

(a) Find that the child's needs are being met and that the child's placement in foster care is in the best interests of the child, in which case the court shall approve the voluntary arrangement. The court shall order the social service agency responsible for the placement to bring a petition pursuant to either section 260.131, subdivision 1 or section 260.131, subdivision 1a, as appropriate, within two years if court review was pursuant to section 257.071, subdivision 3 or subdivision 4, or within one year if court review was pursuant to section 257.071, subdivision 2.

(b) Find that the child's needs are not being met, in which case the court shall order the social service agency or the parents to take whatever action is necessary and feasible to meet the child's needs, including, when appropriate, the provision by the social service agency of services to the parents which would enable the child to live at home, and shall order the case to be reviewed again within one year.

(c) Find that the child has been abandoned by his parents financially or emotionally, or that the developmentally disabled child does not require out-of-home care because of the handicapping condition, in which case the court shall order the social service agency to file an appropriate petition pursuant to sections 260.131, subdivision 1, or 260.231.

Approved May 28, 1981

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#### CHAPTER 291 — S.F.No. 440

*An act establishing the North Koochiching county waste water treatment board; prescribing its duties and powers; providing for the treatment and disposal of waste water in described areas.*

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

##### Section 1. DEFINITIONS.

Subdivision 1. The terms defined in this section have the meaning given to them unless otherwise indicated by the context.

Subd. 2. "East Koochiching county sewer district" means the area for which the county of Koochiching has established a sewer district under that name in accordance with Minnesota Statutes, Chapter 116A.

Subd. 3. "Papermakers sewer district" means the area for which the county of Koochiching has established a sewer district under that name in accordance with Minnesota Statutes, Chapter 116A.

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Subd. 4. “Local governmental unit” or “local government unit” means any municipal or public corporation or governmental or political subdivision or agency authorized by law to provide for the collection and disposal of waste water located in whole or in part in the district established by this act.

Subd. 5. “Person” means any individual, partnership, corporation, cooperative or other organization or entity, public or private.

Subd. 6. “Acquisition” and “betterment” have the meanings given to them in Minnesota Statutes, Chapter 475.

Subd. 7. “Agency” means the pollution control agency established by Minnesota Statutes, Chapter 116.

Subd. 8. “Waste water” or “sewage” means all liquid or water carried waste products derived from any sources together with the ground water infiltration and surface water that may be present.

Subd. 9. “Water pollution” and “sewer system” have the meanings given to them in Minnesota Statutes, Section 115.01.

Subd. 10. “Treatment works” and “disposal system” have the meanings given them in Minnesota Statutes, Section 115.01.

Subd. 11. “Interceptor” means any sewer and necessary appurtenances, including but not limited to, mains, pumping or lift stations, and sewage flow regulating and measuring stations, which is

(a) Designed for or used to conduct waste water originating in more than one local government unit,

(b) Designed or used to conduct all or substantially all the waste water originating in a single local government unit from a point of collection in that unit to an interceptor or treatment works outside that unit, or

(c) Determined by the board to be a major collector of waste water used or designed to serve a substantial area in the district established by this act.

Subd. 12. “District disposal system” means the interceptors or treatment works owned, constructed or operated by the board except those designated by the board as local sanitary sewer facilities.

Subd. 13. “Local sanitary waste water facilities” means all or any part of any disposal system in the district other than the district disposal system.

Subd. 14. “Municipality” means any home rule charter or statutory city or town located in whole or in part in the district, including but not limited to International Falls, South International Falls and Ranier.

## Sec. 2. SANITARY SEWER TREATMENT BOARD.

Subdivision 1. ESTABLISHMENT. A waste water treatment board called the North Koochiching county waste water treatment board with juris-

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diction in the International Falls, South International Falls and Ranier municipalities and the East Koochiching county sewer district and the Papermakers sewer district is established as a public corporation and political subdivision with all the rights, powers, privileges, immunities and duties which may be granted to or imposed upon a municipal corporation.

Subd. 2. MEMBERS AND SELECTIONS. The board members shall be appointed by each of their governmental units in the following numbers:

<u>International Falls</u>	<u>4</u>
<u>South International Falls</u>	<u>2</u>
<u>East Koochiching county sewer district</u>	<u>1</u>
<u>Papermakers sewer district</u>	<u>1</u>
<u>Ranier</u>	<u>1</u>

The East Koochiching and Papermakers sewer districts shall each appoint their member on the board and designate the term of the member in accordance with subdivision 5, by a majority vote.

Subd. 3. TIME LIMITS FOR SELECTION; ALTERNATIVE APPOINTMENT BY DISTRICT JUDGE. The board members shall be selected as provided in subdivision 2 within 60 days after this act is effective. The successor to each board member shall be selected at any time within 60 days before the expiration of his term in the same manner as his predecessor was selected. Any vacancy on the board shall be filled within 60 days after it occurs. If any selection is not made within the time prescribed, the chief judge of the ninth judicial district of the district court upon application by an interested person shall forthwith appoint an eligible person to the board with the same effect as if the appointment were otherwise made.

Subd. 4. VACANCIES. If the office of any board member becomes vacant, the vacancy shall be filled for the unexpired term in the same manner as provided for selection of the member who vacated the office. The office shall be deemed vacant under the conditions specified in Minnesota Statutes, Section 351.02.

Subd. 5. TERMS OF OFFICE. The term of each board member shall be determined by the appointing government unit but shall not exceed six years.

Subd. 6. REMOVAL. A board member may be removed by the unanimous vote of the governing body appointing him, with or without cause, or by the governor for malfeasance or nonfeasance in the performance of his official duties as provided by Minnesota Statutes, Sections 351.03 and 351.04.

Subd. 7. QUALIFICATIONS. Each board member shall be a resident of the particular governmental entity he represents and may, but need not be an elected public official.

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**Subd. 8. CERTIFICATE OF SELECTION; OATH OF OFFICE.** A certificate of selection of every board member selected under subdivision 2 stating the term for which he was selected, shall be prepared by the city clerks or, in the case of the East Koochiching county sewer district and Papermakers sewer district, by the county auditor. The certificates shall be filed with the secretary of state. Copies shall be furnished to the board member and the secretary of the board. Each member shall qualify by taking and subscribing the oath of office prescribed by the constitution, article V, section 8. The oath, certified by the official administering it, shall be filed with the secretary of the board.

**Subd. 9. BOARD MEMBERS COMPENSATION.** Each member may be paid a per diem compensation for meetings and for other services and expenses as set forth by the board by resolution. The chairman may be paid a per diem compensation in excess of the per diem of the other members.

### **Sec. 3. GENERAL PROVISIONS FOR ORGANIZATION AND OPERATION OF THE BOARD.**

**Subdivision 1. ORGANIZATION; OFFICERS; MEETINGS.** After the selection and qualification of all board members they shall meet to organize the board at the call of any two board members, upon seven days notice by certified mail to the remaining board members, at a time and place within the district specified in the notice. A majority of the members shall constitute a quorum at meetings of the board but a lesser number may meet and adjourn from time to time and compel the attendance of absent members. At the first meeting the board shall select its officers and conduct other organizational business as necessary. Thereafter the board shall meet regularly at the time and place the board shall by resolution designate. Special meetings may be held at any time upon call of the chairman or any two members, upon written notice mailed to each member at least three days prior to the meeting or upon other notice as the board by resolution may provide, or without notice if each member is present or files with the secretary a written consent to the meeting either before or after the meeting. Except as otherwise provided in this act, any action within the authority of the board may be taken by the affirmative vote of a majority of the board and may be taken at a regular or adjourned regular meeting or at a duly held special meeting, but in any case only if a quorum is present. All meetings of the board shall be open to the public. The board may adopt a seal, which shall be officially and judicially noticed, to authenticate instruments executed by its authority, but omission of the seal shall not affect the validity of any instrument.

**Subd. 2. CHAIRMAN.** At the first regular meeting of each calendar year, the board shall elect a chairman from among its members. The chairman shall serve until his successor is elected. The chairman shall preside at all meetings of the board, if present, and perform all other duties and functions

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usually incumbent upon a chairman, and all administrative functions assigned to him by the board. The board shall elect a vice chairman from its members to act for the chairman during absence or disability.

Subd. 3. SECRETARY AND TREASURER. The board shall select one or more persons who may but need not be members of the board, to act as its secretary and treasurer. The secretary and treasurer shall hold office at the pleasure of the board, subject to the terms of any contract of employment which the board may enter into with the secretary and treasurer. The secretary shall record the minutes of all meetings of the board, and be custodian of all books and records of the board except those the board entrusts to a designated employee. The treasurer shall be the custodian of all money received by the board. The board may appoint a deputy to perform any and all functions of either the secretary or the treasurer. No secretary or treasurer who is not a member of the board or a deputy of either shall have any right to vote.

Subd. 4. EXECUTIVE DIRECTOR. The board may appoint an executive director who shall be selected solely upon the basis of his training, experience and other qualifications and who shall serve at the pleasure of the board and at a compensation to be determined by the board. The executive director need not be a resident of the district. He may also be selected by the board to serve as either secretary or treasurer, or both, of the board. No executive director who is not a member of the board shall have any right to vote. As executive director, he shall attend all meetings of the board, and shall have the following powers and duties:

(a) He shall see that all resolutions, rules, regulations, or orders of the board are enforced.

(b) He shall recommend appointment and removal, upon the basis of merit and fitness, of all subordinate officers and regular employees of the board except the secretary and the treasurer and their deputies.

(c) He shall present to the board plans, studies, and other reports prepared for board purposes and recommend to the board for adoption the measures he deems necessary to enforce or carry out the powers and duties of the board, or the efficient administration of the affairs of the board.

(d) He shall keep the board fully advised as to its financial condition, and he shall prepare and submit to the board, and to the governing bodies of the local government units, the board's annual budget and other financial information as the board may request.

(e) He shall recommend to the board for adoption the rules and regulations he deems necessary for the efficient operation of a district disposal system and all local sanitary sewer facilities over which the board may assume responsibility as provided in section 17.

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(f) He shall perform other duties as prescribed by the board.

**Subd. 5. PUBLIC EMPLOYEES.** The executive director and all persons employed by the executive director shall be public employees, and shall have all the rights and duties conferred on public employees under Minnesota Statutes, Sections 179.61 to 179.76. The board may elect to have them become members of either the public employees retirement association or the Minnesota state retirement system. The compensation and conditions of employment of the employees shall not be governed by civil service rules applicable to state employees nor to any of the provisions of Minnesota Statutes, Chapter 15A, unless the board so provides.

**Subd. 6. PROCEDURES.** The board shall adopt resolutions or by-laws establishing procedures for board action, personnel administration, keeping records, approving claims, authorizing or making disbursements, safekeeping funds, and audit of all financial operations of the board.

**Subd. 7. SURETY BONDS AND INSURANCE.** The board may procure surety bonds for its officers and employees in amounts as deemed necessary to assure proper performance of their duties and proper accounting for funds in their custody. It may procure insurance against risks to property and liability of the board and its officers, agents, and employees for personal injuries or death and property damage in amounts as deemed necessary or desirable, with the effect stated in Minnesota Statutes, Chapter 466.

#### Sec. 4. COMPREHENSIVE PLANS.

**Subdivision 1. BOARD PLAN AND PROGRAM.** The board shall adopt as its first comprehensive plan for the collection, treatment and disposal of waste water in the district for the period the board deems proper the comprehensive plan adopted by the joint powers board previously established for the cities of International Falls, South International Falls, and Ranier and the county of Koochiching by agreement pursuant to Minnesota Statutes, Section 471.59. The board shall prepare and adopt subsequent comprehensive plans for the collection, treatment and disposal of waste water in the district for each succeeding designated period the board deems proper. The first plan, as modified by the board, and any subsequent plan, shall take into account the preservation and best and most economic use of water and other natural resources in the area; the preservation, uses and potential for use of lands adjoining waters of the state to be used for the disposal of waste water; and the impact the disposal system will have on present and future land use in the area affected. Plans shall include the general location of needed interceptors and treatment works, a description of the area that is to be served by the various interceptors and treatment works, a long range capital improvements program and other details the board deems appropriate. In developing the plans, the board shall consult with persons designated for the purpose by the governing body of any municipal and public corporation or governmental or political

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subdivision or agency within the district. It shall consider the data, resources, and suggestions offered to the board by the entities and any planning agency acting on behalf of one or more of them. Each plan, when adopted, shall be followed in the district and may be revised as often as the board deems necessary.

**Subd. 2. COMPREHENSIVE PLANS; HEARING.** Before adopting a comprehensive plan, the board shall hold a public hearing on it at the time and place in the district that it determines. The hearing may be continued from time to time. Not less than 45 days before the hearing, the board shall publish notice of it in one or more newspapers or other publications having general circulation in the district, stating the date, time and place of the hearing, and the place where the proposed plan may be examined by any interested person. At the hearing all interested persons shall be permitted to present their views on the plan.

**Subd. 3. MUNICIPAL PLANS AND PROGRAMS; COORDINATION.** As soon as practical after the adoption by the board of the first comprehensive plan, and before undertaking the construction of new sewers or other disposal facilities or the substantial alteration or improvement of any existing sewers or other disposal facilities, each local government unit may and shall, if the construction or alteration of any waste water disposal facilities is contemplated by it, adopt a similar comprehensive plan and program for the collection, treatment and disposal of waste water for which it is responsible, coordinated with the board's plan, and may revise it as often as it deems necessary. Each local plan or revision of it shall be submitted forthwith to the board for review and shall be subject to the approval of the board as to the features that affect the board's responsibilities as determined by the board. Any feature disapproved by the board shall be modified in accordance with the board's recommendations. Once the board's plan is adopted, no construction project involving features that affect the board's responsibilities shall be undertaken by the local government unit unless its governing body finds the project to be in accordance with the government unit's comprehensive plan and program as approved by the board. Before approval by the board of the comprehensive plan and program of a local government unit in the district, no construction project shall be undertaken by the unit unless approval of the project is first secured from the board as to the features of the project that affect the board's responsibilities as determined by the board.

#### Sec. 5. SEWER SERVICE FUNCTION.

**Subdivision 1. DUTY OF BOARD; ACQUISITION OF EXISTING FACILITIES; NEW FACILITIES.** After the board is organized it shall assume ownership of all existing interceptors and treatment works needed to implement the board's comprehensive plan for the collection, treatment, and disposal of waste water in the district, subject to the conditions prescribed in

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subdivision 2. No interceptors shall be designed or constructed in its service area without the approval of the board. The board shall acquire, better, equip, operate, and maintain all additional interceptors and treatment works needed for its purposes. The board shall assume ownership of treatment works owned by a local government unit if any part of the treatment works will be needed for its purposes.

Subd. 2. METHOD OF ACQUISITION. The board may require any local government unit to transfer to the board, all of the unit's right, title, and interest in any interceptors or treatment works and their necessary appurtenances owned by the unit which are needed for the purpose stated in subdivision 1. Appropriate instruments of conveyance for all the transferred property shall be executed and delivered to the board by the proper officers of each local government unit concerned. All persons regularly employed by a local government unit to operate and maintain works transferred to the board on the date on which the transfer becomes effective shall be employees of the board, in the same manner and with the same options and rights as other employees of the board.

#### **Sec. 6. WASTE WATER COLLECTION AND DISPOSAL; POWERS.**

Subdivision 1. POWERS. In addition to the other powers conferred upon the board by this act, it shall have the powers specified in this section.

Subd. 2. DISCHARGE OF TREATED WASTE WATER. The board may discharge the effluent from any treatment works operated by it into any waters of the state, subject to approval of the pollution control agency if required and in accordance with any effluent or water quality standards adopted by the agency, any interstate agency or any federal agency having jurisdiction.

Subd. 3. UTILIZATION OF DISTRICT SYSTEM. The board may

(a) Require any person or local government unit to provide for the discharge of any waste water, directly or indirectly, into the district disposal system, or to connect all or part of any disposal system with the district disposal system when reasonable opportunity is provided;

(b) Regulate the manner in which connections are made and regulate the flows in the connections;

(c) Regulate or prohibit illegal or unnecessary discharges of clear water not entering the system on the effective date of this act;

(d) Require any person or local government unit to take any action necessary to comply with any applicable federal and state laws, regulations or rules;

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(e) Require any person or local government unit discharging waste water into the disposal system to provide preliminary treatment for it and to monitor the discharge;

(f) Prohibit the discharge into the district disposal system of any substance which it determines will or may be harmful to the environment, or to the system or any persons operating it; and

(g) Require any local government unit to discontinue the acquisition, betterment, or operation of any facility for the unit's disposal system when adequate service is or will be provided by the district disposal system.

Subd. 4. SYSTEM OF COST RECOVERY TO COMPLY WITH APPLICABLE REGULATIONS. The board may require that any charges, connection fees or other cost recovery techniques imposed by a local government unit on persons discharging waste water directly or indirectly into the district disposal system, comply with applicable state and federal law, including but not limited to regulations governing state or federal grants.

#### **Sec. 7. BUDGET.**

The board shall prepare and adopt a budget, on or before September 1, 1981 and annually thereafter. The budget shall show for the following calendar year or other fiscal year determined by the board estimated receipts of money from all sources, including but not limited to payments by each local government unit, federal or state grants, taxes on property, and funds on hand at the beginning of the year, and estimated expenditures for:

(a) Costs of operation, administration and maintenance of the district disposal system;

(b) Costs of acquisition and betterment of the district disposal system;  
and

(c) Debt service, including principal and interest, on general obligation bonds and certificates issued pursuant to section 12, and any money judgments against the district.

Expenditures within these categories and others the board may determine, shall be itemized in the detail the board shall prescribe. The board and its officers, agents, and employees shall not spend money for any purpose other than debt service without having set forth the expense and its amount in the budget. No obligation to make an unbudgeted expenditure shall be enforceable except as the obligation of the person incurring it. The board may amend the budget at any time by transferring from one purpose to another any budgeted sums, except money for debt service and bond proceeds, or by increasing expenditures in any amount by which cash receipts during the budget year actually exceed the total amounts designated in the original budget. The creation of an obligation pursuant to section 12 or the receipt of a federal

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or state grant is a sufficient budget designation of the proceeds for the purpose for which it is authorized, and of the tax or other revenue pledged to pay the obligation, whether or not specifically included in the budget.

#### Sec. 8. ALLOCATION OF COSTS.

Subdivision 1. DEFINITION OF CURRENT COSTS. The estimated cost of administration, operation, maintenance and debt service of the district disposal system to be paid by the board in a fiscal year and the estimated costs of acquisition and betterment of the system which are to be paid during the year from funds other than state or federal grants and bond proceeds and all other previously unallocated payments made by the board pursuant to this act to be allocated in the year, less any costs to be allocated to industries pursuant to subdivision 3, are referred to as current costs and shall be allocated by the board to the local government units in the budget for such year.

Subd. 2. METHOD OF ALLOCATION OF CURRENT COSTS. All current costs shall be allocated to local government units in the district on a pro rata basis determined by the effluent contributed by each, less any industrial wastes for which costs have been allocated under subdivision 3, calculated on the basis of flow measurement. The projected pro rata contribution of effluent shall be made on or before September 1, 1981 and annually thereafter. An adjustment shall be made on or before February 1 of each succeeding year based upon the actual effluent contributed by each government entity. The adjustments shall be paid to the district or to the proper local government units. It also may be corrected by deduction from or addition to subsequent payments. The adoption or revision of a method of allocation used by the board shall be by the affirmative vote of at least two-thirds of the members of the board.

Subd. 3. ALLOCATION TO INDUSTRIES. Pursuant to federal and state statutes, regulations and rules, the board shall define industrial wastes, impose requirements on industries, and determine the costs allocable to all industrial wastes and to each industry. An industry is any person commencing discharge of industrial wastes directly or indirectly to the district disposal system after the date of enactment of this section. No industry shall discharge industrial wastes directly or indirectly to the district disposal system except as authorized by a contract between such industry and the board. The contract shall require the industry to pay allocated costs, to comply with requirements imposed by the board, and to perform such other acts as the board determines necessary. The board shall charge to each industry its allocable portion of the costs enumerated in subdivision 1 according to the characteristics of its waste, and the providing of the capacity to treat said wastes.

Subd. 4. NONPAYMENT BY INDUSTRY; REMEDIES. If an industry fails to pay to the board the industry's allocated costs, as determined pursuant to subdivision 3 and the contract between the industry and the board,

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the board may utilize any remedy provided by law, and in addition may certify to the auditor of the county in which the industry is located the amount required for payment with interest at the maximum rate authorized at that time on assessments pursuant to Minnesota Statutes, Section 429.061, Subdivision 2. The auditor shall levy and extend the amount as a tax upon all taxable property owned by the industry located in the district, for the next calendar year, free from any limitation imposed by law or charter. The tax shall be collected in the same manner as other property taxes. The proceeds, when collected, shall be paid by the county treasurer to the board.

#### Sec. 9. GOVERNMENT UNITS; PAYMENTS TO BOARD.

Subdivision 1. OBLIGATIONS OF GOVERNMENT UNITS TO THE BOARD. Each government unit shall pay to the board all sums charged to it as provided in section 8, at the times and in the manner determined by the board. The governing body of each shall take the action necessary to provide the funds required for the payments and to make the payments when due.

Subd. 2. AMOUNTS DUE BOARD; WHEN PAYABLE. Charges payable to the board by local government units shall be paid at the times each year as the board determines, after it has taken into account the dates on which taxes, assessments, revenue collections and other funds become available to the units required to pay the charges.

Subd. 3. GENERAL POWERS OF GOVERNMENT UNITS; LOCAL TAX LEVIES. To accomplish any duty imposed on it by the board, the governing body of each local government unit may exercise the powers granted by this act and any other law or charter, and Minnesota Statutes, Chapters 117, 412, 429, 475, and Sections 115.46, 444.075 and 471.59 with respect to the area of the government unit located in the district. The governing body of each local government unit located in whole or part in the district also may tax all taxable property in that part of the government unit for all or part of the amount payable to the board. The tax shall be charged upon the property by the county auditor for the next calendar year, free from any limitation of rate or amount imposed by law or charter. The tax shall be collected and remitted in the same manner as other property taxes.

Subd. 4. TAX CONSIDERED SPECIAL LEVY. Any ad valorem taxes levied under subdivision 3 by the governing body of a government unit to pay any sums charged to it by the board under this act shall be considered special levies within the meaning of Minnesota Statutes, Section 275.50, Subdivision 5.

Subd. 5. DEFICIENCY TAX LEVIES. If a local government unit fails to make a payment to the board when due, the board may certify to the auditor of the county in which the unit is located the amount required for payment with interest at the maximum rate authorized at that time on assess-

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ments pursuant to Minnesota Statutes, Section 429.061, Subdivision 2. The auditor shall levy and extend the amount as a tax upon all taxable property in the part of the government unit located in the district, for the next calendar year, free from any limitation imposed by law or charter. The tax shall be collected in the same manner as other property taxes, and the proceeds, when collected, shall be paid by the county treasurer to the board and credited to the unit for which the tax was levied.

#### Sec. 10. PUBLIC HEARING AND SPECIAL ASSESSMENTS.

Subdivision 1. HEARING REQUIREMENTS ON SPECIFIC PROJECTS. Before the board orders any project involving the acquisition or betterment of any interceptor or treatment works, all or a part of the cost of which will be allocated to local government units pursuant to section 8 as current costs, the board shall hold a public hearing on the proposed project following two publications in a newspaper or newspapers or other publications having general circulation in the district, stating the date, the time and place of the hearing, the general nature and location of the project, the estimated total cost of acquisition and betterment, the portion of the costs estimated to be paid out of federal and state grants, and the portion of the costs estimated to be allocated to each local government unit affected. The two publications shall be a week apart and the hearing shall be at least three days after the last publication. Not less than 45 days before the hearing, notice shall also be mailed to each clerk of all local government units in the district. Failure to give mailed notice or any other defects in the notice shall not invalidate the proceedings. The project may include all or part of one or more interceptors or treatment works. No hearing shall be held on any project unless the project is within the area covered by a comprehensive plan adopted by the board pursuant to section 4 but the hearing may be held simultaneously with a hearing on a comprehensive plan for the area. A hearing is not required with respect to a project if no part of the costs of the project are to be allocated to local government units as current costs of acquisition, betterment and debt service.

Subd. 2. NOTICE TO BENEFITED PROPERTY OWNERS. If the governing body of a local government unit in the district proposes to assess against benefited property within the unit all or part of the allocable costs of the project as provided in subdivision 5, the governing body shall, not less than ten days prior to the hearing provided for in subdivision 1, mail notice of the hearing to the owner of each parcel within the area proposed to be specially assessed and give one week's published notice of the hearing. The notice of hearing shall contain the same information provided in the notice published by the board pursuant to subdivision 1 and a description of the area proposed to be assessed by the unit. For the purpose of mailed notice, owners shall be those shown by the records of the county auditor or, in a county where tax statements are mailed by the county treasurer, by the records of the county

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treasurer, but other appropriate records may be used. As to properties which are tax exempt or subject to taxation on a gross earnings basis and are not listed on the records of the county auditor or the county treasurer, the owners shall be ascertained by any practicable means and mailed notice shall be given them as provided in this subdivision. Failure to give mailed notice or any other defects in the notice shall not invalidate the proceedings of the board or the local governing body.

**Subd. 3. BOARD PROCEEDINGS PERTAINING TO HEARING.**

Prior to the adoption of the resolution calling for the hearing, the board shall secure from the district engineer or some other competent person of the board's selection a report advising it in a preliminary way as to whether the proposed project is feasible and as to whether it would better be made as proposed or in connection with some other project and the estimated costs of the project as recommended. No error or omission in the report shall invalidate the proceeding. The board may also take other steps prior to the hearing, that will in its judgment provide helpful information for its determination of the desirability and feasibility of the project, including but not limited to preparation of plans and specifications and advertisement for bids on them. The hearing may be adjourned from time to time and a resolution ordering the project may be adopted at any time within six months after the date of the hearing. In ordering the project the board may reduce but not enlarge the extent of the project as stated in the notice of hearing and shall find that the project as ordered is in accordance with the comprehensive plan and program.

**Subd. 4. EMERGENCY ACTION.** If the board by resolution adopted by the affirmative vote of not less than two-thirds of its members determines that an emergency exists requiring the immediate purchase of materials or supplies or the making of emergency repairs, it may order the purchase of the supplies and materials and the making of the repairs prior to any hearing required under this section, but the board shall set as early a date as practicable for a hearing at the time it declares the emergency. All other provisions of this section shall be followed in giving notice of and conducting the hearing. The board may purchase maintenance supplies or incur maintenance costs without regard to the requirements of this section.

**Subd. 5. POWER OF GOVERNMENT UNIT TO SPECIALLY ASSESS.** As provided in this subdivision, a local government unit may specially assess all or part of the costs of acquisition and betterment of any project ordered by the board pursuant to this section. The special assessments shall be levied in accordance with Minnesota Statutes, Sections 429.051 to 429.081, except as otherwise provided in this subdivision. No other provisions of Minnesota Statutes, Chapter 429 shall apply. For purposes of levying the assessments, the hearing on the project required by subdivision 1 shall serve as the hearing on the making of the original improvement provided by Minnesota Statutes, Section 429.051. The area assessed may be less than but may not

exceed the area proposed to be assessed as stated in the notice of hearing. To determine the allocable cost to the local government unit of the project or part of the project, the unit may adopt one of the following procedures:

(a) At any time after a contract is let for the project, the unit may obtain from the board a current written estimate, on the basis of available historical and reasonably projected data, of the total costs of acquisition and betterment of the project or portion of the project which the unit designates, which will be allocated to the unit and the number of years over which the costs will be allocated as current costs of acquisition, betterment and debt service. The board shall not be bound by the estimate for the purpose of allocating the costs of the project to local government units.

(b) The governing body may obtain from the board a written statement setting forth, for the prior period the governing body designates, the portion of the costs previously allocated to the unit as current costs of acquisition, betterment, and debt service only, of all or any part of the project designated by the governing body. In addition to those costs, the local government unit may include in the total expense it will pay, as a basis for levying assessments, all other expenses incurred directly by the government unit in connection with the project, or any part of it. Special assessments levied by the government unit with respect to previously allocated costs ascertained under this clause shall be payable in equal annual installments extending over a period not exceeding by more than one year the number of years over which the costs have been allocated to the government unit or the estimated useful life of the project, or part of it, whichever is less. A government unit may assess previously allocated costs not previously assessed as many times as necessary. The power to specially assess provided in this section is in addition to all other powers of government units to levy special assessments.

#### Sec. 11. INITIAL COSTS.

Subdivision 1. CONTRIBUTIONS OR ADVANCES FROM LOCAL GOVERNMENT UNITS. The board may, when necessary, request from all or some of the local government units money to defray the costs of administration, operation and maintenance, including but not limited to expenses and services described in subdivision 2. Before making the request the board shall, by resolution, determine the necessity for the money, setting forth in the resolution the purposes for which the money is needed and the estimated amount for each purpose. Upon receiving the request, the governing body of each unit may provide for payment of the amount requested or part of it. The money may be paid out of any available funds of the unit and the governing body may levy taxes to provide the funds, free from limitations imposed by law or charter. The money may be provided by the government unit with or without interest but if interest is charged it shall not exceed eight percent per annum. The board shall credit the local government units for the payments in allocating

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current costs pursuant to section 8, on the terms and at the times it agrees with the unit.

**Subd. 2. EXPENSES INCURRED PRIOR TO ORGANIZATION OF THE BOARD.** The board shall pay within a reasonable time after its organization:

(a) All sums paid to defray any expenses incurred;

(b) All sums paid to defray the costs of the reasonable value of any services furnished; and

(c) The reasonable value of all uncompensated services furnished.

Payments pursuant to clauses (a), (b) and (c) may be for expenses or services paid or furnished prior to the organization of the board and reasonably and necessarily incident to the establishment of the board.

Services and expenses reasonably and necessarily incurred include but are not limited to legal, engineering, administration and fiscal services performed and expenses paid incident to the establishment of the board. Payments made by the board under this subdivision out of funds other than bond proceeds or federal or state grants shall be allocated by the board to local government units at times the board deems fair and upon terms consistent with section 9, subdivision 2.

## **Sec. 12. BONDS, CERTIFICATES AND OTHER OBLIGATIONS.**

**Subdivision 1. BUDGET ANTICIPATION; CERTIFICATES OF INDEBTEDNESS.** After adoption of its annual budget and in anticipation of the collection of tax and other revenues set forth in the budget, except:

(a) Taxes already anticipated by the issuance of certificates under subdivision 2;

(b) Deficiency taxes levied pursuant to this subdivision; and

(c) Taxes levied for the payment of certificates issued pursuant to subdivision 3;

the board may by resolution authorize the issuance, negotiation and sale, in accordance with subdivision 5 in the form and manner and upon the terms it may determine, of its negotiable general obligation certificates of indebtedness in aggregate principal amounts not exceeding 50 percent of the total amounts of tax collections and other revenues. Certificates shall mature not later than three months after the close of the budget year in which issued. The proceeds of the sale of certificates shall be used solely for the purposes for which tax collections and other revenues are to be expended pursuant to the budget.

Tax collections and other revenues included in the budget for the budget year, after expenditures in accordance with the budget, shall be irrevocably

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pledged and appropriated to a special fund to pay the principal and interest on the certificates when due. If tax collections and other revenues are insufficient to pay the certificates and interest when due, the board shall levy a tax in the amount of the deficiency on all taxable property in the district and appropriate the amount when received to the special fund.

**Subd. 2. TAX LEVY ANTICIPATION CERTIFICATES OF INDEBTEDNESS.** After a tax is levied by the board pursuant to section 9, subdivision 4, or other provisions of this act, and certified to the county auditors, and if the tax has not been anticipated by the issuance of certificates under subdivision 1, the board may, in anticipation of the collection of the tax, by resolution authorize the issuance, negotiation and sale in accordance with subdivision 5 in the form and manner and upon the terms and conditions it may determine, of negotiable general obligation tax levy anticipation certificates of indebtedness in aggregate principal amounts not exceeding 50 percent of the uncollected tax as to which no penalty for nonpayment or delinquency has attached. The certificates shall mature not later than April 1 in the year following the year in which the tax is collectible. The proceeds of the tax in anticipation of which the certificates were issued, and other funds which may become available, shall be applied to the extent necessary to repay the certificates.

**Subd. 3. EMERGENCY CERTIFICATES OF INDEBTEDNESS.** If in a budget year the receipts of tax and other revenues should for unforeseen cause become insufficient to pay the board's current expenses, or if any calamity or other public emergency should subject it to the necessity of making extraordinary expenditures, the board may by resolution authorize the issuance, negotiation, and sale in accordance with subdivision 5 in the form and manner and upon the terms and conditions it may determine of its negotiable general obligation certificates of indebtedness in an amount sufficient to meet the deficiency. The board shall forthwith levy on all taxable property in the district a tax sufficient to pay the certificates and interest on them and appropriate all collections of the tax to a special fund for the payment of the certificates and the interest on them. Certificates issued under this subdivision shall mature not later than April 1 in the year following the year in which the tax is collectible.

**Subd. 4. GENERAL OBLIGATION BONDS.** The board may by resolution authorize the issuance of general obligation bonds for the costs of the acquisition or betterment of any part of the district disposal system, including the payment of interest and principal during construction and for a reasonable period thereafter, or for the refunding of outstanding bonds, certificates of indebtedness, or judgments. The board shall pledge its full faith and credit and taxing power for the payment of the bonds and shall provide for the issuance and sale and for the security of the bonds in the manner provided in Minnesota Statutes, Chapter 475. The board shall have the same powers and duties as a

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municipality issuing bonds under that law, except that no election shall be required and the debt limitations of chapter 475, shall not apply to the bonds. The board may also pledge for the payment of bonds any revenues receivable under sections 8 and 9.

Subd. 5. MANNER OF SALE AND ISSUANCE OF CERTIFICATES. Certificates issued under subdivisions 1, 2, and 3 may be issued and sold by negotiation, without public sale. They may be sold at a price equal to the percentage of their par value plus accrued interest and bear interest at the rate or rates determined by the board. No election shall be required to authorize the issuance of the certificates. They shall bear the same rate of interest after maturity as before. The full faith and credit and taxing power of the board shall be pledged to their payment.

#### Sec. 13. TAX LEVIES.

The board may levy taxes for the payment of bonds and for service of debt of the district disposal system authorized in section 12 upon all taxable property within the district without limitation of rate or amount and without affecting the amount or rate of taxes which may be levied by the board for other purposes or by a local government unit in the district. No other provision of law relating to debt limit shall restrict or in any way limit the power of the board to issue the bonds and certificates authorized in section 12. The board may also levy taxes as provided in section 9. The county auditor shall annually assess and extend upon the tax rolls in his county the portion of the taxes levied by the board in each year which is certified to him by the board. The county treasurer shall collect and make settlement of the taxes with the board.

#### Sec. 14. DEPOSITORIES.

The board shall from time to time designate one or more national or state banks, or trust companies authorized to do a banking business, as official depositories for money of the board, and shall deposit all or a part of its money in them. The deposit is subject to the provisions of Minnesota Statutes, Section 118.005, Subdivision 2, and Section 118.01. Designation shall be in writing, shall set forth all the terms and conditions upon which the deposits are made, shall be signed by the chairman and treasurer, and be made a part of the minutes of the board.

#### Sec. 15. MONEYS, ACCOUNTS, AND INVESTMENTS.

Subdivision 1. RECEIPT AND APPLICATION. All money received by the board shall be deposited or invested by the treasurer and disposed of as the board may direct in accordance with its budget. Any money pledged or dedicated by the board to the payment of obligations or interest on them or expenses incident to them, or for any other specific purpose authorized by law, shall be paid by the treasurer into the fund to which they have been pledged.

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Subd. 2. FUNDS AND ACCOUNTS. The board's treasurer shall establish the funds and accounts necessary or convenient to handle the receipts and disbursements of the board in an orderly fashion.

Subd. 3. DEPOSIT AND INVESTMENT. The money on hand in funds and accounts may be deposited in the official depositories of the board or invested as provided in this section. The amount not currently needed or required by law to be kept in cash on deposit may be invested in obligations authorized for the investment of municipal sinking funds by Minnesota Statutes, Section 475.66. Money may also be held under certificates of deposit issued by any official depository of the board.

Subd. 4. BOND PROCEEDS. The use of proceeds of bonds issued by the board for the acquisition and betterment of the district disposal system, other than investment of money on hand in a sinking fund of the board, shall be governed by Minnesota Statutes, Chapter 475, this act and the resolutions authorizing the issuance of the bonds. The bond proceeds when received shall be transferred to the treasurer of the board for safekeeping, investment, and payment of the costs for which they were issued.

Subd. 5. AUDIT. The board shall provide for and pay the cost of an independent annual audit of its official books and records by the state auditor or a certified public accountant.

Subd. 6. AUTHORITY OF STATE AUDITOR. The state auditor shall have the same powers and duties with respect to the board as the auditor has with respect to any city under Minnesota Statutes, Chapter 6.

#### **Sec. 16. GENERAL POWERS.**

Subdivision 1. The board shall have all powers necessary or convenient to discharge the duties imposed upon it by law. The powers include those specified in this section but the express grant or enumeration of powers shall not limit the generality or scope of the grant of power contained in this subdivision.

Subd. 2. The board may sue or be sued.

Subd. 3. The board may enter into any contract necessary or proper for the exercise of its powers or the accomplishment of its purposes.

Subd. 4. The board may adopt rules relating to its responsibilities and may provide penalties for the violation of them not greater than those which may be specified for a misdemeanor. The cost of prosecution may be added to the penalties imposed. Any rule prescribing a penalty for violation shall be published at least once in a newspaper having general circulation in the district. Violations may be prosecuted before any court in the district having jurisdiction of misdemeanors. A constable or other peace officer of a municipality in the district may make arrests for violations committed anywhere in the district in

the same manner and with the same effect as for violations of city ordinances or statutory misdemeanors. Fines collected in cases of violations shall be deposited in the treasury of the board, or may be allocated between the board and the municipality in which prosecution occurs on a basis as the board and the municipality agree.

Subd. 5. The board may accept gifts, may apply for and accept grants or loans of money 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 with a gift, grant or loan. It may hold, use and dispose of the money or property in accordance with the terms of the gift, grant, loan or related agreement. With respect to loans or grants of funds or real or personal property or other assistance from the state or federal government or their agencies or instrumentalities, the board may contract to do all acts and things required as a condition or consideration pursuant to state or federal law or regulation, whether or not included among the powers expressly granted to the board in this act.

Subd. 6. The board 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. 7. The board 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 the design, construction, and operation of the district disposal system; may advise and assist other government units on system planning matters within the scope of its powers, duties and objectives; and may provide at the request of any government unit other technical and administrative assistance the board deems appropriate for the government unit to carry out the powers and duties vested in it under this act or imposed on it by the board.

Subd. 8. The board may employ on the terms it deems advisable, persons or firms performing engineering, legal or other services of a professional nature. It may require any employee to obtain and file with it an individual bond or fidelity insurance policy. It may procure insurance in the amounts it deems necessary against liability of the board or its officers or both, for personal injury or death and property damage or destruction, and against risks of damage to or destruction of any of its facilities, equipment, or other property.

Subd. 9. The board may acquire by purchase, lease, condemnation, gift or grant, any real or personal property including positive and negative easements and water and air rights. It may construct, enlarge, improve, replace, repair, maintain, and operate any interceptor, treatment works, or water facility determined to be necessary or convenient for the collection and disposal of waste water in the district. Any local government unit and the commissioners of transportation and natural resources may convey to or permit the use by the

board of those kinds of facilities owned or controlled by the unit or department, subject to the rights of the holders of any bonds issued with respect to them, with or without compensation, without an election or approval by any other government unit or agency. All powers conferred by this subdivision may be exercised both within or without the district as necessary for the exercise by the board of its powers or the accomplishment of its purposes. The board may hold, lease, convey or otherwise dispose of property for its purposes upon the terms and in the manner it deems advisable. Unless otherwise provided, the right to acquire lands and property rights by eminent domain shall be exercised in accordance with Minnesota Statutes, Chapter 117, and shall apply to property owned by a local government unit. Property owned by a local government unit and devoted to an actual public use, or held to be devoted to one, within a reasonable time, shall not be acquired unless a court of competent jurisdiction determines that the use proposed by the board is paramount to the other use. Except in the case of property in actual public use, the board 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. 10. The board may construct or maintain its systems or facilities in, along, on, under, over, or through public waters, streets, bridges, viaducts, and other public rights of way without first obtaining a franchise from any county or local government unit having jurisdiction over them, but the facilities shall be constructed and maintained in accordance with the ordinances and resolutions of the county or local government unit relating to construction, installation, and maintenance of similar facilities on public properties and shall not unnecessarily obstruct the public use of rights-of-way. No public rights-of-way or streets can be used by the board without first notifying the affected local government unit or county board by certified mail 30 days before the letting of bids for a contract.

Subd. 11. The board may sell, lease or otherwise dispose of real or personal property which it no longer requires. The property may be sold as provided by Minnesota Statutes, Section 458.196, as far as practical. The board may give notice of sale as it deems appropriate. When the board determines that any property or any part of the district disposal system which has been acquired from a local government unit without compensation is no longer required and is required as a local facility by the unit from which it was acquired, the board may by resolution transfer it to the unit.

Subd. 12. The board may contract with the United States or an agency of it, the state or an agency of it, or any regional public planning body with jurisdiction over any part of the district, or any other municipal or public corporation, or governmental subdivision or agency or political subdivision, for the joint use of any facility owned by the board or the other entity, for the operation of any system or facility of the board, or for the performance on the board's behalf of any service, including but not limited to planning, on terms agreed upon by the contracting parties. Unless designated by the board as a

local sanitary sewer facility, any treatment works or interceptor jointly used, or operated on behalf of the board, as provided in this subdivision, shall be deemed to be operated by the board for purposes of including the facilities in the district disposal system.

**Sec. 17. LOCAL FACILITIES.**

Subdivision 1. SANITARY SEWER FACILITIES. Except as otherwise provided in this act, local government units shall retain responsibility for the planning, design, acquisition, betterment, operation, administration, and maintenance of all local sanitary sewer facilities as provided by law.

Subd. 2. ASSUMPTION OF RESPONSIBILITY OVER LOCAL SANITARY SEWER FACILITIES. The board may, upon request of a local government unit assume, either alone or jointly with the unit, all or part of the responsibility of the unit described in subdivision 1. Except as provided in subdivision 4, the board shall have all the powers and duties conferred elsewhere in this act with the same force as if local sanitary sewer facilities were a part of the district disposal system. With regard to a facility for which it assumes responsibility from a local government unit, the board shall also have all the powers and duties of the local government unit.

Subd. 3. WATER AND STREET FACILITIES. The board may, upon request of a local government unit enter into an agreement under which the board may assume, either alone or jointly with the unit, the responsibility for the acquisition and construction of water and street facilities in conjunction with (a) any project for the acquisition or betterment of the district disposal system, or (b) any project undertaken by the board under subdivision 2. Except as provided in subdivision 4, and for the purpose of exercising any responsibilities pursuant to this subdivision the board shall have all the powers and duties conferred elsewhere in this act with the same force as if the water or street facilities were a part of the district disposal system.

Subd. 4. ALLOCATION OF CURRENT COSTS. All current costs attributable to responsibilities assumed by the board over local sanitary sewer facilities and water and street facilities as provided in this section shall be allocated solely to the local unit for which the responsibilities are assumed on the terms and over the period that the board determines is equitable and in the best interests of the district.

Subd. 5. INCLUSIONS AS A PART OF THE DISTRICT DISPOSAL SYSTEM. Nothing in this act shall be construed to prevent the board from including where appropriate, treatment works or interceptors, previously designated or treated as local sanitary sewer facilities, as a part of the district disposal system.

Subd. 6. LOCAL POWERS. Any local government unit may assume either alone or jointly with the board all or any part of the responsibility of the local government unit described in subdivision 1, 2 or 3 and may exercise the powers granted any municipality by Minnesota Statutes, Chapters 117, 412, 429

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or 475, or by Sections 115.46, 444.075 or 471.59, in order to perform all acts and things required for the purpose of exercising that responsibility, whether or not included in the powers granted to the unit by this act or any other law or charter.

**Sec. 18. SERVICE CONTRACTS WITH GOVERNMENTAL ENTITIES OUTSIDE THE JURISDICTION OF THE BOARD.**

The board may contract with the United States or an agency of it, the state or an agency of it, or any municipal or public corporation, governmental subdivision or agency or political subdivision outside the jurisdiction of the board, to furnish to it any services which the board may furnish to local government units in the district under this act, including but not limited to planning and acquisition, betterment, operation, administration and maintenance of interceptors, treatment works and local sanitary sewer facilities. The board may include as a term of the contract that the entity pay to the board an amount agreed upon as a reasonable estimate of the proportionate share properly allocable to the entity of costs of acquisition, betterment, and debt service previously allocated to local government units in the district. The payments shall be applied to reduce the total amount of costs thereafter allocated to each local government unit in the district, on an equitable basis that the board deems in the best interests of the district, applying so far as practicable and appropriate the criteria set forth in section 8, subdivision 2. Any home rule charter or statutory city or town in Minnesota may enter into a contract under this section and perform all acts required as a condition or consideration of it, whether or not included among the powers granted to it by this act or other law or charter.

**Sec. 19. CONTRACTS FOR CONSTRUCTION, MATERIALS, SUPPLIES AND EQUIPMENT.**

When the board orders a project involving the acquisition or betterment of a part of the district disposal system, it shall have plans and specifications of the project made, or modified if necessary, and approved by the pollution control agency if required. After any required approval by the agency, contracts for work and materials called for by the plans and specifications may be awarded. All contracts for construction or for the purchase of materials, supplies, or equipment, shall be made by the board in accordance with Minnesota Statutes, Chapter 471.

**Sec. 20. ANNEXATION OF TERRITORY.**

Any home rule charter or statutory city or town or sewer district in the state by a majority vote of its town board or governing body may petition for annexation to the district of the area comprising the municipality or sewer district, or any part of it. If accepted by the board, the area shall be annexed to the district and subject to the jurisdiction of the board under the terms and provisions of this act. The territory shall be subject to taxation and assessment pursuant to this act and subject to taxation by the board like other property in

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the district for the payment of principal and interest thereafter due on general obligations of the board, whether authorized or issued before or after annexation. The board may condition approval of the annexation upon the contribution to the board, by or on behalf of the municipality or sewer district petitioning for annexation, of an amount agreed upon as being a reasonable estimate of the proportionate share, properly allocable to the municipality or sewer district, of costs of acquisition, betterment and debt service previously allocated to local government units in the district. Payment shall be upon agreed upon terms. To pay the contribution, the municipality or sewer district petitioning annexation may exercise the powers conferred in section 9. The contributions shall be applied to reduce the total amount of costs thereafter allocated to each local government unit in the district, on an equitable basis that the board deems in the best interests of the district, applying so far as practicable and appropriate the criteria set forth in section 8, subdivision 2. Upon annexation of territory, the secretary of the board shall certify to the auditor and treasurer of the county where it is located the fact and a legal description of the territory.

#### Sec. 21. PROPERTY EXEMPT FROM TAXATION.

Any property, real or personal, owned, leased, controlled, used or occupied by the board for any purpose under this act is exempt from taxation by the state or any political subdivision. Property is subject to special assessments levied by a political subdivision for a local improvement. No possible use of the property in any manner different from their use as part of a disposal system shall be considered in determining the special benefit received by the property. The assessments shall be subject to final approval by the board, whose determination of the benefits shall be conclusive upon the political subdivision levying the assessment. All bonds, certificates of indebtedness or other obligations of the board and the interest on them, are exempt from taxation by the state pursuant to Minnesota Statutes, Chapter 290 or other law or by any political subdivision of the state.

#### Sec. 22. RELATION TO EXISTING LAWS.

This act supersedes any provisions of other law that are inconsistent with it. The powers conferred on the board under this act shall in no way diminish or supersede the powers conferred on the pollution control agency.

#### Sec. 23. AFFECTED LOCAL GOVERNMENTAL UNITS.

This act applies to Koochiching county and the cities of International Falls, South International Falls, and Ranier.

#### Sec. 24. EFFECTIVE DATE; LOCAL APPROVAL.

This act is effective in the local government units named in section 23 upon approval by all of the government units named in section 23 and upon compliance with Minnesota Statutes, Section 645.021, Subdivision 3.

Approved May 28, 1981

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