided that No permit may be issued for the operation of a solid waste facility in the metropolitan area which is not in accordance with the metropolitan council's solid and hazardous waste policy plan. The metropolitan council shall determine whether a permit is in accordance with the goals, policies, standards, and criteria in its policy plan. In making its determination, the council shall consider the area-wide need and benefit of the applicant facility and may consider, without limitation, the effect of the applicant facility on existing and planned solid waste facilities described in a waste control commission development program or county report or master plan. If the council determines that a permit is in accordance with its policy plan, the council shall approve the permit. If the council determines that a permit is not in accordance with its policy plan, it shall disapprove the permit. The council's approval of permits may be subject to conditions necessary to satisfy criteria and standards in its policy plan, including conditions respecting the type, character, and quantities of waste to be processed at a solid waste facility used primarily for resource recovery and restrictions on the geographic territory from which a waste facility used primarily for resource recovery facility or transfer station serving such a facility may draw its waste. For the purpose of this review and approval by the council, the agency shall send a copy of each permit application and any supporting information furnished by the applicant to the metropolitan council within 15 days after receipt of the application and all other information requested from the applicant. Within 60 days after~~

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the application and supporting information are received by the council, unless a time extension is authorized by the agency, the council shall issue to the agency in writing its determination whether the permit is disapproved, approved, or approved with conditions. If the council does not issue its determination to the agency within the 60 day period, unless a time extension is authorized by the agency, the permit shall be deemed to be in accordance with the council's policy plan. No permit may be issued in the metropolitan area for a solid waste facility used primarily for resource recovery, if the facility or site is owned and operated by a public agency or if the acquisition or betterment of the facility or site is secured by public funds or obligations pledging the full faith and credit or taxing powers of a city, county, or town, unless the council finds that adequate markets exist for the products recovered without substantially reducing the supply of solid waste available for existing resource recovery operations and that all costs of operation, administration, maintenance and debt service will be covered by reasonable rates and charges for the use of the facility the facility is operated on a competitive basis so as not to create an unfair or unreasonable advantage or restraint of trade in relation to comparable private facilities existing in the area.

Sec. 12. Minnesota Statutes 1978, Section 473.823, is amended by adding a subdivision to read:

Subd. 5. REVIEW OF WASTE PROCESSING FACILITIES. A metropolitan county may establish a waste processing facility within the county without complying with local ordinances, if the action is approved by the council in accordance with the review process established by this subdivision. A county requesting review by the council shall show that the required permits for the proposed facility have been or will be issued by the agency, that the facility is consistent with the council's policy plan and the approved county master plan and that a local government unit has refused to approve the establishment or operation of the facility. The council shall meet to commence the review within 90 days of the submission of a request determined by the council to satisfy the requirements for review under this subdivision. At the meeting commencing the review the chairman shall recommend and the council establish a scope and procedure for its review and final decision on the proposed facility. The procedure shall require the council to make a final decision on the proposed facility within 120 days following the commencement of review. The council shall conduct at least one public hearing in the city or town within which the proposed facility would be located. Notice of the hearing shall be published in a newspaper or newspapers of general circulation in the area for two successive weeks ending at least 15 days before the date of the hearing. The notice shall describe the proposed facility, its location, the proposed permits, and the council's scope and procedure for review. The notice shall identify a location or locations within the local government unit and county where the permit applications and the council's scope and procedure for review are available for review and where copies may be obtained. In its review and final decision on the proposed facility, the council shall consider at least the following matters:

(a) the risk and effect of the proposed facility on local residents, units of government, and the local public health, safety, and welfare, and the degree to which the risk or effect may be alleviated;

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(b) the consistency of the proposed facility with, and its effect on, existing and planned local land use and development; local laws, ordinances, and permits; and local public facilities and services;

(c) the adverse effects of the facility on agriculture and natural resources and opportunities to mitigate or eliminate such adverse effects by additional stipulations, conditions, and requirements respecting the design and operation of the proposed facility at the proposed site;

(d) the need for the proposed facility and the availability of alternative sites;

(e) the consistency of the proposed facility with the county master plan adopted pursuant to section 473.803 and the council's policy plan adopted pursuant to section 473.149;

(f) transportation facilities and distance to points of waste generation.

In its final decision in the review, the council may either approve or disapprove the proposed facility at the proposed site. The council's approval shall embody all terms, conditions, and requirements of the permitting state agencies, provided that the council may require more stringent permit terms, conditions, and requirements respecting the design, construction, operation, inspection, monitoring, and maintenance of the proposed facility at the proposed site.

Sec. 13. Minnesota Statutes 1978, Section 473.823, is amended by adding a subdivision to read:

Subd. 6. COUNCIL; CERTIFICATION OF NEED. No new mixed municipal solid waste disposal facility shall be permitted in the metropolitan area without a certificate of need issued by the council indicating the council's determination that the additional disposal capacity planned for the facility is needed in the metropolitan area. The council shall amend its policy plan, adopted pursuant to section 473.149, to include standards and procedures for certifying need. The standards and procedures shall be based on the council's disposal abatement plan adopted pursuant to section 473.149, subdivision 2d, and the abatement master plans of counties adopted pursuant to section 473.803, subdivision 1b. The council shall certify need only to the extent that there are no feasible and prudent alternatives to the disposal facility, including waste reduction, source separation and resource recovery which would minimize adverse impact upon natural resources. Alternatives that are speculative or conjectural shall not be deemed to be feasible and prudent. Economic considerations alone shall not justify the certification of need or the rejection of alternatives.

Sec. 14. Minnesota Statutes 1978, Chapter 473, is amended by adding a section to read:

[473.827] COUNCIL DESIGNATION OF SOLID WASTE FACILITY; REQUIRED USE. Subdivision 1. AUTHORITY. The council may require that all or any portion of the solid waste that is generated within the metropolitan area or any service area thereof and is disposed of in the state be delivered to a resource

recovery facility designated by the council or a transfer station serving such a facility. The council may designate a facility under this section without the approval of the board except that the approval of the board shall be required if the solid waste required to be delivered is generated outside of the metropolitan area.

Subd. 2. STANDARDS. In determining whether to designate and require the use of the facility the council shall consider whether:

(a) the required use will result in the recovery of resources or energy from materials which would otherwise be wasted;

(b) the required use will lessen the demand for and use of land disposal;

(c) the required use is necessary for the financial support of the facility;

(d) less restrictive methods for ensuring an adequate solid waste supply are available;

(e) the applicant has considered the feasible and prudent waste processing alternatives for accomplishing the purposes of the proposed project and has compared and evaluated the costs of the alternatives, including capital and operating costs, and the effects of the alternatives on the cost to generators.

Subd. 3. EXEMPTION. The council shall not designate and require use of facilities for materials which are separated from solid waste and recovered for reuse or recycling by the generator, by a private person under contract with the generator, or by a licensed solid waste collector.

Subd. 4. PROCEDURE. The council shall proceed as follows when designating and requiring use of facilities:

(a) The council shall notify those persons whom the council has determined should use the facilities. Notification to political subdivisions, disposal facility operations, and licensed solid waste collectors shall be in writing. All other persons shall be notified at least by publication in a legal newspaper or newspapers having general circulation in the area. The notification shall specify types and quantities of solid wastes, plans for use of the solid wastes, the point of delivery of the solid wastes, and the fee to be charged. No action of the council pursuant to this subdivision shall be held invalid by reason of the council's failure to provide written notice to persons listed in this subdivision. During a period of 90 days following the notification, the council shall negotiate with the persons within the areas to be served in order to develop contractual agreements on the terms of required use of the designated facilities.

(b) If contracts have not been made at the end of the 90-day period, or if persons subject to the required use have not made arrangements sufficient to justify exemption, the council shall hold a public hearing to take testimony on the required use of the designated facilities. The hearing shall be preceded by the notice required under clause (a).

(c) If contracts have not been made within 30 days after the public hearing, or if persons subject to the required use have not made arrangements sufficient to justify exemption, the council may order any person identified in the notice of the council to use the designated facilities, starting at a specified date which shall be at least 30 days after the order has been issued.

Subd. 5. SERVICE GUARANTEE. The facility designated by the council shall not arbitrarily terminate, suspend, or curtail services provided to any person required pursuant to this section to use designated facilities without the consent of the person, or without just cause.

Subd. 6. TERMINATION. Use required under contract or order pursuant to this section may be terminated by a person upon an adequate showing to the council that the solid waste has value and that arrangements have been made sufficient to justify exemption under subdivision 3, unless the council determines that the requirement must be continued to assure delivery of waste necessary to the financial support of the facilities designated by the council.

Sec. 15. Minnesota Statutes 1978, Chapter 473, is amended by adding a section to read:

[473.831] DEBT OBLIGATIONS; SOLID WASTE DISPOSAL. Subdivision 1. GENERAL OBLIGATION BONDS. Following the adoption of the revisions to its policy plan required by section 473.149, subdivision 2e, the council may by resolution authorize the issuance of general obligation bonds of the council to provide funds for the acquisition of sites and surrounding buffer areas for development as solid waste disposal facilities pursuant to this section and section 16 and to provide funds for refunding obligations issued under this section. The bonds shall be sold, issued, and secured in the manner provided in chapter 475 for general obligation bonds, and the council shall have the same power and duties as a municipality and its governing body in issuing bonds under chapter 475, except as otherwise provided in this chapter. No election shall be required, and the net debt limitations in chapter 475 shall not apply. The principal amount of bonds issued pursuant to this section shall not exceed \$15,000,000.

Subd. 2. USE OF PROCEEDS. The proceeds of bonds issued under subdivision 1 shall be used pursuant to section 16, by the council, to make grants to metropolitan counties to pay the cost of the acquisition of all property or interests in property for solid waste disposal sites and surrounding buffer areas required to be acquired by the county, pursuant to section 16, by the council's policy plan and development schedule adopted pursuant to section 473.149, subdivision 2e.

Sec. 16. Minnesota Statutes 1978, Chapter 473, is amended by adding a section to read:

[473.833] SOLID WASTE DISPOSAL SITES AND BUFFER AREAS. Subdivision 1. DEFINITION. "Development right" as used in this section means the right of the owner of the fee interest in land to change the use of the land from its existing use to any other use.

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Subd. 2. REQUIREMENT. Each metropolitan county shall select and acquire sites and buffer areas for solid waste disposal facilities in accordance with this section and the council's policy plan and development schedule adopted pursuant to section 473.149, subdivision 2e.

Subd. 3. COUNTY SITE SELECTION AUTHORITIES. Each metropolitan county shall establish a site selection authority. By June 1, 1983, each site selection authority shall select specific sites within the county from the council's disposal site inventory, in accordance with the procedures established by the council under section 473.149, subdivision 2e, and in a number equal to that required by the council to be acquired by the county. Each site selection authority shall be composed of the county board, plus one member appointed by the governing body of each city or town within the county containing a site in the council's disposal site inventory or the majority of the land contained within such a site. If the number of members on the site selection authority who reside in a city or town containing all or part of a site or buffer area is equal to or greater than the number of members who do not, the chairman of the county board shall appoint to the authority an additional member or members, residing within the county but not within a city or town containing all or part of a site or buffer area, sufficient to assure a majority of one on the authority of members residing in cities and towns not containing all or any part of a site or buffer area. The chairman of the county board shall be the chairman of the site selection authority. If a site selection authority has not selected the requisite number of sites in accordance with the council's standards, criteria, and procedures by June 1, 1983, the council shall make the selection.

Subd. 4. ACQUISITION AND DISPOSITION. In order to prevent the development of conflicting land uses at and around future solid waste disposal facility sites, the council shall provide for the acquisition by a metropolitan county of property and rights in property at and around each solid waste disposal site selected pursuant to subdivision 3. Each site scheduled for development as a facility through the year 1990 shall be acquired in fee. Development rights shall be acquired for each site scheduled for development as a facility after the year 1990 through the year 2000. Development rights shall be acquired in a buffer area surrounding and at least equal to the area of each site scheduled for development as a facility through the year 2000. The owner of any property for which development rights are to be or have been acquired pursuant to this subdivision may elect by written notice at any time up to 90 days following the issuance of a permit by the agency for a facility to have the county acquire fee title to the property. Fee title shall be acquired by counties for buffer areas only at the election of the owner of the fee.

Subd. 5. COMPENSATION. Where the development right or fee is acquired by means other than through eminent domain proceedings, as by direct purchase or gift, the land owner's compensation shall be determined by the agreement of the parties involved. Where the fee is acquired through eminent domain proceedings, the land owner's compensation shall be the fair market value of the property. Where the development rights are acquired through eminent domain proceedings, the land owner's compensation shall be the fair market value of the

property less the value of the land as restricted to the use to which it is devoted at the time of the acquisition. An award of compensation in a condemnation proceeding shall not be increased or decreased by reason of any increase or decrease in the value of the property caused by its designation in the inventory of disposal sites and buffer areas or its selection as a site or buffer area. Where the fee is subsequently condemned after the acquisition of the development rights, the land owner's compensation shall be based on the value of the property as restricted to the use permitted at the date of the subsequent acquisition.

Subd. 6. DISPOSITION. The county may sell property and development rights, with the permission of the council, when they are no longer needed for a site or surrounding buffer area. The owner of the fee shall have the right of first refusal of any development rights at the price of purchase plus interest at the rate permitted under section 344.01. The proceeds from any sale of property or development rights shall be returned to the council and used to pay debt service on the council's solid waste bonds.

Subd. 7. FAILURE OF COUNTIES TO ACQUIRE; REPORT TO LEGISLATURE. If any county fails to identify property for acquisition or if any county refuses to proceed with acquisition, as required by this section and the council's disposal facility development schedule adopted pursuant to section 473.149, subdivision 2e, the council shall prepare and recommend to the legislature, no later than January 1, 1984, legislation to transfer solid waste management authority and responsibility in the metropolitan area from the counties to the waste control commission or a new metropolitan commission established for that purpose.

Sec. 17. Minnesota Statutes 1978, Chapter 473, is amended by adding a section to read:

[473.834] DEBT SERVICE; SOLID WASTE BONDS. Subdivision 1. CERTAIN CITIES AND TOWNS; EXEMPTION. Each city or town in which a solid waste disposal facility is operating after January 1, 1980, shall be permanently exempt from the payments required by this section, if the facility is a commercial facility disposing of mixed municipal solid waste under an agency permit.

Subd. 2. ALLOCATION OF DEBT SERVICE. The annual debt service on the council's solid waste bonds, issued under article X, section 15, shall be annually apportioned by the council to each city and town in the metropolitan area, in the proportion that the assessed value of all taxable property within such city or town bears to the assessed value of the taxable property in all such cities and towns, as last finally equalized before October 1 in the year in which the allocation is made.

Subd. 3. CERTAIN CITIES AND TOWNS; REDUCED PAYMENTS. When a solid waste reduction, separation, or resource recovery program is implemented or solid waste processing facilities are established in a city or town pursuant to a county land disposal abatement plan approved by the council, the annual payment otherwise required of the city or town pursuant to subdivision 2,

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shall be reduced by an amount determined by the council to be proportionate to the abatement in the waste going from the city or town into a solid waste disposal facility as a result of the local abatement program or processing facility.

Subd. 4. PROCEDURES FOR PAYMENT. By January 1 of each year, the council shall certify to the auditor of each county the amount to be levied within each city and town in the metropolitan area to pay debt service on the council's bonds in the next succeeding calendar year. The amounts so certified shall be due and payable to the council, for deposit in the council's debt service fund, at such time or times during the year as the council determines. The council shall set the dates for payment with reference to the dates on which tax, assessment, and revenue collections become available to the government units required to pay such charges, provided that all payments shall be due in time to allow the council to certify deficiency tax levies pursuant to subdivision 5.

Subd. 5. SECURITY. In addition to the power to require payments and tax levies under subdivisions 3 and 4 for the payment of debt service on bonds issued under section 15, the council may levy taxes for the payment of the debt service upon all taxable property within the metropolitan area without limitation of rate or amount and without affecting the amount or rate of taxes which may be levied by the council for other purposes or by any local government unit in the area.

Sec. 18. Article X applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

ARTICLE XI POLLUTION CONTROL AGENCY

Section 1. Minnesota Statutes 1978, Section 116.06, Subdivision 9, is amended to read:

Subd. 9. "Land pollution" means the presence in or on the land of any solid waste in such quantity, of such nature and duration, and under such condition as would affect injuriously any waters of the state, create air contaminants or cause air pollution.

Sec. 2. Minnesota Statutes 1978, Section 116.06, is amended by adding subdivisions to read:

Subd. 9a. "Waste" has the meaning given it in article I, section 3.

Subd. 9b. "Waste management" has the meaning given it in article I, section 3.

Subd. 9c. "Collection" of waste has the meaning given it in article I, section 3.

Subd. 9d. "Processing" of waste has the meaning given it in article I, section 3.

Subd. 9e. "Disposal" of waste has the meaning given it in article I, section 3.

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Subd. 9f. "Intrinsic hazard" of a waste has the meaning given it in article I, section 3.

Subd. 9g. "Intrinsic suitability" of a land area or site has the meaning given it in article I, section 3.

Subd. 9h. "Sewage sludge" has the meaning given it in article I, section 3.

Sec. 3. Minnesota Statutes 1978, Section 116.06, Subdivision 10, is amended to read:

Subd. 10. "Solid waste" means garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded solid waste materials and sludges, including solid waste materials and waste sludges in solid, semi-solid, liquid, or contained gaseous form, resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders, rock, ~~solids~~; sewage sludge; solid or dissolved material in domestic sewage or other significant common pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to permits under section 402 of the federal water pollution control act, as amended, dissolved materials in irrigation return flows, ~~or other common water pollutants~~; or source, special nuclear, or by-product material as defined by The Atomic Energy Act of 1954, as amended.

Sec. 4. Minnesota Statutes 1978, Section 116.06, Subdivision 13, is amended to read:

Subd. 13. "Hazardous waste" means any refuse or discarded material or combinations of refuse or discarded materials in solid, semi-solid, liquid, or gaseous form which cannot be handled by routine waste management techniques because they pose a substantial present or potential hazard to human health or other living organisms because of their chemical, biological, or physical properties. Categories of hazardous waste materials include, but are not limited to: explosives, flammables, oxidizers, poisons, irritants, and corrosives. Hazardous waste does not include sewage sludge and source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.

Sec. 5. Minnesota Statutes 1978, Section 116.07, Subdivision 2, is amended to read:

Subd. 2. **ADOPTION OF STANDARDS.** The pollution control agency shall improve air quality by promoting, in the most practicable way possible, the use of energy sources and waste disposal methods which produce or emit the least air contaminants consistent with the agency's overall goal of reducing all forms of pollution. The agency shall also adopt standards of air quality, including maximum allowable standards of emission of air contaminants from motor vehicles, recognizing that due to variable factors, no single standard of purity of air is applicable to all areas of the state. In adopting standards the pollution control agency shall give due recognition to the fact that the quantity or characteristics of air contaminants or the duration of their presence in the atmosphere,

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which may cause air pollution in one area of the state, may cause less or not cause any air pollution in another area of the state, and it shall take into consideration in this connection such factors, including others which it may deem proper, as existing physical conditions, zoning classifications, topography, prevailing wind directions and velocities, and the fact that a standard of air quality which may be proper as to an essentially residential area of the state, may not be proper as to a highly developed industrial area of the state. Such standards of air quality shall be premised upon scientific knowledge of causes as well as effects based on technically substantiated criteria and commonly accepted practices. No local government unit shall set standards of air quality which are more stringent than those set by the pollution control agency.

The pollution control agency shall promote solid waste disposal control by encouraging the updating of collection systems, elimination of open dumps, and improvements in incinerator practices. The agency shall also adopt standards for the control of the collection, transportation, storage, processing, and disposal of solid waste and the disposal of sewage sludge for the prevention and abatement of water, air and land pollution, recognizing that due to variable factors, no single standard of ~~solid waste~~ control is applicable to all areas of the state. In adopting standards, the pollution control agency shall give due recognition to the fact that elements of control which may be reasonable and proper in densely populated areas of the state may be unreasonable and improper in sparsely populated or remote areas of the state, and it shall take into consideration in this connection such factors, including others which it may deem proper, as existing physical conditions, topography, soils and geology, climate, transportation, and land use. Such standards of ~~solid waste~~ control shall be premised on technical criteria and *commonly accepted practices*.

The pollution control agency shall also adopt standards describing the maximum levels of noise in terms of sound pressure level which may occur in the outdoor atmosphere, recognizing that due to variable factors no single standard of sound pressure is applicable to all areas of the state. Such standards shall give due consideration to such factors as the intensity of noises, the types of noises, the frequency with which noises recur, the time period for which noises continue, the times of day during which noises occur, and such other factors as could affect the extent to which noises may be injurious to human health or welfare, animal or plant life, or property, or could interfere unreasonably with the enjoyment of life or property. In adopting standards, the pollution control agency shall give due recognition to the fact that the quantity or characteristics of noise or the duration of its presence in the outdoor atmosphere, which may cause noise pollution in one area of the state, may cause less or not cause any noise pollution in another area of the state, and it shall take into consideration in this connection such factors, including others which it may deem proper, as existing physical conditions, zoning classifications, topography, meteorological conditions and the fact that a standard which may be proper in an essentially residential area of the state, may not be proper as to a highly developed industrial area of the state. Such noise standards shall be premised upon scientific knowledge as well as effects based on technically substantiated criteria and commonly accepted practices. No local governing unit

shall set standards describing the maximum levels of sound pressure which are more stringent than those set by the pollution control agency.

The pollution control agency shall adopt standards for the identification of hazardous waste and for the management, identification, labeling, classification, storage, collection, transportation, processing, and disposal of hazardous waste, recognizing that due to variable factors, ~~no~~ a single standard of hazardous waste control is may not be applicable to all areas of the state. In adopting standards, the pollution control agency shall recognize that elements of control which may be reasonable and proper in densely populated areas of the state may be unreasonable and improper in sparsely populated or remote areas of the state. The agency shall consider existing physical conditions, topography, soils, and geology, climate, transportation and land use. Standards of hazardous waste control shall be premised on technical knowledge, and commonly accepted practices. No local government unit shall set standards of hazardous waste control which are in conflict or inconsistent with those set by the pollution control agency.

Sec. 6. Minnesota Statutes 1978, Section 116.07, Subdivision 4, is amended to read:

Subd. 4. **RULES AND STANDARDS.** Pursuant and subject to the provisions of chapter 15, and the provisions hereof, the pollution control agency may adopt, amend and rescind ~~regulations~~ rules and standards having the force of law relating to any purpose within the provisions of Laws 1969, Chapter 1046, for the prevention, abatement, or control of air pollution. Any such ~~regulation rule~~ or standard may be of general application throughout the state, or may be limited as to times, places, circumstances, or conditions in order to make due allowance for variations therein. Without limitation, ~~regulations rules~~ or standards may relate to sources or emissions of air contamination or air pollution, to the quality or composition of such emissions, or to the quality of or composition of the ambient air or outdoor atmosphere or to any other matter relevant to the prevention, abatement, or control of air pollution.

Pursuant and subject to the provisions of chapter 15, and the provisions hereof, the pollution control agency may adopt, amend, and rescind ~~regulations~~ rules and standards having the force of law relating to any purpose within the provisions of Laws 1969, Chapter 1046, for the collection, transportation, storage, processing, and disposal of solid waste and the prevention, abatement, or control of water, air, and land pollution which may be related thereto, and the deposit in or on land of any other material that may tend to cause pollution. The agency shall adopt such rules and standards for the disposal of sewage sludge, addressing the intrinsic suitability of land, the volume and rate of application of sewage sludge of various degrees of intrinsic hazard, design of disposal facilities, and operation of disposal facilities and disposal sites. The agency shall promulgate temporary rules for sewage sludge disposal pursuant to section 15.0412, subdivision 5. Any such ~~regulation rule~~ or standard may be of general application throughout the state or may be limited as to times, places, circumstances, or conditions in order to make due allowance for variations therein. Without limitation, ~~regulations rules~~ or standards may relate to collection, transportation,

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processing, disposal, equipment, location, procedures, methods, systems or techniques or to any other matter relevant to the prevention, abatement or control of water, air, and land pollution which may be advised through the control of collection, transportation, processing, and disposal of solid waste and the disposal of sewage sludge, and the deposit in or on land of any other material that may tend to cause pollution.

Pursuant and subject to the provisions of chapter 15, and the provisions hereof, the pollution control agency may adopt, amend and rescind regulations rules and standards having the force of law relating to any purpose within the provisions of Laws 1971, Chapter 727, for the prevention, abatement, or control of noise pollution. Any such regulation rule or standard may be of general application throughout the state, or may be limited as to times, places, circumstances or conditions in order to make due allowances for variations therein. Without limitation, regulations rules or standards may relate to sources or emissions of noise or noise pollution, to the quality or composition of noises in the natural environment, or to any other matter relevant to the prevention, abatement, or control of noise pollution.

As to any matters subject to this chapter, local units of government may set emission regulations with respect to stationary sources which are more stringent than those set by the pollution control agency.

Pursuant to chapter 15, the pollution control agency may adopt, amend, and rescind regulations rules and standards having the force of law relating to any purpose within the provisions of this chapter for the management, identification, labeling, classification, storage, collection, treatment, transportation, processing, and disposal of hazardous waste and location of hazardous waste disposal facilities. A regulation rule or standard may be of general application throughout the state or may be limited as to time, places, circumstances, or conditions. The public service commission, in cooperation with the pollution control agency, shall set standards for the transportation of hazardous waste in accordance with chapter 221. In implementing its hazardous waste rules, the pollution control agency shall give high priority to providing planning and technical assistance to hazardous waste generators. The agency shall assist generators in investigating the availability and feasibility of both interim and long term hazardous waste management methods. The methods shall include waste reduction, waste separation, waste processing, resource recovery, and temporary storage.

The pollution control agency shall give highest priority in the consideration of permits to authorize disposal of diseased shade trees by open burning at designated sites to evidence concerning economic costs of transportation and disposal of diseased shade trees by alternative methods.

Sec. 7. Minnesota Statutes 1978, Section 116.07, Subdivision 4a, is amended to read:

Subd. 4a. **PERMITS.** The pollution control agency may issue, continue in effect or deny permits, under such conditions as it may prescribe for the prevention of pollution, for the emission of air contaminants, or for the installa-

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tion or operation of any emission facility, air contaminant treatment facility, treatment facility, potential air contaminant storage facility, or storage facility, or any part thereof, or for the sources or emissions of noise pollution.

The pollution control agency may also issue, continue in effect or deny permits, under such conditions as it may prescribe for the prevention of pollution, for the storage, collection, transportation, processing, or disposal of ~~solid~~ waste, or for the installation or operation of any system or facility, or any part thereof, related to the storage, collection, transportation, processing, or disposal of ~~solid~~ waste.

The pollution control agency may revoke or modify any permit issued under this subdivision and section 116.081 whenever it is necessary, in the opinion of the agency, to prevent or abate pollution.

~~The pollution control agency may issue, continue in effect or deny permits, under such conditions as it may prescribe for the treatment or disposal of both of hazardous waste; or for the installation or operation of any system or facility or any part thereof.~~

Sec. 8. Minnesota Statutes 1978, Section 116.07, is amended by adding a subdivision to read:

Subd. 4b. PERMITS; HAZARDOUS WASTE FACILITIES. The agency shall provide to the waste management board established in article II, section 1, copies of each preliminary and final permit application for a hazardous waste facility immediately upon its submittal to the agency. The agency shall request recommendations on each permit application from the board and shall consult with the board on the agency's intended disposition of the recommendations. Except as otherwise provided in article III, the agency shall commence any environmental review required under chapter 116D within 120 days of its acceptance of a completed preliminary permit application. The agency shall respond to a preliminary permit application for a hazardous waste facility within 120 days following a decision not to prepare environmental documents or following the acceptance of a negative declaration notice or an environmental impact statement. Except as otherwise provided in article III, within 60 days following the submission of a final permit application for a hazardous waste facility, unless a time extension is agreed to by the applicant, the agency shall issue or deny all permits needed for the construction of the proposed facility.

Sec. 9. Minnesota Statutes 1978, Section 116.07, is amended by adding a subdivision to read:

Subd. 4c. PERMITS; TEMPORARY HAZARDOUS WASTE STORAGE FACILITIES. A generator of hazardous waste within the state or an entity composed of or under contract to such generators may apply to the agency for permits for a temporary storage facility for hazardous waste generated within the state. The application shall demonstrate: (a) that no permitted commercial waste facility is reasonably available to accept the waste, and (b) that the proposed storage facility will be used for storing the hazardous waste generated exclusively

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by the applicant. The agency shall give highest priority to and shall expedite consideration of such applications. Within 60 days of receipt of a completed application, the agency shall either deny a permit or give notice of its intent to issue a permit. The agency shall publish the notice in the state register and shall notify directly the board and the affected county and city or town. If no hearing is requested on the permit within 30 days following the notice of intent, the agency shall issue the permit. If a hearing is requested, the hearing shall be ordered by the director of the agency and shall be conducted by the state office of hearing examiners in a manner determined by the hearing examiner to be consistent with the expeditious completion of the proceedings as required by this subdivision. The examiner shall give highest priority to and shall expedite the proceedings. The hearing shall be conducted within 45 days of the request, the examiner's report shall be submitted to the agency within 15 days of the hearing, and the agency shall make a final decision on the permit within 30 days of the report. The permit shall be issued for a period not to exceed one year but shall be renewable for four successive one year periods if at the time of each annual renewal the agency determines that there continues to be no permitted commercial waste facility reasonably available to accept the waste and that the facility has been operated in a way that does not cause pollution, impairment or destruction of the environment. Notwithstanding any law or requirement to the contrary, the permit shall be the only permit or approval required. Upon submission of an application for temporary storage facilities and until the permit is issued, the applicant shall store its hazardous wastes in the manner set forth in the application. A temporary storage permit issued or contract entered into for the purposes of a storage permit issued pursuant to this subdivision shall not affect the individual generator's ownership of and responsibility for the waste or the responsibility of the individual generator for removal and final processing or disposal in a permitted hazardous waste facility. The agency shall not be required to promulgate rules pursuant to chapter 15 governing its activity under this subdivision.

Sec. 10. Minnesota Statutes 1978, Section 116.07, is amended by adding a subdivision to read:

Subd. 9. ORDERS; INVESTIGATIONS. The agency shall have the following powers and duties for the enforcement of any provision of chapter 116, relating to waste:

(a) to adopt, issue, reissue, modify, deny, revoke, enter into or enforce reasonable orders, schedules of compliance and stipulation agreements;

(b) to require the owner or operator of any system or facility related to the storage, collection, transportation, processing, or disposal of waste to establish and maintain records; to make reports; to install, use, and maintain monitoring equipment or methods; and to make tests, in accordance with methods, at locations, at intervals, and in a manner as the agency shall prescribe; and to provide other information as the agency may reasonably require;

(c) to conduct investigations, issue notices, public and otherwise, and order hearings as it may deem necessary or advisable for the discharge of its duties under chapter 116, including but not limited to the issuance of permits; and to

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authorize any member, employee, or agent appointed by it to conduct the investigations and issue the notices.

Sec. 11. Minnesota Statutes 1978, Section 116.081, Subdivision 1, is amended to read:

116.081 **PROHIBITIONS.** Subdivision 1. **OBTAIN PERMIT.** It shall be unlawful for any person to construct, install or operate an emission facility, air contaminant treatment facility, treatment facility, potential air contaminant storage facility, storage facility, or system or facility related to the collection, transportation, storage, processing, or disposal of ~~solid~~ waste, or any part thereof unless otherwise exempted by any agency ~~regulation rule~~ now in force or hereinafter adopted, until plans therefor shall have been submitted to the agency, and a written permit therefor shall have been granted by the agency. The requirements of this section shall not be applied to motor vehicles. abatement and control of air and land pollution during each biennium to the legislature with recommendations for action in furtherance of the air and land pollution and ~~solid~~ waste programs.

Sec. 12. Minnesota Statutes 1978, Section 116.101, is amended to read:

116.101 **HAZARDOUS WASTE CONTROL AND SPILL CONTINGENCY PLAN.** The pollution control agency shall study and investigate the problems of hazardous waste control and shall develop a statewide hazardous waste ~~management~~ spill contingency plan detailing the location of hazardous waste ~~disposal~~ facilities and storage sites throughout the state and the needs relative to the inter-state transportation of hazardous waste.

~~Elements of~~ The statewide hazardous waste spill contingency plan ~~which relate to hazardous wastes,~~ shall be incorporated into the statewide hazardous waste management ~~plan~~ plans of the waste managment board established by article II, section 1. The pollution control agency shall develop an informational reporting system of hazardous waste quantities generated, processed, and disposed of in the state.

Sec. 13. Minnesota Statutes 1978, Section 116.41, is amended to read:

116.41 **WASTE AND WASTE FACILITIES CLASSIFICATION; TRAINING AND CERTIFICATION.** Subdivision 1. **LAND DISPOSAL FACILITY CLASSIFICATION.** By January 1, 1982, the pollution control agency ~~may shall~~ classify, respectively, facilities for the disposal of solid waste, facilities for the disposal of sewage sludge, and facilities for the disposal of hazardous waste according to the degree of hazard to public health or the environment involved in their operation, ~~and according to the volume or hazardous character of solid waste disposed of at the facility.~~ The agency may develop standards of competence for persons operating various classes of facilities for the disposal of ~~solid waste.~~ The classification of disposal facilities for waste shall be based upon the degree of intrinsic hazard and the volume and rate of application of the waste accepted by a facility, the intrinsic suitability of the location of the facility, the design and operating character of the facility, and other factors deemed relevant by the agency.

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Subd. 1a. HAZARDOUS WASTE CLASSIFICATION. By January 1, 1982, the agency shall prescribe by rule criteria for excluding types and categories of hazardous wastes from disposal, criteria for accepting types and categories of wastes as suitable for disposal, and minimum pretreatment standards required as a condition of acceptance for disposal. The criteria and standards shall be based upon the degree of intrinsic hazard of the waste; the availability of conventional processing technologies for reducing, separating, reusing, recycling, and treating the waste; the feasibility and cost of applying the processing technologies in relation to the benefits to be achieved by such application; the class of facility; and other factors deemed relevant by the agency.

Subd. 2. TRAINING AND CERTIFICATION PROGRAMS. The agency shall develop standards of competence for persons operating and inspecting various classes of disposal facilities. The agency may shall conduct training programs for persons operating facilities for the disposal of solid waste and for inspectors of such facilities, and may charge such fees as are necessary to cover the actual costs of the training programs.

Subd. 3. After July 1, 1976, when a facility for the disposal of solid waste, other than an animal feedlot, is operating under a permit from the agency, The agency may shall require the operator operators and inspectors of the facility such facilities to obtain from the agency a certificate of his competence to operate the facility. The agency may shall conduct examinations to test the competence of applicants for certification, and may shall require that certificates be renewed at reasonable intervals. The agency may charge such fees as are necessary to cover the actual costs of receiving and processing applications, conducting examinations, and issuing and renewing certificates.

Subd. 3. REGULATION AND ENFORCEMENT ASSISTANCE. The agency shall establish a program to provide technical and financial assistance for regulation and enforcement to counties which have certified operators and inspectors conforming to the requirements of the agency, chapters 400 and 473, and articles I to VIII.

Subd. 4. RULES. The agency may shall adopt, amend, and rescind such rules and regulations as may be necessary to carry out the provisions of this section in accordance with chapter 15.

Sec. 14. REPORT ON SEWAGE SLUDGE. By January 1, 1981, in consultation with the department of health, the agency shall prepare and submit a report on sewage sludge disposal to the legislative commission. The report shall be based on available information and shall recommend appropriate strategies, procedures, and programs to abate potential health hazards resulting from sewage sludge disposal facilities. The report shall: (a) analyze the potential public health hazards resulting from sewage sludge disposal facilities and methods of abatement; (b) examine existing regional, state, and federal regulations regarding the pre-treatment of industrial wastewater and efforts which are being or could be made by industry to pre-treat their industrial wastewaters; (c) analyze the need and potential effects of state regulations on concentrations of toxic and hazardous substances in industrial wastewater effluent; (d) summarize the duties and rela-

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tionships among government entities responsible for sewage and sewage sludge treatment and regulation.

ARTICLE XII APPROPRIATIONS

Section 1. **APPROPRIATION.** Subdivision 1. The sum of \$2,900,000 is appropriated from the general fund, and the sum of \$15,000,000 is appropriated from the state waste management fund, to the agencies and for the purposes indicated in this section. Except as otherwise indicated in this section, appropriations are from the general fund and are available from the effective date of this act through the fiscal year ending June 30, 1981. Appropriations from the waste management fund are available until expended.

Subd. 2. REAPPROPRIATED FUNDS. The joint committee on solid and hazardous waste is abolished. The amount remaining from the appropriations in Laws 1979, Chapter 333, Section 2, Subdivision 3, for the joint committee shall be reappropriated in accordance with this subdivision. All reports required by this subdivision shall be prepared in consultation with the chairperson of the waste management board and shall be submitted to the legislative commission on waste management at the time of their submittal to the waste management board.

(a) Legislative Commission on Waste Management.

\$ 65,000

This amount shall be available for expenditure by the commission on the effective date of this act.

(b) Commissioner of Economic Development.

10,000

Up to this amount shall be available on the effective date of this act for expenditure by the commissioner of economic development for the preparation of the reports to the waste management board required in article II, section 5, subdivisions 1 and 2.

(c) Director of the State Planning Agency.

15,000

Up to this amount shall be available on the effective date of this act for expenditure by the director of the state planning agency for preparation of the report to the board required in article II, section 5, subdivision 3, and for the preparation of a report to the board, by July 1, 1980, on public education and public participation in hazardous

waste management planning. The report on public participation and education shall be prepared in consultation with the environmental quality board and shall contain analysis and recommendations on the purposes, the components, and the expeditious implementation of comprehensive public education and participation programs in hazardous waste management planning.

(d) Minnesota Geological Survey.

15,000

Up to this amount shall be available on the effective date of this act for expenditure by the Minnesota geological survey for preparation of a report to the board, by July 1, 1980, assessing the geologic and hydrogeologic suitability of land in the state for hazardous waste facility search areas and sites required to be selected under article II, section 6, and article III, section 4. The report by the geological survey shall be based on readily available data and shall be prepared in consultation with the United States geological survey, the pollution control agency, and the departments of health and natural resources.

(e) Waste Management Board.

The amount remaining on June 30, 1980, shall be reappropriated and added to the amount appropriated to the waste management board in subdivision 3, clause (a).

Subd. 3. WASTE MANAGEMENT BOARD.

15,718,000

This appropriation is available for the following purposes:

(a) General Operations and Management.

718,000

Approved Complement - 14. These positions are in the unclassified service and their continuation is dependent upon the availability of money from appropriations in this subdivision. When these appropriations have been expended the positions shall be cancelled and the approved complement reduced accordingly. The annual salary of the full-time chairperson of the board shall be \$45,000.

(b) Acquisition of Sites and Buffer Areas

for Hazardous Waste Facilities.

6,200,000

This appropriation is from the state waste management fund, to be spent pursuant to article II, section 3, subdivision 4. Up to \$1,200,000 is available for expenditure before June 30, 1981 for costs of staff and independent professional services needed for the selection and acquisition of sites.

(c) Waste Processing Facility Demonstration Program.

8,800,000

This appropriation is from the state waste management fund, to be spent pursuant to article VI, sections 4 and 6. Up to 5 percent is available for administration and technical and professional services.

Subd. 4. POLLUTION CONTROL AGENCY.

1,969,000

Approved Complement - 14. Ten of these positions shall be for the purposes of clause (a) and four for the purposes of clause (b). These positions are in the unclassified service and their continuation is dependent upon the availability of money from this appropriation. When the appropriation has been expended the positions shall be cancelled and the approved complement reduced accordingly. This appropriation is available for the following purposes.

(a) General Operations and Management.

408,000

This appropriation is for the responsibilities of the agency under articles II, III, IV, VIII, IX, X, and XI. The agency shall submit to the legislative commission summaries of its work plans for implementing the provisions of these articles.

(b) Solid Waste Planning Assistance and Waste Reduction and Separation Projects.

570,000

This appropriation is to be spent pursuant to article V and article VI, sections 4 and 5. Up to 20 percent is available for administration and technical and professional services. It is a condition of the acceptance of this appropriation that the agency shall submit work programs and semi-annual progress reports in the form determined by the legislative commission on waste man-

agement. None of the moneys provided may be expended unless the commission has approved the work program.

(c) Metropolitan Solid Waste

Management.

991,000

This appropriation is for a grant to the metropolitan council to implement chapter 473 and article X. Up to five percent is available for administration and up to \$65,000 is available to prepare reports by the council required by article X, section 2, subdivisions 2a and 2c. The remainder is available for grants to metropolitan counties for solid waste inventories and plans required under chapter 473 and article X.

Subd. 5. ATTORNEY GENERAL.

133,000

Approved complement - 5. Three of these positions shall be for attorneys and two for legal secretaries. These positions are in the unclassified service and their continuation is dependent upon the availability of money from this appropriation. When the appropriation has been expended the positions shall be cancelled and the approved complement reduced accordingly. This appropriation is available for legal services required by the waste management board and the pollution control agency in carrying out the provisions of this act.

Subd. 6. ADMINISTRATION.

80,000

Approved Complement - 3. Two of these positions are in the unclassified service and their continuation is dependent upon the availability of money from this appropriation. When the appropriation has been expended the two positions shall be cancelled and the approved complement reduced accordingly. This appropriation is for transfer to the general services revolving fund, resource recovery account, to be used by the commissioner of administration for the implementation and operation of the state government resources recovery program under article II, section 12.

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ARTICLE XIII

Section 1. Minnesota Statutes 1978, Section 272.02, Subdivision 1, is amended to read:

272.02 **EXEMPT PROPERTY.** Subdivision 1. Except as provided in other subdivisions of this section or in section 272.025, all property described in this section to the extent herein limited shall be exempt from taxation:

- (1) All public burying grounds;
- (2) All public schoolhouses;
- (3) All public hospitals;
- (4) All academies, colleges, and universities, and all seminaries of learning;
- (5) All churches, church property, and houses of worship;
- (6) Institutions of purely public charity;
- (7) All public property exclusively used for any public purpose;

(8) All natural cheese held in storage for aging by the original Minnesota manufacturer;

(9) (a) Class 2 property of every household of the value of \$100, maintained in the principal place of residence of the owner thereof. The county auditor shall deduct such exemption from the total valuation of such property as equalized by the revenue commissioner assessed to such household, and extend the levy of taxes upon the remainder only. The term "household" as used in this section is defined to be a domestic establishment maintained either (1) by two or more persons living together within the same house or place of abode, subsisting in common and constituting a domestic or family relationship, or (2) by one person.

(b) During the period of his active service and for six months after his discharge therefrom, no member of the armed forces of the United States shall lose status of a householder under paragraph (a) which he had immediately prior to becoming a member of the armed forces.

In case there is an assessment against more than one member of a household the \$100 exemption shall be divided among the members assessed in the proportion that the assessed value of the Class 2 property of each bears to the total assessed value of the Class 2 property of all the members assessed. The Class 2 property of each household claimed to be exempt shall be limited to property in one taxing district, except in those cases where a single domestic establishment is maintained in two or more adjoining districts.

Bonds and certificates of indebtedness hereafter issued by the state of Minnesota, or by any county or city of the state, or any town, or any common or

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independent school district of the state, or any governmental board of the state, or any county or city thereof, shall hereafter be exempt from taxation; provided, that nothing herein contained shall be construed as exempting such bonds from the payment of a tax thereon, as provided for by section 291.01, when any of such bonds constitute, in whole or in part, any inheritance or bequest, taken or received by any person or corporation.

(10) Farm machinery manufactured prior to 1930, which is used only for display purposes as a collectors item;

(11) The taxpayer shall be exempted with respect to, all agricultural products, inventories, stocks of merchandise of all sorts, all materials, parts and supplies, furniture and equipment, manufacturers material, manufactured articles including the inventories of manufacturers, wholesalers, retailers and contractors; and the furnishings of a room or apartment in a hotel, rooming house, tourist court, motel or trailer camp, tools and machinery which by law are considered as personal property, and the property described in section 272.03, subdivision 1 (c), except personal property which is part of an electric generating, transmission, or distribution system or a pipeline system transporting or distributing water, gas, or petroleum products or mains and pipes used in the distribution of steam or hot or chilled water for heating or cooling buildings and structures.

(12) Containers of a kind customarily in the possession of the consumer during the consumption of commodities, the sale of which are subject to tax under the provisions of the excise tax imposed by Extra Session Laws 1967, Chapter 32;

(13) All livestock, poultry, all horses, mules and other animals used exclusively for agricultural purposes;

(14) All agricultural tools, implements and machinery used by the owners in any agricultural pursuit.

(15) Real and personal property used primarily for the abatement and control of air, water, or land pollution to the extent that it is so used, other than real property used primarily as a solid waste disposal site.

Any taxpayer requesting exemption of all or a portion of any equipment or device, or part thereof, operated primarily for the control or abatement of air or water pollution shall file an application with the commissioner of revenue. Any such equipment or device shall meet standards, regulations or criteria prescribed by the Minnesota Pollution Control Agency, and must be installed or operated in accordance with a permit or order issued by that agency. The Minnesota Pollution Control Agency shall upon request of the commissioner furnish information or advice to the commissioner. If the commissioner determines that property qualifies for exemption, he shall issue an order exempting such property from taxation. Any such equipment or device shall continue to be exempt from taxation as long as the permit issued by the Minnesota Pollution Control Agency remains in effect.

Sec. 2. **REPEALER.** Minnesota Statutes 1978, Sections 116F.02, Subdivisions 3, 4, and 5; 116F.03; 116F.04; 116F.05, Subdivision 2; 400.03, Subdivisions

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2, 3, 4, 5, 6, and 7; 473.121, Subdivisions 27, 28, 29, 31, 31a, 31b, and 31c; and 473.823, Subdivisions 1, 2, and 4; and Laws 1978, Chapter 728, Section 7, are repealed.

Sec. 3. EFFECTIVE DATE. Except as otherwise provided in this section, this act is effective the day following final enactment. Section 1 of this article is effective for taxes levied in 1980 and thereafter, payable in 1981 and thereafter. Article VIII, section 9, article IX, section 8, and article X, section 14, are effective July 1, 1982.

Approved April 14, 1980

CHAPTER 565—H.F.No. 1995

** An act relating to health care; excluding coverage of certain services in the Comprehensive Health Insurance Plan; qualifying certain services covered by the Catastrophic Health Expense Protection program; repealing certain provisions; amending Minnesota Statutes 1978, Sections 62E.12; 62E.53, by adding a subdivision; and Laws 1979, Chapter 272, Section 12.*

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

Section 1. Minnesota Statutes 1978, Section 62E.12, is amended to read:

62E.12 MINIMUM BENEFITS OF COMPREHENSIVE HEALTH INSURANCE PLAN. The association through its comprehensive health insurance plan shall offer policies which provide the benefits of a number one qualified plan, a number two qualified plan and a qualified medicare supplement plan. They shall offer health maintenance organization contracts in those areas of the state where a health maintenance organization has agreed to make the coverage available and has been selected as a writing carrier. Notwithstanding the provisions of section 62E.06 the state plan shall exclude coverage of services of a private duty nurse other than on an inpatient basis and any charges for treatment in a hospital located outside of the state of Minnesota in which the covered person is receiving treatment for a mental or nervous disorder.

Sec. 2. Minnesota Statutes 1978, Section 62E.53, is amended by adding a subdivision to read:

Subd. 5. Health services provided outside Minnesota to eligible persons are qualified expenses in the following situations:

(1) When it is general practice for residents of Minnesota to use health services beyond the borders of this state; or

(2) When the availability of necessary medical care, services, or supplementary resources make it necessary for an individual to use health services outside the state; or

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