

POLLUTION AND SANITATION

CHAPTER 115

WATER POLLUTION CONTROL; SANITARY DISTRICTS

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WATER POLLUTION CONTROL ACT

115.01 DEFINITIONS. Subdivision 1. The following words and phrases when used in sections 115.01 to 115.09, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this section.

Subd. 2. "Sewage" means the water-carried waste products from residences, public buildings, institutions or other buildings, including the excrementitious or other discharge from the bodies of human beings or animals, together with such ground water infiltration and surface water as may be present.

Subd. 3. "Industrial waste" means any liquid, gaseous or solid waste substance resulting from any process of industry, manufacturing trade or business or from the development of any natural resource.

Subd. 4. "Other wastes" mean garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, oil, tar, chemicals, and all other substances not sewage or industrial waste which may pollute or tend to pollute the waters of the state.

Subd. 5. "Pollution" means the contamination of any waters of the state so as to create a nuisance or render such waters unclean, or noxious, or impure so as to be actually or potentially harmful or detrimental or injurious to public health, safety or welfare, to domestic, commercial, industrial or recreational use, or to livestock, wild animals, bird, fish, or other aquatic life.

Subd. 6. "Sewer system" means pipe lines or conduits, pumping stations, and force mains, and all other constructions, devices, and appliances appurtenant thereto, used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

Subd. 7. "Treatment works" means any plant, disposal field, lagoon, dam,

pumping station, constructed drainage ditch or surface water intercepting ditch, incinerator, area devoted to sanitary land fills, or other works not specifically mentioned herein, installed for the purpose of treating, stabilizing or disposing of sewage, industrial waste, or other wastes.

Subd. 8. "Disposal system" means a system for disposing of sewage, industrial waste and other wastes, and includes sewer systems and treatment works.

Subd. 9. "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

Subd. 10. "Person" means the state or any agency or institution thereof, any municipality, governmental subdivision, public or private corporation, individual, partnership, or other entity, and includes any officer or governing or managing body of any municipality, governmental subdivision, or public or private corporation.

Subd. 11. "Agency" means the Minnesota pollution control agency.

[1945 c 395 s 1; 1963 c 874 s 2, 3; 1969 c 9 s 16]

115.02 [Repealed, 1967 c 882 s 11]

115.03 POWERS AND DUTIES. Subdivision 1. The agency is hereby given and charged with the following powers and duties:

To administer and enforce all laws relating to the pollution of any of the waters of the state;

To investigate the extent, character, and effect of the pollution of the waters of this state and to gather data and information necessary or desirable in the administration or enforcement of pollution laws, and to make such classification of the waters of the state as it may deem advisable;

To establish and alter such reasonable pollution standards for any waters of the state in relation to the public use to which they are or may be put as it shall deem necessary for the purposes of sections 115.01 to 115.09;

To make and alter reasonable orders requiring the discontinuance of the discharge of sewage, industrial waste or other wastes into any waters of the state resulting in pollution in excess of the applicable pollution standard established under this subdivision;

To require to be submitted and to approve plans for disposal systems or any part thereof and to inspect the construction thereof for compliance with the approved plans thereof;

To issue, continue in effect or deny permits, under such conditions as it may prescribe for the prevention of pollution, for the discharge of sewage, industrial waste or other wastes, or for the installation or operation of disposal systems or parts thereof;

To revoke or modify any permit issued under sections 115.01 to 115.09 whenever it is necessary, in the opinion of the agency, to prevent or abate pollution of any waters of the state;

To prescribe and alter rules and regulations, not inconsistent with law, for the conduct of the agency and other matters within the scope of the powers granted to and imposed upon it by sections 115.01 to 115.09, provided that every rule or regulation affecting any other department or agency of the state or any person other than a member or employee of the agency shall be filed with the secretary of state; and

To conduct such investigations and hold such hearings as it may deem advisable and necessary for the discharge of its duties under sections 115.01 to 115.09, and to authorize any member, employee, or agent appointed by it to conduct such investigations or hold such hearings.

Subd. 2. In any such hearing or investigation, any member of the agency, or any employee or agent thereto authorized by the agency, may administer oaths, examine witnesses and issue, in the name of the agency, subpoenas requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in any such hearing or investigation. Witnesses shall receive the same fees and mileage as in civil actions.

Subd. 3. In case of contumacy or refusal to obey a subpoena issued under this section, the district court of the county where the proceeding is pending or in which the person guilty of such contumacy or refusal to obey is found or resides, shall have jurisdiction upon application of the agency or its authorized member,

employee or agent to issue to such person an order requiring him to appear and testify or produce evidence, as the case may require, and any failure to obey such order of the court may be punished by said court as a contempt thereof.

Subd. 4. It is unlawful for any person to issue or grant a building permit for, or otherwise permit, the construction, enlargement, or relocation of a commercial or industrial building to be used as the place of employment of more than 12 persons, or any other commercial or industrial building to house a process producing industrial or other wastes, unless the sewage or industrial or other waste originating in such buildings is or will be discharged into a disposal system for which a permit has first been granted by the agency provided that this subdivision shall not apply to building permits issued for buildings, which have an estimated value of less than \$500,000, located or to be located within an incorporated municipality. If an application for such permit is not acted upon by the agency within 90 days after submitted, the permit shall be deemed to be granted, provided that the agency, for good cause, may order said 90 day period to be extended for a reasonable time.

[1945 c 395 s 3; 1969 c 9 s 21; 1969 c 931 s 6]

115.04 DISPOSAL SYSTEMS. Subdivision 1. **Information.** Any person operating a disposal system, when requested by the agency, shall furnish to it any information which he may have which is relevant to the subject of sections 115.01 to 115.09.

Subd. 2. **Examination of records.** The agency or any employee or agent thereof, when authorized by it, may examine any books, papers, records or memoranda pertaining to the operation of a disposal system.

Subd. 3. **Access to premises.** Whenever it shall be necessary for the purposes of sections 115.01 to 115.09, the agency 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.

[1945 c 395 s 4; 1969 c 9 s 21]

115.05 FINAL ORDER. Subdivision 1. **Notice; hearing.** No final order of the agency shall be effective as to the vested rights of any person adversely affected thereby nor as to any disposal system operated by any person unless the agency or its authorized officer, member, or agent shall have held a hearing upon the matter therein involved at which evidence may be taken, of which hearing such person shall have had notice as hereinafter provided. Any person who will be directly affected by the final order therein shall have the right to be heard at the hearing and to submit evidence thereat. Written notice specifying the time and place of the hearing shall be served by the agency upon all persons known by it to be directly affected by the final order, personally or by mail not less than 30 days before the date of the hearing. A copy of the final order shall be served in the same manner upon all persons who entered an appearance at the hearing.

Subd. 2. **Emergency order.** Notwithstanding the provisions of subdivision 1, the agency, when it shall have first determined that an emergency exists respecting any matter affecting the public health, the preservation of game and fish or other natural resource, or the conservation of waters, may make a final order without notice and without a hearing. A copy of such final order shall be served as provided in subdivision 1.

Subd. 3. **Appeal.** An appeal may be taken from any final order, rule, regulation, or other final decision of the agency by any person who is or may be adversely affected thereby, or by the attorney general in behalf of the state, to the district court of the county in which the premises affected by such final order, rule, regulation, or other final decision are situated in the manner herein provided. Within 30 days after receipt of a copy of the order, rule, regulation, or decision, or after service of notice thereof by registered mail, but not in any case more than six months after the making and filing of the order, rule, regulation or decision, the appellant or his attorney shall serve a notice of appeal on the agency, through its secretary; provided, that during such 30 day period the court may, for good cause shown, extend such time for not exceeding an additional 60 days, but not beyond the expiration of such six months' period. The notice of appeal shall refer to the action of the agency appealed from, shall specify the grounds of the appeal, including points of both law and fact which are asserted or questioned by the appellant, and may contain any other allegations or denials of fact pertinent to the appeal. The notice shall state an address within the state at which service of notice and other papers in the matter may be made upon the

appellant. The original notice of appeal, with proof of service, shall be filed by the appellant or his attorney with the clerk of the court within ten days after service of the notice, and thereupon the court shall have jurisdiction of the appeal.

Subd. 4. Intervention by state. The appellant and the agency shall in all cases be deemed the original parties to an appeal. The state, through the attorney general, or any other person affected may become a party by intervention as in a civil action, upon showing cause therefor. The attorney general shall represent the agency, if requested, upon all such appeals unless he appeals or intervenes in behalf of the state. No bond or deposit for costs shall be required of the state or the agency upon any such appeal or upon any subsequent appeal to the supreme court or other court proceedings pertaining to the matter.

Subd. 5. Venue of appeal. The venue of an appeal may be changed by order of the court upon written consent of the parties or for cause shown, after hearing upon notice to all parties, as in a civil action, to the district court of any county in which the order, rule, regulation, or decision appealed from would take effect.

Subd. 6. Record on appeal. Within 30 days after service and filing of the notice of appeal the agency, through its secretary, shall make, certify, and file with the clerk of the court having jurisdiction of the appeal a return comprising a copy of any application, petition, or other material paper whereon the action of the agency appealed from was based, a copy of the order, rule, regulation, or decision appealed from, a statement of any findings of fact or rulings or conclusions of law made by the agency in the matter, and such other statements, admissions, or denials upon questions of law or fact raised by the appeal as the agency may deem pertinent. Such 30 day period may be extended by the court for cause shown for not exceeding an additional 60 days. Within the time allowed for making and filing the return a copy thereof shall be mailed to or served upon the appellant or his attorney. The allegations of new matter in the return shall be deemed to be denied by the appellant unless expressly admitted, and no further pleadings shall be interposed. Otherwise the allegations of the notice of appeal and return shall have like effect as the pleadings in a civil action and shall be subject to like proceedings, so far as applicable.

Subd. 7. Appeals as in civil actions. The appeal shall be heard and determined by the court upon the issues raised by the notice of appeal and return according to the rules relating to the trial of civil actions, so far as applicable. The court of its own motion or on application of any party may, in its discretion, take additional evidence on any issue of fact or may try any or all such issues de novo, but no jury trial shall be had. If the court shall determine that the action of the agency appealed from is lawful and reasonable, and is warranted by the evidence in case an issue of fact is involved, the action shall be affirmed. Otherwise the court may vacate or suspend the action appealed from in whole or in part, as the case may require, and thereupon the matter shall be remanded to the agency for further action in conformity with the decision of the court.

Subd. 8. Stay. The taking effect of any action of the agency shall not be stayed by an appeal except by order of the court for cause shown by the appellant. The granting of a stay may be conditioned upon the furnishing by the appellant of such reasonable security for costs as the court may direct. A stay may be vacated on application of the agency or any other party after hearing upon notice to the appellant and to such other parties as the court may direct.

Subd. 9. Order prima facie reasonable and valid. In any appeal or other proceeding involving any order, rule, regulation, or other decision of the agency, the action of the agency shall be prima facie reasonable and valid, and it shall be presumed that all requirements of the law pertaining to the taking thereof have been complied with. All findings of fact made by the agency shall be prima facie evidence of the matters therein stated. The burden of proving the contrary of any provision of this subdivision shall rest upon the appellant or other party questioning the action of the agency.

Subd. 10. Collateral attack. If no appeal be taken from an order, rule, regulation, or other decision of the agency as herein provided, or if the action of the agency be affirmed on appeal the action of the agency in the matter shall be deemed conclusive, and the validity and reasonableness thereof shall not be questioned in any other action or proceeding, but this shall not preclude the authority of the agency to modify or rescind its actions.

[1945 c 395 s 5; 1959 c 461 s 1; 1969 c 9 s 21; 1969 c 931 s 1, 2]

115.06 COOPERATION. Subdivision 1. **With other sovereign states.** The

agency, so far as it is not inconsistent with its duties under the laws of this state, may assist and cooperate with any agency of another state, of the United States of America or of the Dominion of Canada or any province thereof in any matter relating to water pollution control.

Subd. 2. Funds received from persons or agencies. The agency may receive and accept money, property, or services from any person or from any agency described in subdivision 1 or from any other source for any water pollution control purpose within the scope of its functions under sections 115.01 to 115.09, and all moneys so received are hereby appropriated for such purposes in like manner and subject to like provisions of law as the corresponding appropriations of state funds.

Subd. 3. By governmental subdivisions. It shall be the duty of each city, village, borough, county, town, sanitary district, public corporation, or other governmental subdivision to cooperate with the agency in obtaining compliance with the provisions of chapter 115 and to enforce within its jurisdiction all standards, orders, regulations, or permit requirements adopted by the agency thereunder.

[1945 c 395 s 6; 1969 c 9 s 21; 1969 c 931 s 3]

115.061 DUTY TO NOTIFY AND AVOID WATER POLLUTION. It is the duty of every person to notify the agency immediately of the discharge, accidental or otherwise, of any substance or material under its control which, if not recovered, may cause pollution of waters of the state, and the responsible person shall recover as rapidly and as thoroughly as possible such substance or material and take immediately such other action as may be reasonably possible to minimize or abate pollution of waters of the state caused thereby.

[1969 c 931 s 4]

115.07 VIOLATIONS AND PROHIBITIONS. Subdivision 1. **Obtain permit.** It shall be unlawful for any person to construct, install or operate a disposal system, or any part thereof, until plans therefor shall have been submitted to the agency unless the agency shall have waived the submission thereof to it and a written permit therefor shall have been granted by the agency.

Subd. 2. Systems now operating. The agency, upon application of the appropriate person, shall issue a permit for the continuance of every disposal system now operating pursuant to proper legal authority subject, however, to the right of the agency to modify or revoke such permit in the same manner as other permits.

Subd. 3. Permission for extension. It shall be unlawful for any person to make any change in, addition to or extension of any existing disposal system or part thereof that would materially alter the method or the effect of treating or disposing of the sewage, industrial waste or other wastes, or to operate such system, or part thereof as so changed, added to, or extended until plans therefor shall have been submitted to the agency unless the agency shall have waived the submission thereof to it and a written permit therefor shall have been granted by the agency.

Subd. 4. Injunction. Pollution of any waters in violation of any provisions of sections 115.01 to 115.09, or of any order or regulation adopted by the agency thereunder shall constitute a public nuisance, and may be enjoined and abated as such as provided by law.

Subd. 5. [Repealed, 1963 c 798 s 16]

Subd. 6. Penalty. Violation of any provision of chapter 115, or of any regulation, order or permit adopted or issued by the agency thereunder shall be a misdemeanor.

[1945 c 395 s 8-10; 1969 c 9 s 21; 1969 c 931 s 5]

115.08 INTERPRETATION. Sections 115.01 to 115.09 shall not be construed as repealing any of the provisions of law relating to the pollution of any waters of the state, but shall be held and construed as supplementing the same and in addition to the laws now in force, except as the same may be in direct conflict herewith.

[1945 c 395 s 7]

115.09 CITATION, WATER POLLUTION CONTROL ACT. Sections 115.01 to 115.09 may be cited as the state water pollution control act.

[1945 c 395 s 11]

REGIONAL WATER POLLUTION CONTROL

115.15 REGIONAL WATER POLLUTION CONTROL; DEFINITIONS. Subdivision 1. As used in sections 115.16 and 115.17 the terms defined in this section have the meanings given them except as otherwise provided or indicated by the context.

Subd. 2. [Repealed, 1969 c 9 s 20]

Subd. 3. "Region" means a sanitary region created as provided by section 115.16.

Subd. 4. "Committee" means the advisory committee created as provided by section 115.17.

Subd. 5. "Agency" means the Minnesota pollution control agency.

[*Ex1961 c 20 s 1; 1969 c 9 s 17*]

115.16 CONGRESSIONAL DISTRICT A SANITARY REGION. Each congressional district of the state as now or hereafter established shall constitute a sanitary region for the purposes of sections 115.15 to 115.17.

[*Ex1961 c 20 s 2*]

115.17 WATER POLLUTION CONTROL ADVISORY COMMITTEE. Subdivision 1. **Membership.** There is hereby created a water pollution control advisory committee, consisting of two members for each region, who shall be citizens residing in their respective regions. The members of the committee shall be appointed by the governor, with the advice and consent of the senate. Of the members first appointed to the committee, the term of one for each district shall expire March 1 of the second calendar year after his appointment and the term of the other shall expire March 1 of the third calendar year after his appointment, as designated by the governor. The succeeding regular terms of members, shall be three years, beginning on such expiration dates, respectively. Each member shall serve until his successor is appointed and has qualified. The governor may fill any vacancy on the committee for the unexpired term, subject to confirmation by the senate if in session before the end of such term. Officers and employees of governmental subdivisions may serve on the committee but no state officer or employee shall serve thereon. As far as practicable the governor shall select the members of the committee so as to provide appropriate representation for municipal, industry, labor, agriculture and conservation interests. In appointing members of the committee the governor may consider recommendations submitted by any interested person, organization, or the governing body of a governmental subdivision, but shall not be limited thereto.

Subd. 2. **Expenses of members.** The members of the committee shall receive no compensation, but shall be reimbursed for their expenses incurred on committee business out of any funds appropriated and available therefor.

Subd. 3. **Meetings of committee.** The committee shall meet at St. Paul at the call of the governor as soon as practicable after the appointment of the first members, and thereafter shall hold one regular annual meeting as soon as practicable after January 1 each year and three additional regular quarterly meetings each year at such times and places in St. Paul or Minneapolis as the chairman of the committee shall designate. The regular meetings shall occur on dates coincident with meetings of the agency as far as practicable. The committee may hold special meetings anywhere within the state at the call of its chairman or upon the request of any five members of the committee. A majority of the members of the committee shall constitute a quorum. The vote of a majority of all the members of the committee shall be required for the adoption of any resolution, recommendation, or report.

Subd. 4. **Officers of committee.** The committee at its first meeting and at each regular annual meeting thereafter shall elect a chairman, a vice-chairman, and a secretary, who shall perform the usual duties of their respective offices, to serve until the next regular annual meeting and until their successors are elected and have qualified. Any vacancy in any office may be filled by the committee for the unexpired term at any regular meeting or at any special meeting called for the purpose.

Subd. 5. **Subcommittees.** As soon as practicable after his election the chairman shall appoint from the members of the committee four subcommittees, each consisting of three or more members, as follows:

- (1) On municipal sewage, public health, safety, and welfare;
- (2) On conservation of water, wild life, and related problems;
- (3) On soil conservation and agricultural problems;
- (4) On industrial waste problems.

The committee may create such other subcommittees as it deems advisable. Each subcommittee shall give special consideration and study to the subject matter indicated by its title.

Subd. 6. **Duties of committee.** The duties of the committee are:

(1) To assist the agency in the performance of its statutory powers and duties and in formulating a general statewide comprehensive policy for the conservation, utilization and development of the water resources and other interrelated natural resources of the state for their most beneficial uses and the prevention, control, and abatement of pollution and the establishment of reasonable pollution standards for the waters of the state;

(2) To maintain liaison between the agency and the communities, industries, and persons concerned with the conservation, utilization, and development of the water resources within the respective regions of the committee members, and to stimulate action by those responsible for dealing with such problems;

(3) To assist in programs designed to inform the public regarding the importance of the conservation, utilization and development of the water resources of the state, and the prevention, control and abatement of water pollution, and of methods of accomplishing such purposes;

(4) To meet with the agency four times each year and at such other times as the agency may request.

Subd. 7. Investigations; annual report; recommendations. In furtherance of its purposes the committee and its members may jointly or severally investigate and study any problem relating to its duties. The committee shall make and file with the secretary of the agency at least once each year a written report of its findings and recommendations, but shall not as a body make specific recommendations on any proposal for action by the agency. The recommendations of the committee shall be advisory only, and not binding on the agency. The agency shall receive and consider all reports made by the committee or its members and take such action thereon as it deems advisable. A copy of every report made by the committee shall be filed with the governor.

Subd. 8. Recommendations for appointment of agency members. In case a member at large of the agency is to be appointed by the governor on expiration of a regular term or on the occurrence of a vacancy, the committee may recommend not more than two qualified persons from their own number or others for the position. The governor shall receive and consider all such recommendations but shall not be limited thereto in making the appointment.

[*Ex1961 c 20 s 3; 1969 c 9 s 21*]

115.18 SANITARY DISTRICTS; DEFINITIONS. Subdivision 1. As used in sections 115.18 to 115.37, the terms defined in this section have the meanings given them except as otherwise provided or indicated by the context.

Subd. 2. [Repealed, 1969 c 9 s 20]

Subd. 3. "District" means a sanitary district created under the provisions of sections 115.18 to 115.37.

Subd. 4. "Board" means the board of managers of a sanitary district.

Subd. 5. "Territorial unit" means all that part of the territory of a district situated within a single municipality, a single organized town outside of any municipality, or, in the case of an unorganized area, within a single county.

Subd. 6. "Related governmental subdivision" means a municipality or organized town wherein there is a territorial unit of a district, or, in the case of an unorganized area, the county. "Related governing body" means the governing body of a related governmental subdivision, and, in the case of an organized town, means the town board.

Subd. 7. "Village" means a village organized as provided by Minnesota Statutes, Chapter 412, under the plan other than optional.

Subd. 8. "Municipality" means a city, village, or borough, however organized.

Subd. 9. The terms defined in Minnesota Statutes, Section 115.01, as now in force or hereafter amended, have the meanings given them therein.

Subd. 10. "Agency" means the Minnesota pollution control agency.

[*Ex1961 c 20 s 4; 1969 c 9 s 18*]

115.19 CREATION; PURPOSE; EXCEPTIONS. A sanitary district may be created under the provisions of sections 115.18 to 115.37 for any territory embracing an area or a group of two or more adjacent areas, whether contiguous or separate, but not situated entirely within the limits of a single municipality, for the purpose of promoting the public health and welfare by providing an adequate and efficient system and means of collecting, conveying, pumping, treating and disposing of domestic sewage and garbage and industrial wastes within the district, in any case where the agency finds that there is need throughout such terri-

tory for the accomplishment of such purposes, that such purposes cannot be effectively accomplished throughout such territory by any existing public agency or agencies, that such purposes can be effectively accomplished therein on an equitable basis by a district if created, and that the creation and maintenance of such a district will be administratively feasible and in furtherance of the public health, safety, and welfare; but subject to the following exceptions:

No such district shall be created within 25 miles of the boundary of any city of the first class without the approval of the governing body thereof and the approval of the governing body of each and every municipality in such proposed district by resolution filed with the agency.

[*Ex1961 c 20 s 5; 1969 c 9 s 21*]

115.20 PROCEEDING TO CREATE DISTRICT. Subdivision 1. A proceeding for the creation of a district may be initiated by a petition to the agency, filed with its secretary, containing the following:

- (1) A request for creation of the proposed district;
- (2) The name proposed for the district, to include the words "sanitary district";
- (3) A description of the territory of the proposed district;
- (4) A statement showing the existence in such territory of the conditions requisite for creation of a district as prescribed in section 115.19;
- (5) A statement of the territorial units represented by and the qualifications of the respective signers;
- (6) The post office address of each signer, given under his signature. A petition may consist of separate writings of like effect, each signed by one or more qualified persons, and all such writings, when filed, shall be considered together as a single petition.

Subd. 2. Every such petition shall be signed as follows:

- (1) For each municipality wherein there is a territorial unit of the proposed district, by an authorized officer or officers pursuant to a resolution of the municipal governing body;
- (2) For each organized town wherein there is a territorial unit of the proposed district, by an authorized officer or officers pursuant to a resolution of the town board;
- (3) For each county wherein there is a territorial unit of the proposed district consisting of an unorganized area, by an authorized officer or officers pursuant to a resolution of the county board, or by at least 20 percent of the voters residing and owning land within such unit.

Each such resolution shall be published in the official newspaper of the governing body adopting it and shall become effective 40 days after such publication, unless within said period there shall be filed with the governing body a petition signed by qualified electors of a territorial unit of the proposed district, equal in number to five percent of the number of such electors voting at the last preceding election of such governing body, requesting a referendum on the resolution, in which case the same shall not become effective until approved by a majority of such qualified electors voting thereon at a regular election or special election which the governing body may call for such purpose. The notice of any such election and the ballot to be used thereat shall contain the text of the resolution followed by the question: "Shall the above resolution be approved?"

If any signer is alleged to be a landowner in a territorial unit, a statement as to his status as such as shown by the county auditor's tax assessment records, certified by the auditor, shall be attached to or endorsed upon the petition.

Subd. 3. The agency or its agent holding the hearing on a petition may, at any time before the reception of evidence begins, permit the addition of signatures to the petition or may permit amendment of the petition to correct or remedy any error or defect in signature or otherwise except a material error or defect in the description of the territory of the proposed district. No proceeding shall be invalidated on account of any error or defect in the petition unless questioned by an interested party before the reception of evidence begins at the hearing except a material error or defect in the description of the territory of the proposed district. If the qualifications of any signer of a petition are challenged at the hearing thereon, the agency or its agent holding the hearing shall determine the challenge forthwith on the allegations of the petition, the county auditor's certificate of landownership, and such other evidence as may be received.

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Subd. 4. Upon receipt of a petition the agency shall cause a hearing to be held thereon, subject to the provisions of Minnesota Statutes, Sections 15.0411 to 15.0422 and other laws not inconsistent therewith now or hereafter in force relating to hearings held under authority of the agency, so far as applicable, except as otherwise provided. Notice of the hearing, stating that a petition for creation of the proposed district has been filed and describing the territory thereof, shall be given by the secretary of the agency by publication for two successive weeks in a qualified newspaper published within such territory, or, if there is no such newspaper, by publication in a qualified newspaper of general circulation in such territory, also by posting for two weeks in each territorial unit of the proposed district, and by mailing a copy of the notice to each signer of the petition at his address as given therein. Registration of mailed copies of the notice shall not be required. Proof of the giving of the notice shall be filed in the office of the secretary.

Subd. 5. After the hearing and upon the evidence received thereat the agency shall make findings of fact and conclusions determining whether or not the conditions requisite for the creation of a district exist in the territory described in the petition. If the agency finds that such conditions exist it may make an order creating a district for the territory described in the petition under the name proposed in the petition or such other name, including the words "sanitary district," as the agency deems appropriate.

Subd. 6. If the agency after a hearing determines that the creation of a district in the territory described in the petition is not warranted, it shall make an order denying the petition. The secretary of the agency shall give notice of such denial by mail to each signer of the petition. No petition for the creation of a district consisting of the same territory shall be entertained within a year after the date of such an order, but this shall not preclude action on a petition for the creation of a district embracing part of such territory with or without other territory.

Subd. 7. Notice of the making of every order of the agency creating a sanitary district, referring to the date of the order and describing the territory of the district, shall be given by the secretary in like manner as for notice of the hearing on the petition for creation of the district.

Subd. 8. An appeal may be taken from an order of the agency creating or dissolving a district, annexing territory to or detaching territory from a district, or denying a petition for any such action, as now or hereafter provided for appeals from other orders of the agency except that the giving of notice of the order as provided in subdivision 7 shall be deemed notice thereof to all interested parties, and the time for appeal by any party shall be limited to 30 days after completion of the mailing of copies of the order or after expiration of the prescribed period of posting or publication, whichever is latest. The validity of the creation of a district shall not be otherwise questioned.

Subd. 9. Upon expiration of the time for appeal from an order of the agency creating a district, or, in case of an appeal, upon the taking effect of a final judgment of a court of competent jurisdiction sustaining the order, the secretary of the agency shall deliver a certified copy of the order to the secretary of state for filing. Thereupon the creation of the district shall be deemed complete, and it shall be conclusively presumed that all requirements of law relating thereto have been complied with. The secretary of the agency shall also transmit a certified copy of the order for filing to the county auditor of each county and the clerk or recorder of each municipality and organized town wherein any part of the territory of the district is situated and to the secretary of the district board when elected.

[*Ex*1961 c 20 s 6; 1969 c 9 s 21]

115.21 ANNEXATION, DETACHMENT, AND DISSOLUTION. Subdivision 1. An area adjacent to an existing district may be annexed thereto upon a petition to the agency stating the grounds therefor as hereinafter provided, signed by an authorized officer or officers of the district pursuant to a resolution of the board, also signed with respect to the area proposed for annexation in like manner as provided for a petition for creation of a district. Except as otherwise provided, a proceeding for annexation shall be governed by the provisions now or hereafter in force relating to proceedings for the creation of districts, so far as applicable. For the purpose of giving the required notices the territory involved shall comprise the area proposed for annexation together with the entire territory of the

district. If the agency determines that the requisite conditions exist in the area proposed for annexation together with the territory of the district, it may make an order for annexation accordingly. All taxable property within the annexed area shall be subject to taxation for any existing bonded indebtedness or other indebtedness of the district for the cost of acquisition, construction, or improvement of any disposal system or other works or facilities beneficial to the annexed area to such extent as the agency may determine to be just and equitable, to be specified in the order for annexation. The proper officers shall levy further taxes on such property accordingly.

Subd. 2. An area within a district may be detached therefrom upon a petition to the agency stating the grounds therefor as hereinafter provided, signed by an authorized officer or officers of the district pursuant to a resolution of the board, also signed with respect to the area proposed for detachment in like manner as provided for a petition for creation of a district. Except as otherwise provided, a proceeding for detachment shall be governed by the provisions now or hereafter in force relating to proceedings for the creation of districts, so far as applicable. For the purpose of giving the required notices the territory involved shall comprise the entire territory of the district. If the agency determines that the requisite conditions for inclusion in a district no longer exist in the area proposed for detachment, it may make an order for detachment accordingly. All taxable property within the detached area shall remain subject to taxation for any existing bonded indebtedness of the district to such extent as it would have been subject thereto if not detached, and shall also remain subject to taxation for any other existing indebtedness of the district incurred for any purpose beneficial to such area to such extent as the agency may determine to be just and equitable, to be specified in the order for detachment. The proper officers shall levy further taxes on such property accordingly.

Subd. 3. Different areas may be annexed to and detached from a district in a single proceeding upon a joint petition therefor and upon compliance with the provisions of subdivisions 1 and 2 with respect to the area affected so far as applicable.

Subd. 4. A district may be dissolved upon a petition to the agency stating the grounds for dissolution as hereinafter provided, signed by an authorized officer or officers of the district pursuant to a resolution of the board, and containing a proposal for distribution of the remaining funds of the district, if any, among the related governmental subdivisions. Except as otherwise provided, a proceeding for dissolution shall be governed by the provisions now or hereafter in force relating to proceedings for the creation of districts, so far as applicable. If the commission determines that the conditions requisite for the creation of the district no longer exist therein, that all indebtedness of the district has been paid, and that all property of the district except funds has been disposed of, it may make an order dissolving the district and directing the distribution of its remaining funds, if any, among the related governmental subdivisions on such basis as the agency determines to be just and equitable, to be specified in the order. Certified copies of the order for dissolution shall be transmitted and filed as provided for an order creating a district. The secretary of the agency shall also transmit a certified copy of the order to the treasurer of the district, who shall thereupon distribute the remaining funds of the district as directed by the order, and shall be responsible for such funds until so distributed.

[*Ex1961 c 20 s 7; 1969 c 9 s 21*]

115.22 PETITIONERS TO PAY EXPENSES. Expenses of the preparation and submission of petitions in proceedings under sections 115.19 to 115.21 shall be paid by the petitioners. Expenses of hearings therein shall be paid out of any available funds appropriated for the agency.

[*Ex1961 c 20 s 8; 1969 c 9 s 21*]

115.23 BOARD OF MANAGERS OF DISTRICT. Subdivision 1. The governing body of each district shall be a board of managers of five members, who shall be voters residing in the district, and who may but need not be officers, members of governing bodies, or employees of the related governmental subdivisions, except that where there are more than five territorial units in a district there shall be one board member for each unit.

Subd. 2. The terms of the first board members elected after creation of a district shall be so arranged and determined by the electing body as to expire on the first business day in January as follows:

(1) The terms of two members in the second calendar year after the year in which they were elected;

(2) The terms of two other members in the third calendar year after the year in which they were elected;

(3) The term of the remaining member in the fourth calendar year after the year in which he was elected. In case a board has more than five members the additional members shall be assigned to the groups hereinbefore provided for so as to equalize such groups as far as practicable. Thereafter board members shall be elected successively for regular terms beginning on expiration of the preceding terms and expiring on the first business day in January of the third calendar year thereafter. Each board member shall serve until his successor is elected and has qualified.

Subd. 3. In a district having only one territorial unit all the members of the board shall be elected by the related governing body. In a district having more than one territorial unit the members of the board shall be elected by the members of the related governing bodies in joint session except as otherwise provided. The electing bodies concerned shall meet and elect the first board members of a new district as soon as practicable after creation of the district, and shall meet and elect board members for succeeding regular terms as soon as practicable after November 1 next preceding the beginning of the terms to be filled, respectively.

Subd. 4. Upon the creation of a district having more than one territorial unit the agency, on the basis of convenience for joint meeting purposes, shall designate one of the related governing bodies as the central related governing body in the order creating the district or in a subsequent special order, of which the secretary of the agency shall notify the clerks or recorders of all the related governing bodies. Upon receipt of such notification, the clerk or recorder of the central related governing body shall immediately transmit the same to the presiding officer of such body. Such officer shall thereupon call a joint meeting of the members of all the related governing bodies to elect board members, to be held at such time as he shall fix at the regular meeting place of his governing body or at such other place in the district as he shall determine. At least ten days notice of the meeting shall be given by mail by the clerk or recorder of such body to the clerks or recorders of all the other related governing bodies, who shall immediately transmit such notice to all the members of such bodies, respectively. Subsequent joint meetings to elect board members for regular terms shall be called and held in like manner. The presiding officer and the clerk or recorder of the central related governing body shall act respectively as chairman and secretary of the joint electing body at any meeting thereof, but in case of the absence or disability of either of them such body may elect a temporary substitute. A majority of the members of each related governing body shall be required for a quorum at any meeting of the joint electing body.

Subd. 5. Nominations for board members may be made by petitions, each signed by ten or more voters residing and owning land in the district, filed with the clerk, recorder, or secretary of the electing body before the election meeting. No person shall sign more than one petition. The electing body shall give due consideration to all such nominations but shall not be limited thereto.

Subd. 6. In the case of an electing body consisting of a single related governing body, a majority vote of all the members shall be required for an election. In the case of a joint electing body, a majority vote of the members present shall be required for an election. In case of lack of a quorum or failure to elect, a meeting of an electing body may be adjourned to a stated time and place without further notice.

Subd. 7. In any district having more than one territorial unit the related governing bodies, instead of meeting in joint session, may elect a board member by resolutions adopted by all of them separately, concurring in the election of the same person. A majority vote of all the members of each related governing body shall be required for the adoption of any such resolution. The clerks or recorders of the other related governing bodies shall transmit certified copies of such resolutions to the clerk or recorder of the central related governing body. Upon receipt of concurring resolutions from all the related governing bodies, the presiding officer and clerk or recorder of the central related governing body shall certify the results and furnish certificates of election as provided for a joint meeting.

Subd. 8. Any vacancy in the membership of a board shall be filled for the unexpired term in like manner as provided for the regular election of board members.

Subd. 9. The presiding and recording officers of the electing body shall certify the results of each election to the secretary of the agency, to the county auditor of each county wherein any part of the district is situated, and to the clerk or recorder of each related governing body, and shall make and transmit to each board member elected a certificate of his election. Upon electing the first board members of a district, the presiding officer of the electing body shall designate one of them to serve as temporary chairman for the purposes of initial organization of the board, and the recording officer of the body shall include written notice thereof to all the board members with their certificates of election.

[*Ex1961 c 20 s 9; 1969 c 9 s 21*]

115.24 ORGANIZATION AND PROCEDURE OF BOARD. Subdivision 1. As soon as practicable after the election of the first board members of a district they shall meet at the call of the temporary chairman to elect officers and take other appropriate action for organization and administration of the district. Each board shall hold a regular annual meeting at the call of the chairman or otherwise as it shall prescribe on or as soon as practicable after the first business day in January of each year, and such other regular and special meetings as it shall prescribe.

Subd. 2. The officers of each district shall be a chairman and a vice-chairman, who shall be members of the board, and a secretary and a treasurer, who may but need not be members of the board. The board of a new district at its initial meeting or as soon thereafter as practicable shall elect the officers to serve until the first business day in January next following. Thereafter the board shall elect the officers at each regular annual meeting for terms expiring on the first business day in January next following. Each officer shall serve until his successor is elected and has qualified.

Subd. 3. The board at its initial meeting or as soon thereafter as practicable shall provide for suitable places for board meetings and for offices of the district officers, and may change the same thereafter as it deems advisable. Such meeting place and offices may be the same as those of any related governing body, with the approval of such body. The secretary of the board shall notify the secretary of state, the secretary of the agency, the county auditor of each county wherein any part of the district is situated, and the clerk or recorder of each related governing body of the locations and post office addresses of such meeting place and offices and any changes therein.

Subd. 4. At any time before the proceeds of the first tax levy in a district become available the district board may prepare a budget comprising an estimate of the expenses of organizing and administering the district until such proceeds are available, with a proposal for apportionment of the estimated amount among the related governmental subdivisions, and may request the governing bodies thereof to advance funds in accordance with the proposal. Such governing bodies may authorize advancement of the requested amounts, or such part thereof as they respectively deem proper, from any funds available in their respective treasuries. The board shall include in its first tax levy after receipt of any such advancements a sufficient sum to cover the same and shall cause the same to be repaid, without interest, from the proceeds of taxes as soon as received.

[*Ex1961 c 20 s 10; 1969 c 9 s 21*]

115.25 STATUS AND POWERS OF DISTRICT. Subdivision 1. Every district shall be a public corporation and a governmental subdivision of the state, and shall be deemed to be a municipality or municipal corporation for the purpose of obtaining federal or state grants or loans or otherwise complying with any provision of federal or state law or for any other purpose relating to the powers and purposes of the district for which such status is now or hereafter required by law.

Subd. 2. Every district shall have the powers and purposes prescribed by sections 115.18 to 115.37 and such others as may now or hereafter be prescribed by law. No express grant of power or enumeration of powers herein shall be deemed to limit the generality or scope of any grant of power.

Subd. 3. Except as otherwise provided, a power or duty vested in or imposed upon a district or any of its officers, agents, or employees shall not be deemed exclusive and shall not supersede or abridge any power or duty vested in or imposed upon any other agency of the state or any governmental subdivision thereof, but shall be supplementary thereto.

Subd. 4. All the powers of a district shall be exercised by its board of managers

except so far as approval of any action by popular vote or by any other authority may be expressly required by law.

Subd. 5. A district may sue and be sued and may enter into any contract necessary or proper for the exercise of its powers or the accomplishment of its purposes.

Subd. 6. A district may acquire by purchase, gift, or condemnation or may lease or rent any real or personal property within or without the district which may be necessary for the exercise of its powers or the accomplishment of its purposes, may hold such property for such purposes, and may lease or rent out or sell or otherwise dispose of any such property so far as not needed for such purposes.

Subd. 7. A district may accept gifts, grants, or loans of money or other property from the United States, the state, or any person, corporation, or other entity for district purposes, may enter into any agreement required in connection therewith, and may hold, use, and dispose of such money or property in accordance with the terms of the gift, grant, loan, or agreement relating thereto.

[*Ex1961 c 20 s 11*]

115.26 SPECIFIC PURPOSES AND POWERS. Subdivision 1. A district may construct, install, improve, maintain, and operate any system, works, or facilities within or without the district required to control and prevent pollution of any waters of the state within its territory.

Subd. 2. A district may construct, install, improve, maintain, and operate any system, works, or facilities within or without the district required to provide for, regulate, and control the disposal of sewage, industrial waste and other waste originating within its territory. The district may require any person upon whose premises there is any source of sewage, industrial waste, or other waste within the district to connect the same with the disposal system, works, or facilities of the district whenever reasonable opportunity therefor is provided.

Subd. 3. A district may construct, install, improve, maintain, and operate any system, works, or facilities within or without the district required to provide for, regulate, and control the disposal of garbage or refuse originating within the district, and may require any person upon whose premises any garbage or refuse is produced or accumulated to dispose thereof through the system, works, or facilities of the district whenever reasonable opportunity therefor is provided.

Subd. 4. A district may procure supplies of water so far as necessary for any purpose under subdivisions 1, 2, and 3, and may construct, install, improve, maintain, and operate any system, works, or facilities required therefor within or without the district.

[*Ex1961 c 20 s 12*]

115.27 DISTRICT PROJECTS AND FACILITIES. Subdivision 1. For the purpose of constructing, improving, maintaining, or operating any system, works, or facilities designed or used for any purpose under section 115.26, a district, its officers, agents, employees, and contractors may enter, occupy, excavate, and otherwise operate it, upon, under, through, or along any public highway, including a state trunk highway, or any street, park, or other public grounds so far as necessary for such work, with the approval of the governing body or other authority in charge of the public property affected and on such terms as may be agreed upon with such governing body or authority respecting interference with public use, restoration of previous conditions, compensation for damages, and other pertinent matters. If such an agreement cannot be reached after reasonable opportunity therefor, the district may acquire the necessary rights, easements, or other interests in such public property by condemnation, subject to all applicable provisions of law as in case of taking private property, upon condition that the court shall determine that there is paramount public necessity for such acquisition.

Subd. 2. A district may, upon such terms as may be agreed upon with the respective governing bodies or authorities concerned, provide for connecting with or using or may lease or acquire and take over any system, works, or facilities for any purpose under section 115.26 belonging to any other governmental subdivision or other public agency.

Subd. 3. A district may, upon such terms as may be agreed upon with the respective governing bodies or authorities concerned, authorize the use by any other governmental subdivision or other public agency of any system, works, or facilities of the district constructed for any purpose under section 115.26 so far as the capacity thereof is sufficient beyond the needs of the district. A district may

extend any such system, works, or facilities and permit the use thereof by persons outside the district, so far as the capacity thereof is sufficient beyond the needs of the district, upon such terms as the board may prescribe.

Subd. 4. A district may be a party to a joint cooperative project, undertaking, or enterprise with any one or more other governmental subdivisions or other public agencies for any purpose under section 115.26 upon such terms as may be agreed upon between the governing bodies or authorities concerned. Without limiting the effect of the foregoing provision or any other provisions of sections 115.18 to 115.37, a district, with respect to any of said purposes, may act under and be subject to the provisions of Minnesota Statutes, Section 471.59, as now in force or hereafter amended, or any other appropriate law now in force or hereafter enacted providing for joint or cooperative action between governmental subdivisions or other public agencies.

[*Ex1961 c 20 s 13*]

115.28 CONTROL OF SANITARY FACILITIES. A district may regulate and control the construction, maintenance, and use of privies, cesspools, septic tanks, toilets, and other facilities and devices for the reception or disposal of human or animal excreta or other domestic wastes within its territory so far as necessary to prevent nuisances or pollution or to protect the public health, safety, and welfare, and may prohibit the use of any such facilities or devices not connected with a district disposal system, works, or facilities whenever reasonable opportunity for such connection is provided; provided, that the authority of a district under this section shall not extend or apply to the construction, maintenance, operation, or use by any person other than the district of any disposal system or part thereof within the district under and in accordance with a valid and existing permit heretofore or hereafter issued by the agency.

[*Ex1961 c 20 s 14; 1969 c 9 s 21*]

115.29 DISTRICT PROGRAMS, SURVEYS, AND STUDIES. A district may develop general programs and particular projects within the scope of its powers and purposes, and may make all surveys, studies, and investigations necessary therefor.

[*Ex1961 c 20 s 15*]

115.30 GENERAL AND VILLAGE POWERS. A district may do and perform all other acts and things necessary or proper for the effectuation of its powers and the accomplishment of its purposes. Without limiting the effect of the foregoing provision or any other provision of sections 115.18 to 115.37, a district, with respect to each and all of said powers and purposes, shall have like powers as are vested in villages with respect to any similar purposes, and the exercise of such powers by a district and all matters pertaining thereto shall be governed by the provisions of law relating to the exercise of similar powers by villages and matters pertaining thereto, so far as applicable, with like force and effect, except as otherwise provided.

[*Ex1961 c 20 s 16*]

115.31 ADVISORY COMMITTEE. The board may appoint an advisory committee with such membership and duties as it may prescribe.

[*Ex1961 c 20 s 17*]

115.32 POWERS OF BOARD. Subdivision 1. The board of managers of every district shall have charge and control of all the funds, property, and affairs of the district. With respect thereto, the board shall have like powers and duties as are provided by law for a village council with respect to similar village matters, except as otherwise provided. Except as otherwise provided, the chairman, vice chairman, secretary, and treasurer of the district shall have like powers and duties, respectively, as the mayor, acting mayor, clerk, and treasurer of a village. Except as otherwise provided the exercise of the powers and the performance of the duties of the board and officers of the district and all other activities, transactions, and procedures of the district or any of its officers, agents, or employees, respectively, shall be governed by the provisions of law relating to similar matters in a village, so far as applicable, with like force and effect.

Subd. 2. The board may enact ordinances, prescribe regulations, adopt resolutions, and take other appropriate action relating to any matter within the powers and purposes of the district, and may do and perform all other acts and things necessary or proper for the effectuation of said powers and the accomplishment of said purposes. The board may provide that violation of any ordinance shall be a

penal offense and may prescribe penalties therefor, not exceeding those prescribed by law for violation of village ordinances.

Subd. 3. Violations of district ordinances may be prosecuted before any court or magistrate of any related governmental subdivision having jurisdiction of misdemeanors, and every such court or magistrate shall have jurisdiction of such violations. Any constable or other peace officer of any such governmental subdivision may make arrests for such violations committed anywhere within the district in like manner and with like effect as for violations of village ordinances or for statutory misdemeanors.

All fines collected in such cases shall be deposited in the treasury of the district.
[*Ex1961 c 20 s 18*]

115.33 TAX LEVIES, ASSESSMENTS, AND SERVICE CHARGES. Subdivision 1. The board may levy taxes for any district purpose on all property taxable within the district, and for a period of five years from June 5, 1971, the same shall not be subject to any limitation and shall be excluded in computing amounts subject to any limitation on tax levies.

Subd. 2. In the case where a particular area within the district, but not the entire district, is benefited by a system, works, or facilities of the district, the board, after holding a public hearing as provided by law for levying assessments on benefited property, shall by ordinance establish such area as a taxing subdistrict, to be designated by number, and shall levy special taxes on all the taxable property therein, to be accounted for separately and used only for the purpose of paying the cost of construction, improvement, acquisition, maintenance, or operation of such system, works, or facilities, or paying the principal and interest on bonds issued to provide funds therefor and expense incident thereto. Such hearing may be held jointly with a hearing for the purpose of levying assessments on benefited property within the proposed taxing subdistrict.

Subd. 3. The board shall levy assessments on benefited property to provide funds for payment of the cost of construction, improvement, or acquisition of any system, works, or facilities designed or used for any district purpose, or for payment of the principal of and interest on any bonds issued therefor and expenses incident thereto.

Subd. 4. The board shall prescribe service, use, or rental charges for persons or premises connecting with or making use of any system, works, or facilities of the district, prescribe the method of payment and collection of such charges, and provide for the collection thereof for the district by any related governmental subdivision or other public agency on such terms as may be agreed upon with the governing body or other authority thereof.

[*Ex1961 c 20 s 19; 1971 c 826 s 1*]

115.34 BORROWING POWERS; BONDS. Subdivision 1. The board may authorize the borrowing of money for any district purpose and provide for the repayment thereof, subject to Minnesota Statutes, Chapter 475. The taxes initially levied by any district in accordance with Minnesota Statutes, Section 475.61 for the payment of its bonds, upon property within each municipality included in the district, shall be included in computing the limitations upon the levy of such municipality under Minnesota Statutes, Section 275.10 or Section 275.11, as the case may be. If the tax required by section 475.61 to be levied for any year of the term of a bond issue upon property within any municipality included in the district would, when added to the taxes levied by such municipality for all purposes in the year preceding such issue, exceed the limitations prescribed in section 275.10 or section 275.11, the bonds shall not be issued without the consent by resolution of the governing body of such municipality.

Subd. 2. The board may authorize the issuance of bonds or obligations of the district to provide funds for the construction, improvement, or acquisition of any system, works, or facilities for any district purpose, or for refunding any prior bonds or obligations issued for any such purpose, and may pledge the full faith and credit of the district or the proceeds of tax levies or assessments or service, use, or rental charges, or any combination thereof, to the payment of such bonds or obligations and interest thereon or expenses incident thereto. An election or vote of the people of the district shall be required to authorize the issuance of any such bonds or obligations. Except as otherwise provided in sections 115.18 to

115.37, the forms and procedures for issuing and selling bonds and provisions for payment thereof shall comply with the provisions of Minnesota Statutes, Chapter 475, as now in force or hereafter amended.

[*Ex1961 c 20 s 20*]

115.35 FUNDS; DISTRICT TREASURY. The proceeds of all tax levies, assessments, service, use, or rental charges, and other income of the district shall be deposited in the district treasury and shall be held and disposed of as the board may direct for district purposes, subject to any pledges or dedications made by the board for the use of particular funds for the payment of bonds or interest thereon or expenses incident thereto or for other specific purposes.

[*Ex1961 c 20 s 21*]

115.36 EFFECT OF DISTRICT ORDINANCES AND FACILITIES. In any case where an ordinance is enacted or a regulation adopted by a district board relating to the same subject matter and applicable in the same area as an existing ordinance or regulation of a related governmental subdivision for the district, the district ordinance or regulation, to the extent of its application, shall supersede the ordinance or regulation of the related governmental subdivision. In any case where an area within a district is served for any district purpose by a system, works, or facilities of the district, no system, works, or facilities shall be constructed, maintained, or operated for the same purpose in the same area by any related governmental subdivision or other public agency except as approved by the district board.

[*Ex1961 c 20 s 22*]

115.37 APPLICATION. The provisions of sections 115.15 to 115.37 shall not abridge or supersede any provision of Minnesota Statutes, Sections 115.01 to 115.09, or any authority of the Minnesota pollution control agency or the state board of health, but shall be subject and supplementary thereto. Districts and members of district boards shall be subject to the authority of the agency and shall have no power or authority to abate or control pollution which is permitted by and in accord with any classification of waters, standards of water quality, or permit established, fixed, or issued by the agency.

[*Ex1961 c 20 s 23; 1969 c 9 s 21*]

MUNICIPAL WATER POLLUTION CONTROL

115.41 DEFINITIONS. Subdivision 1. The definitions given in this section shall obtain for the purposes of Laws 1963, Chapter 874, except as otherwise expressly provided or indicated by the context.

Subd. 2. "Commissioner" means the commissioner of administration.

Subd. 3. [Repealed, 1969 c 9 s 20]

Subd. 4. "Municipality" means a city, village, borough, sanitary district, or other governmental subdivision or public corporation.

Subd. 5. The definitions given in Minnesota Statutes 1961, Section 115.01, as now in force or hereby or hereafter amended, shall govern for the purposes of Laws 1963, Chapter 874, except as otherwise expressly provided or indicated by the context.

Subd. 6. "Agency" means the Minnesota pollution control agency.

[*1963 c 874 s 1; 1969 c 9 s 19*]

115.42 POLICY; LONG-RANGE PLAN; PURPOSE. It is the policy of the state to provide for the prevention, control, and abatement of pollution of all waters of the state, so far as feasible and practical, in furtherance of conservation of such waters and protection of the public health and in furtherance of the development of the economic welfare of the state. The agency shall prepare a long-range plan and program for the effectuation of said policy, and shall make a report of progress thereon during each biennium to the legislature at the beginning of each regular session, with recommendations for action in furtherance of such program during the ensuing biennium. It is the purpose of Laws 1963, Chapter 874, to safeguard the waters of the state from pollution by: (a) preventing any new pollution; and (b) abating pollution existing when Laws 1963, Chapter 874, become effective, under a program consistent with the declaration of policy above stated.

[*1963 c 874 s 4; 1969 c 9 s 21*]

115.43 POWERS. Subdivision 1. In addition to the other powers prescribed by law, the agency shall have the powers and duties prescribed in this section. In

exercising all such powers the agency shall give due consideration to the establishment, maintenance, operation and expansion of business, commerce, trade, industry, traffic and other economic factors and other material matters affecting the feasibility and practicability of any proposed action, including, but not limited to, the burden on a municipality of any tax which may result therefrom and shall take or provide for such action as may be reasonable, feasible and practical under the circumstances.

Subd. 2. Acting within the scope of the policy and purposes of Laws 1963, Chapter 874, the agency may adopt, promulgate, amend, or rescind regulations in the manner provided by law, as may be necessary or proper to carry into effect the provisions of Laws 1963, Chapter 874.

Subd. 3. The agency may issue, modify, or revoke orders after due notice and hearing for the following purposes when deemed necessary to prevent, control, or abate pollution:

(1) Prohibiting or directing the abatement of any discharge of sewage, industrial waste, or other wastes, into any waters of the state or the deposit thereof where the same is likely to get into any waters of the state in accordance with the provisions of Laws 1963, Chapter 874 and specifying the conditions and time within which such prohibition or abatement must be accomplished;

(2) Prohibiting the storage of any liquid in a manner which does not reasonably assure proper retention against entry into any waters of the state that would be likely to pollute any waters of the state;

(3) Requiring the construction, installation, maintenance, and operation by any municipality of any disposal system or any part thereof or the reconstruction, alteration, or enlargement of its existing disposal system or any part thereof, or the adoption of other remedial measures to prevent, control or abate pollution or to prevent, control or abate any discharge or deposit of sewage, industrial waste or other wastes by any municipality;

(4) Except as otherwise provided herein in the case of municipalities, the provisions of section 115.05 shall apply to proceedings under Laws 1963, Chapter 874. [1963 c 874 s 5; 1969 c 9 s 21; 1969 c 931 s 7]

115.44 CLASSIFICATION OF WATERS; STANDARDS OF QUALITY AND PURITY. Subdivision 1. It is recognized that, due to variable factors, no single standard of quality and purity of the waters is applicable to all waters of the state or to different segments of the same waters.

Subd. 2. In order to attain the objectives of Laws 1963, Chapter 874, the agency after proper study, and after conducting public hearing upon due notice, shall, as soon as practicable, group the designated waters of the state into classes, and adopt classifications and standards of purity and quality therefor. Such classification shall be made in accordance with considerations of best usage in the interest of the public and with regard to the considerations mentioned in subdivision 3 hereof.

Subd. 3. In adopting the classification of waters and the standards of purity and quality above mentioned, the agency shall give consideration to:

(a) The size, depth, surface area covered, volume, direction and rate of flow, stream gradient and temperature of the water;

(b) The character of the district bordering said waters and its peculiar suitability for the particular uses, and with a view to conserving the value of the same and encouraging the most appropriate use of lands bordering said waters, for residential, agricultural, industrial, or recreational purposes;

(c) The uses which have been made, are being made, or may be made of said waters for transportation, domestic and industrial consumption, bathing, fishing and fish culture, fire prevention, the disposal of sewage, industrial wastes and other wastes or other uses within this state, and, at the discretion of the agency, any such uses in another state on interstate waters flowing through or originating in this state;

(d) The extent of present defilement or fouling of said waters which has already occurred or resulted from past discharges therein;

(e) The need for standards for effluent from disposal systems entering waters of the state;

(f) Such other considerations as the agency deems proper.

Subd. 4. The agency, after proper study, and after conducting public hearings upon due notice, shall adopt and design standards of quality and purity for each such classification necessary for the public use or benefit contemplated by such classification. Such standards shall prescribe what qualities and properties of water shall indicate a polluted condition of the waters of the state which is actually or potentially deleterious, harmful, detrimental or injurious to the public health, safety or welfare, to terrestrial or aquatic life or to the growth and propagation thereof, or to the use of such waters for domestic, commercial and industrial, agricultural, recreational or other reasonable purposes, with respect to the various classes established pursuant to subdivision 2 hereof, and may contain such other provisions as the agency deems proper. Wherever practicable and advisable the agency shall establish standards for effluent of disposal systems entering classified waters.

Subd. 5. In establishing such standards, consideration should be given to the following factors:

- (a) The extent, if any, to which floating solids may be permitted in the water;
- (b) The extent to which suspended solids, colloids or a combination of solids with other substances suspended in water, may be permitted;
- (c) The extent to which organism of the coliform group (intestinal bacilli) or any other bacteriological organisms may be permitted in the water;
- (d) The extent of the oxygen demand which may be permitted in the receiving waters;
- (e) Such other chemical or biological properties necessary for the attainment of the objectives of Laws 1963, Chapter 874.
- (f) Wherever deemed practicable and advisable by the agency, standards specifying the quality and purity, or maximum permissible pollutional content, of effluent entering waters of the state may be established without previously establishing water quality standards.

Subd. 6. The adoption, alteration or modification of the standards of quality and purity, above prescribed, shall be made by the agency only after public hearing on due notice.

Subd. 7. Notices of public hearing for the consideration, adoption, modification, alteration or amendment of the classification of waters and standards of purity and quality thereof shall specify the time, date and place of hearing, and the waters concerning which classification is sought to be made or for which standards are sought to be adopted or modified.

Copies of said notice shall:

- (a) Be published at least twice in a newspaper regularly published or circulated in the county or counties bordering or through which the waters sought to be classified, or for which standards are sought to be adopted, flow, the first date of publication of which shall not be more than 30 days nor less than 20 days before the date fixed for such hearing; and
- (b) Be mailed at least 30 days before such hearing to the governing body of each municipality bordering or through which said waters, for which standards are sought to be adopted, flow, and to such other persons as the agency has reason to believe may be affected by the proposed standards.

Subd. 8. If the agency finds in order to comply with the federal water pollution control act or any other federal law or rule or regulation promulgated thereunder that it is impracticable to comply with the requirements of this section in classifying waters or adopting standards or in meeting any of the requirements thereof, compliance with the requirements of such section are waived to the extent necessary to enable the agency to comply with federal laws and rules and regulations promulgated thereunder. The agency may classify waters and adopt criteria and standards in such form and based upon such evidence as it may deem necessary and sufficient for the purposes of meeting requirements of such federal laws, notwithstanding any provisions in chapter 115 or any other state law to the contrary. In the event waters are classified and criteria and standards are adopted to meet the requirements of federal law, the agency shall thereafter proceed to otherwise comply with the provisions of this section which were waived as rapidly as is practicable. This authority shall extend to proceedings pending before the agency on April 20, 1967.

Notwithstanding the provisions of subdivision 4, wherever advisable and prac-

ticable the agency may establish standards for effluent of disposal systems entering waters regardless of whether such waters are or are not classified.

[1963 c 874 s 6; 1967 c 203 s 1; 1969 c 9 s 21; 1969 c 931 s 8, 9]

115.45 VIOLATIONS. Subdivision 1. It is the duty of every person affected to comply with the provisions of Laws 1963, Chapter 874, and of Minnesota Statutes, Sections 115.01 to 115.09, comprising the state water pollution control act, as now in force or hereafter amended, and all regulations, orders, and permits adopted or issued by the agency thereunder, and to do and perform all acts and things within his or its power required to effectuate, carry out, and accomplish the purposes of such provisions, regulations, orders, and permits.

Subd. 2. It is unlawful for any person to cause pollution of any waters of the state in excess of or contrary to any established standard of water or effluent quality, regulation adopted, or order, or permit issued by the agency, or in the absence of such applicable official standards, regulations, orders, or permits to discharge any sewage, industrial wastes, or other wastes into any waters of the state or to deposit any thereof where the same is likely to get into any waters of the state and cause pollution thereof as defined in chapter 115. Any pollution, discharge, or deposit is a public nuisance and may be enjoined and abated as such as provided by law.

[1963 c 874 s 7; 1969 c 9 s 21; 1969 c 931 s 10]

115.46 TAXATION BY MUNICIPALITY. Subdivision 1. Any taxes, special assessments, levied or to be levied, and any bonds or other evidences of indebtedness issued or to be issued for the construction, installation, maintenance, or operation by a municipality of any disposal system or part thereof, shall not be subject to any limitation and shall be excluded in computing amounts subject to any limitation on tax levies, special assessments, bonded indebtedness or other indebtedness and the governing or managing body and the proper officers of the municipality concerned shall have the power and, to comply with any order of the agency, it shall be their duty to levy such taxes and special assessments and issue such bonds and take such other lawful actions as may be appropriate and necessary to provide funds to meet the cost of such construction or work, notwithstanding any such limit and without any election or referendum therefor. A recital in any bond, tax levy, or assessment that the same is issued or made for the purposes of a disposal system or any part thereof ordered by the agency and is not subject to any provisions of law prescribing limits or requiring an election or referendum therefor shall be prima facie evidence thereof and that all requirements of law relating thereto have been complied with. In any suit, action, or proceedings involving the validity or enforceability of any bonds of a municipality or the security therefor, any such bond reciting in substance that it has been issued by the municipality to aid in financing a sewage disposal system or part thereof, shall be conclusively deemed to have been issued for such purpose, and in compliance with all requirements of the law relating thereto.

Subd. 2. For the same purposes as the purposes for which a tax may be levied under subdivision 1 of this section, a municipality may levy taxes in anticipation of need and the provision of subdivision 1 shall be applicable so far as appropriate to any such anticipatory levy. If such a tax is levied in anticipation of need, the purpose must be specified in the resolution of the governing body directing the levy, and proceeds of the tax must be used only for that purpose, and until used the proceeds shall be retained in a separate fund or invested as surplus in a sinking fund may be invested under Minnesota Statutes, Section 475.66.

[1963 c 874 s 8; 1969 c 9 s 21]

115.47 ENFORCEMENT. Subdivision 1. The provisions of Laws 1963, Chapter 874, and of Minnesota Statutes, Sections 115.01 to 115.09 and of any regulation adopted or order or permit issued by the agency thereunder or under any other law now in force or hereafter enacted for the prevention, control, or abatement of pollution may be enforced by injunction, action to compel performance, or other appropriate action. The attorney general shall bring any action required therefor in the name of the state at the request of the agency.

Subd. 2. In any action to compel performance of an order of the agency for any purpose relating to the prevention, control, or abatement of pollution the court may require any defendant adjudged responsible to do and perform any and all acts and things within his or its power which are reasonably necessary to accomplish the purposes of the order. In case a municipality or its governing or

managing body or any of its officers is a responsible defendant, the court may require it or him to exercise its or his powers, without regard to any limitation or any requirement for an election or referendum imposed thereon by law, to do any or all of the following, without limiting the generality hereof: To levy taxes, levy special assessments, prescribe service or use charges, borrow money, issue bonds, employ assistance, acquire real or personal property, let contracts or otherwise provide for the doing of work or the construction, installation, maintenance, or operation of facilities, and do all other acts and things reasonably necessary to accomplish the purposes of the order.

[1963 c 874 s 9; 1969 c 9 s 21]

115.48 ASSUMPTION OF POWER BY AGENCY. Subdivision 1. In lieu of enforcement action as provided by section 115.47, the agency, in case of failure by any municipality or its governing or managing body or officers to comply with any order of the agency for the construction, installation, maintenance, or operation of a disposal system or part thereof, may by resolution assume the powers of the legislative authority of the municipality and confer on the commissioner the powers of the administrative officers of the municipality relating to the construction, installation, maintenance, or operation of a disposal system, or part thereof, or issuing bonds and levying taxes therefor, after holding a hearing on the case as provided by Minnesota Statutes 1961, Sections 115.03 and 115.05, upon notice specifying the particulars of the alleged failure to comply with the order and the powers proposed to be assumed for the purpose of remedying such failure. The resolution shall include or have attached thereto a copy of the order, shall set forth the findings of the agency as to failure of compliance therewith after the hearing thereon, and shall set forth the powers assumed and determine the action to be taken. Certified copies of the resolution and order shall be transmitted by the secretary of the agency to the commissioner and to the clerk or other recording officer of the municipality concerned. The resolution and order and certified copies thereof shall be prima facie evidence that the order is reasonable and valid, that all requirements of law relating thereto and to the hearing thereon have been complied with by the agency, that the municipality and its governing or managing body and officers have failed to comply with the order as set forth in the resolution, and that the powers so assumed are vested in the agency and the commissioner as therein set forth. Thereupon the agency and the commissioner shall have charge of the case, and all other proceedings for enforcement of the order shall be suspended until the authority of the commissioner in the case has been terminated as hereinafter provided. At this stage of the case there is a right of judicial review, and the resolution and attached order shall be deemed a final order for the purpose of judicial review, but failure at this stage to seek judicial review does not preclude judicial relief at a subsequent stage where, and in a manner, otherwise appropriate.

Subd. 2. Upon the assumption of powers as provided in subdivision 1, all the powers of the municipality and its governing or managing body and officers with respect to the subject matter of the order shall thereby be forthwith transferred to and vested in the agency and the commissioner, and they shall thereafter exercise the same in the name of the municipality or its governing or managing body or officers, as the case may require, until terminated as hereinafter provided. Such powers shall include, without limitation, the power to levy taxes, to certify such taxes for collection, to levy assessments on benefited property, to prescribe service or use charges, to borrow money, to issue bonds, to employ necessary assistance, to acquire necessary real or personal property, to let contracts or otherwise provide for the doing of work or the construction, installation, maintenance, or operation of facilities, and to do and perform for the municipality or its governing or managing body or officers all other acts and things required to effectuate, carry out, and accomplish the purposes of the order and which might have been done or performed by the municipality or its governing or managing body or officers. The exercise of any and all such powers by the agency and the commissioner shall have like force and effect as if the same had been exercised by the municipality or by its governing or managing body or officers. All such acts or things done or performed by the agency or the commissioner shall be prima facie lawful and valid, and it shall be presumed that all requirements of law or charter relating thereto have been complied with. Any bond pursuant to this section in the hands of a holder in good faith and for value reciting that such bond is issued for the purposes of a disposal system, or part thereof, pursuant to the order of the agency under this section shall be con-

clusively deemed to have been issued for such purpose and in compliance with all requirements of law relating thereto and shall be a valid and binding instrument enforceable against the municipality in accordance with its terms. The impact on a municipality of taxes or special assessments which are likely to result from compliance with an order made under section 115.43, subdivision 3, clause (1), weighed against the urgency of the need for compliance in the light of public health and the policy and purposes of this act shall be a relevant consideration in any judicial inquiry into the reasonableness of the order.

Subd. 3. Except as otherwise provided herein, all proceedings of the agency or the commissioner under subdivision 2 shall be governed by the laws or charter provisions governing like proceedings of the governing or managing body or administrative officers of the municipality, so far as applicable, and they shall have like powers and duties with respect thereto as the governing or managing body, the mayor or other presiding officer, the clerk or other recording officer, and any other officer of the municipality having authority in the matter, respectively. In any case where the governing or managing body of the municipality is required to act by motion, resolution, or ordinance, the adoption thereof by resolution or order of the agency shall have like force and effect as adoption by the governing or managing body and approval by the mayor or other presiding officer of the municipality, if required.

Subd. 4. If at any time while the agency and the commissioner have charge of a case as provided in this section, the governing or managing body or the officers or the municipality concerned shall offer to exercise their powers and perform their duties with respect to the subject matter in accordance with the order of the agency, the agency may by order, of which certified copies shall be transmitted to the secretary of the agency and to the clerk or other recording officer of the municipality, reinstate such powers to the extent and subject to any conditions specified in the order, and the governing or managing body or officers of the municipality may thereupon exercise such powers accordingly. Such reinstatement may be revoked by the agency by order in like manner in case it shall determine that the affected powers have not been properly or effectively exercised by the governing or managing body or the officers of the municipality.

Subd. 5. If, at any time while the agency and the commissioner have charge of a case hereunder, the agency shall determine that the further exercise of the powers of the municipality assumed in the case will not be feasible or will not be the most effective procedure for accomplishing the purposes of the agency's order involved, it may by order so declare. Certified copies of the order shall be transmitted by the secretary of the agency to the commissioner and the clerk or other recording officer of the municipality concerned. Thereupon the powers assumed shall be vested in the municipality, and the agency may proceed with the enforcement of its order in such manner as may be authorized by law.

[1963 c 874 s 10; 1969 c 9 s 21]

115.49 COOPERATION BETWEEN MUNICIPALITIES; CONTRACTS. Subdivision 1. If the agency determines after a hearing on the subject matter that cooperation between two or more municipalities is necessary to prevent, control, or abate pollution, it may adopt a resolution so declaring and determining whether it will be feasible to secure such cooperation by contract between the municipalities concerned.

Subd. 2. If the agency determines that procedure by contract will be feasible it may issue an order so declaring, setting forth the general purposes and terms of a proposed contract under any applicable law, determining, among other things, which of the municipalities concerned shall have charge of any facilities constructed, and directing the municipalities concerned to formulate and execute such contract within such time as the agency may specify in the order, but not less than 90 days from the date of mailing copies of the order to the clerks or other recording officers of such municipalities or service thereof upon them. If a contract approved by the agency as sufficient for the purposes set forth in the order is not made within the time therein specified, the agency may refer the case to the commissioner as provided in section 115.48. Thereupon and thereby all the appropriate contractual powers of each municipality concerned and its governing or managing body and officers shall be transferred to and vested in the commissioner. The commissioner may then formulate a contract in accordance with the agency's order, with necessary counterparts, and execute the same in the name of each municipality concerned, with like force and effect as if executed by their officers as provided

by law or charter. An executed counterpart of the contract shall be delivered or sent by certified mail by the commissioner to the clerk or other recording officer of each municipality concerned, and the contract shall thereupon take effect and be binding on such municipalities.

Subd. 3. Any contract for disposal of sewage, industrial wastes, or other wastes or for the construction, maintenance, or operation of any facilities therefor heretofore or hereafter executed between two or more municipalities may be renegotiated, reviewed, and revised or modified with respect to rates or charges or any other provision by agreement of the parties to the contract, any provision of law, charter, or the contract to the contrary notwithstanding.

Subd. 4. Any municipality which is a party to a contract for any of the purposes specified in subdivision 3 and which operates a plant for the disposal of sewage, industrial wastes, or other wastes, or which is a city of the first class comprising a part of a sanitary district under Minnesota Statutes, Chapter 445 upon written notice to the other party or parties, fix new rates and charges for the service performed under the contract, notwithstanding any provision of law, charter, or the contract to the contrary. Any other party or parties to such a contract with a municipality which operates such a plant, or with a city of the first class comprising a part of a sanitary district under Minnesota Statutes, Chapter 445 upon written notice to such municipality, demand that new rates and charges be fixed for service performed under the contract, notwithstanding any provision of law, charter, or the contract to the contrary. Whenever notice is given as provided herein, it shall be the duty of the municipality operating the plant for the disposal of sewage, industrial wastes, or other wastes, or a city of the first class comprising a part of a sanitary district under Minnesota Statutes, Chapter 445, to hold a hearing for the determination of proper rates and charges. A valid notice given under this subdivision of a demand to fix new rates and charges as to any contract precludes another such notice by any party as to that contract for a period of five years from the time of the notice, or the time of dismissal of proceedings under a notice, or the time of determination of rates and charges by the affected agencies or by judgment, as the case may be, whichever of these events is last, but there may always be a contract change under subdivision 3 of this section; provided there can be no such demand as of right within the first five years of a contract. A municipality which may be affected by determination of new rates and charges in such a proceeding may participate in the proceeding as an interested third party by filing a notice of its intention to so participate with the clerk of the municipality to which the original notice was directed. If any party to the contract involved in the proceeding initiated by notice of demand for new rates and charges is dissatisfied with the rates and charges as set in the proceeding it may within 30 days after such determination by written notice given to the other party or parties elect to submit the matters in dispute to a board of arbitration which shall be created as follows: The municipality making such written election shall in such written election appoint a referee; the other municipality shall within ten days after such election and appointment also appoint a referee; the two referees shall appoint a third referee, or if they fail for ten days to do so, unless the municipalities mutually extend the time for them to do so the district court of a judicial district which is mutually agreeable to the municipalities shall make the appointment of the third referee. A decision of the majority of the board shall be a decision of the board. Each municipality shall pay the compensation of the referee appointed by it, and one-half of the compensation of the third referee, such compensation to be at the rate usually charged by such person for services in his profession or occupation. The hearing initiated by the notice of demand to fix new rates and charges and all proceedings in connection therewith shall be in conformity with Minnesota Statutes, Sections 15.0418 to 15.0422 and the municipality conducting the hearing is an agency as such term is used in such sections. Any party to the contract aggrieved by the decision or order made in conformity with such provisions shall be entitled to judicial review in the district court in the county in which such decision or order was made and in the manner provided in subdivision 5. The new rates and charges established by the agency upon the initial demand will continue until the proper rates and charges are finally determined, notwithstanding submission to arbitration or judicial review, but the order or judgment which finally determines legality will provide for adjustment of overpayment or underpayment, if any, during the period after the new rates and charges were initially fixed.

All records of any municipality relating to such rates and charges shall be available at all reasonable times for examination by any municipality.

Subd. 5. Any party to the contract aggrieved by a decision or order shall be entitled to judicial review thereof by serving a petition therefor upon the municipality making the decision or order, and filing the same with proof of service in the office of the clerk of such court, all within 30 days after the decision or order has been made and the parties notified thereof. The petition shall state the nature of the petitioner's interest, and the ground or grounds upon which the petitioner contends the decision or order should be reversed or modified. The petition may be amended by leave of court, though the time for serving the same has expired.

Within 20 days after service of such petition for review, the municipality shall serve upon the petitioner an answer stating its position with reference to the reversal or modification of the order or decision under review. Such answer with proof of service thereof shall be filed with the clerk of the district court within ten days after such service. No further pleadings shall be necessary. The review shall be noticed for trial as in the case of a civil action and shall take precedence over other civil cases for trial.

The institution of the proceeding for review shall not stay enforcement of the order or decision, but the court may order a stay upon such terms as it deems proper.

Within 30 days after service of the petition for review upon the municipality, or within such further time as the court may allow, the municipality shall transmit to the court the original or a certified copy of the entire record of the proceedings in which such order or decision under review was made, but by stipulation of the parties to the review proceeding, the record may be shortened by eliminating any portion thereof. The record may be typewritten or printed and the exhibits may be typewritten, photostated or otherwise reproduced, or upon motion of any party, or by order of the court, the original exhibits shall accompany the record. The court may require or permit substantial corrections or additions to the record when deemed desirable.

If before the date set for trial an application is made to the court for leave to present additional evidence on the issues in the case, and it is shown to the satisfaction of the court that the additional evidence is material, the court may order that such additional evidence be taken upon such terms as the court may deem proper.

The review shall be conducted by the court without a jury and the court may affirm, reverse or modify the order or decision if the substantial rights of the petitioner have been prejudiced as a result of such order or decision being:

- (a) Contrary to constitutional rights or privileges; or
- (b) In excess of the statutory authority or jurisdiction of the agency, or affected by other error of law; or
- (c) Made or promulgated upon unlawful procedure; or
- (d) Unsupported by substantial evidence in view of the entire record as submitted; or
- (e) Arbitrary or capricious.

Any party may appeal from the final judgment of the district court to the supreme court in the manner provided by law for other appeals in civil actions.

No party to the review in any court is entitled to recover therein costs or attorney's fees or witness fees or any other disbursement.

Subd. 6. All rates and charges shall be reasonable and shall be sufficient to compensate for all costs of devoting the sewage disposal plant, equipment, its collector system, and personnel to the accomplishment of the purpose of the service to be rendered but shall not include profit. When the sewer system of any municipality or any part thereof is devoted to the use of another municipality, all charges for such use shall be reasonable and shall be sufficient to compensate for all costs of such use, but shall not include profit.

Subd. 7. Nothing in subdivision 4 shall preclude the fixing of rates and charges by agreement of the parties under subdivision 3.

Subd. 8. Any case referred to the commissioner under this section may be remanded to the agency as provided in section 115.48, subdivision 5.

[1963 c 874 s 11; 1969 c 9 s 21]

115.50 TOWNS, POWERS TO ACT. For the purposes of carrying out the policy and purposes of Laws 1963, Chapter 874, and of Minnesota Statutes, Sections 115.01 to 115.09, there is hereby conferred upon all towns of this state the power and authority to construct, install, acquire, maintain and operate disposal systems and parts thereof, and to levy taxes, and special assessments, to issue bonds and to do all other things necessary or convenient for such construction, installation, acquisition, maintenance and operation in the same manner and extent and subject to the same limitations as villages.

[1963 c 874 s 12]

115.51 ENFORCEMENT OF CONTRACTS BETWEEN MUNICIPALITIES. The provisions of any contract between two or more municipalities for any purpose relating to the prevention, control, or abatement of pollution, whether now in force or hereafter consummated as provided in section 115.49 or otherwise, may be enforced by action to compel performance brought by any municipality which is a party to the contract or by the attorney general in the name of the state at the request of the agency. In any such action the court shall have like powers as provided in section 115.47, subdivision 2, for enforcement of an order of the agency.

[1963 c 874 s 13; 1969 c 9 s 21]

115.52 SEVERABILITY. The provisions of Laws 1963, Chapter 874 shall be severable and the invalidity of any section or subdivision or part thereof shall not make void any other section or subdivision or part thereof.

[1963 c 874 s 14]

115.53 MODIFICATION OF CLASSIFICATION OR STANDARDS. In any case where the agency has heretofore adopted and established a classification or standards for any waters as then provided by law, the agency, at any hearing held pursuant to the provisions of this section for the purpose of modification, alteration, or amendment of such classification or standards or the adoption and establishment of any classification or standards for the same waters or any part thereof as required by Laws 1963, Chapter 874, may receive and consider for any such purpose any testimony received at such previous hearing, as reported in the stenographic transcript thereof, and any exhibits received at such previous hearing, which are relevant, with like force and effect and subject to like objections, if any, as if such testimony or exhibits had been produced at the hearing hereunder, together with any further testimony or exhibits which may be submitted and received at the hearing hereunder.

[1963 c 874 s 15; 1969 c 9 s 21]

REGIONAL SANITARY SEWER DISTRICTS

115.61 AUTHORITY OF DISTRICT. A sanitary sewer district, when created as contemplated by sections 115.61 to 115.67, shall be a municipal corporation and governmental subdivision of the state, responsible for acquiring, constructing, improving, extending, operating, and maintaining facilities for the collection, treatment, and disposal of sewage and industrial and other wastes received from the sewer systems of all municipalities within its corporate limits, for the purpose of preventing pollution of public waters in excess of such reasonable standards of purity and quality as may be established by state regulatory agencies pursuant to law. For this purpose it shall have perpetual succession; may sue and be sued; may acquire real and personal property, including easements, within or outside its corporate limits, by purchase, gift, devise, condemnation, lease, or otherwise, which property, while held, used, or occupied by it, shall be exempt from taxation; may manage, control, sell, convey, lease, and otherwise dispose of such property; may make contracts, borrow money, issue bonds, levy taxes and special assessments, and establish and collect charges for services furnished or made available; and may exercise all powers granted any municipality by Minnesota Statutes, Chapters 117, 412, 429, and 475, Sections 471.59 and 444.075, and Section 115.46, and, without limitation by the foregoing, all municipal power necessary or expedient to accomplish said purpose, whether or not necessarily implied from any power herein expressly granted.

[1965 c 895 s 1]

115.62 BOARD; MEMBERSHIP; TERM; QUORUM; OFFICERS; COMPENSATION. All powers of the district shall be exercised by or under authority of

resolutions of its board of directors, consisting of one member appointed by the governing body of each municipality situated wholly or partly within its corporate limits, who may but need not be a member of that governing body. The term of each member shall extend to January 1 in the year following his appointment, or until his successor is appointed and qualified, or until his earlier death, disability, or absence of more than 90 days from his municipality. Any resolution may be passed by a majority of the votes cast thereon at a meeting attended by a majority of the members of the board, unless a larger majority or further notice is required by its by-laws, which shall be adopted or amended only by the vote of a majority of all members of the board. The board shall elect a president and vice-president at its first meeting in each year, to serve until the following January 1 or until their respective successors are selected and qualify. Each member of the board shall be reimbursed for his actual and necessary expense in the performance of his duty and may receive compensation in an amount determined by the board to be reasonable, not exceeding \$25 per day or part thereof for each meeting and not exceeding \$1,000 in any one year.

[1965 c 895 s 2]

115.63 MANAGER, AUTHORITY; EMPLOYEES. The chief executive officer of the district shall be a manager who shall be chosen by the board of directors and hold office on the same basis, possess the same qualifications, and have the same powers and duties with reference to the management of the affairs of the district, as the manager of a village under Minnesota Statutes, Sections 412.641 to 412.751, except that all appointments of subordinate officers and employees and all employment of professional consultants shall be subject to approval by the board. The district shall comply with the provisions of Minnesota Statutes, Chapter 353 to permit membership of the manager and all employees in the public employees retirement association.

[1965 c 895 s 3]

115.64 ACQUISITION OF PROPERTY. The acquisition and use of real and personal property by a district created as herein contemplated shall not be subject to restriction or control by any other local government or authority, except by the exercise of police powers under Minnesota Statutes, Section 169.04.

[1965 c 895 s 4]

115.65 PURPOSE; DUTIES OF DISTRICT; ANNEXATION OF TERRITORY. Sanitary sewer districts may be created by or under authority of laws referring to sections 115.61 to 115.67 and enumerating the cities, villages, boroughs, or towns, or portions thereof, which are or may be included therein. The purpose of sections 115.61 to 115.67 is to provide a method by which municipalities in a drainage area designated by law may join together to prevent water pollution in excess of reasonable standards in that area. Each district created as contemplated herein shall be responsible for planning collection, treatment, and disposal facilities for all municipalities in its drainage area, whether or not initially included within its boundaries. Any municipality, by resolution adopted by a majority of all members of its governing body, may request the annexation of all or part of its territory to the district, and the annexation shall become effective when approved by resolution adopted by a majority of all members of the board of directors of the district with the approval of the Minnesota pollution control agency, or by order of the Minnesota pollution control agency made under authority of Laws 1963, Chapter 874. Nothing in sections 115.61 to 115.67 shall be construed as abrogating any statutory authority or responsibility of the Minnesota pollution control agency. All territory annexed shall be subject to taxation by the district like other property within its boundaries for the support of its facilities and for the payment of principal and interest thereafter becoming due on its indebtedness, whether authorized or incurred before or after the annexation.

[1965 c 895 s 5; 1969 c 9 s 21]

115.66 SEVERABILITY. If any provision of sections 115.61 to 115.67 or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or applications of sections 115.61 to 115.67 which can be given effect without the invalid provision or application, and to this end the provisions of sections 115.61 to 115.67 and the various applications thereof are declared to be severable.

[1965 c 895 s 6]

115.67 CITATION. Sections 115.61 to 115.67 may be cited as the "Regional Sanitary Sewer District Law".

[1965 c 895 s 7]

CLASSIFICATION OF WATER SUPPLY AND WASTE WATER TREATMENT FACILITIES

115.71 DEFINITIONS. Subdivision 1. As used in sections 115.71 to 115.82, the terms defined in this section have the meanings given them.

Subd. 2. "Secretary" means the secretary and executive officer of the state board of health.

Subd. 3. "Director" means the director of the Minnesota pollution control agency.

Subd. 4. "Board" means the board of certification established by section 115.74.

Subd. 5. "Water certificate" means a certificate of competency issued by the secretary stating that the water supply system operator has met the requirements for the specified operator classification of the certification program.

Subd. 6. "Wastewater certificate" means a certificate of competency issued by the director stating that the wastewater treatment facility operator has met the requirements for the specified operator classification of the certification program.

Subd. 7. "Water supply system" means the facilities, including the source, for the collection, conditioning, purification and distribution of water for use by the public or for the use of any considerable number of persons.

Subd. 8. "Wastewater treatment facility" means any plant, disposal field, lagoon, or other works not specifically mentioned herein, installed for the purpose of collecting, pumping, treating, stabilizing or disposing of sewage, as defined in section 115.01, subdivision 2, which is actually used or intended for use by the public or by any considerable number of persons.

Subd. 9. "Water supply system operator" means a person who has direct responsibility for the operation of a water supply system or such parts of the system as would affect the quality and safety of the water.

Subd. 10. "Wastewater treatment facility operator" means a person who has direct responsibility for the operation of a wastewater treatment facility.

[1971 c 828 s 1]

115.72 CLASSIFICATION. Subdivision 1. The secretary shall classify all water supply systems actually used or intended for use by the public or by any considerable number of persons. The classes shall be based on the degree of hazard to public health together with the type and loading of plant and the population affected.

Subd. 2. The director shall classify all wastewater treatment facilities actually used or intended for use by the public or by any considerable number of persons. The classes shall be based on the degree of hazard to public health together with the type and loading of plant and the population served or the average population equivalent of the sewage handled.

[1971 c 828 s 2]

115.73 CERTIFICATION. The secretary and the director shall certify water supply system operators and wastewater treatment facility operators, respectively, as to their qualifications to supervise the operation of water supply systems and wastewater treatment facilities based upon the recommendation of the board.

[1971 c 828 s 3]

115.74 BOARD OF CERTIFICATION. Subdivision 1. The board of certification shall be composed of six members. The governor shall appoint four members as follows: A currently employed water supply system operator holding a valid certificate issued by the secretary; a currently employed wastewater treatment facility operator holding a valid certificate issued by the director; a university or college faculty member whose major field is related to water supply or wastewater collection and treatment; and a representative of the league of Minnesota municipalities. The remainder of the board shall be composed of the following persons: A representative of the state department of health who is either the director of the division of environmental health or a qualified member of his staff; the director of the Minnesota pollution control agency or a qualified mem-

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ber of his staff. In the case of the first board, the appointments of a water supply system operator and a wastewater treatment facility operator shall be made from currently employed operators holding valid certificates under the voluntary certification program administered by the state department of health and the Minnesota pollution control agency.

Subd. 2. Each member of the board, with the exception of the ex officio members from the state department of health and the Minnesota pollution control agency, shall be appointed for a three year term, except that in the case of the initial appointments the representative of the league of Minnesota municipalities shall be appointed for one year, both operators for two years, and the faculty member for three years. The ex officio members shall serve for indefinite terms. Vacancies shall be filled by appointment pursuant to subdivision 1 of this section and shall be for the unexpired term.

Subd. 3. Members of the first board, at the call of the governor, shall organize and elect from their number a chairman and a vice chairman. The ex officio members shall not serve as chairman but shall otherwise have the same rights and duties as the other members, including, but not limited to, the right to vote. Thereafter, annually when new members are appointed to the board a chairman shall be elected at the next board meeting. The state department of health representative or other representative designated by the board shall serve as secretary of the board, except that the secretary shall be responsible for maintaining records relating to certification of water supply system operators and the Minnesota pollution control agency shall be responsible for maintaining records relating to certification of wastewater treatment facility operators.

Subd. 4. The board shall cause at least one examination to be held each year for the purpose of examining candidates for certification at a time and place designated by the board. Those applicants whose competency is acceptable to the board shall be recommended to the secretary or the director for certification. Additional meetings may be called by the chairman as may be necessary to carry out the provisions of sections 115.71 to 115.82. Four members shall constitute a quorum.

Subd. 5. The members of the board shall serve without compensation except for their actual and necessary expenses incurred while discharging their official duties. The cost of such expense reimbursements shall be shared equally by the department of health and the Minnesota pollution control agency.

[1971 c 828 s 4]

115.75 OPERATOR CERTIFICATES. Subdivision 1. The secretary and the director shall upon recommendation of the board issue certificates to water supply system operators and wastewater treatment facility operators respectively, attesting to the competency of the operators. The certificate shall indicate the classification of the system or facility which the operator is qualified to supervise.

Subd. 2. Certificates shall be prominently displayed in the office of the operator or other appropriate place on the premises of the plant or treatment facility.

Subd. 3. Certificates shall continue in effect for a period of three years unless revoked by the secretary or the director prior to that time. Certificates may be renewed upon application to the secretary or director.

Subd. 4. The secretary and the director may revoke the certificate of any operator under their respective jurisdictions following a hearing before the secretary or director or his designated representative, when it is found that the operator has practiced fraud, or deception; that the operator was guilty of gross negligence or misconduct in the performance of his duties; or that the operator is incompetent or unable properly to perform his duties.

Subd. 5. The certificates of operators who terminate their employment at a water supply system or wastewater treatment facility will remain valid for the unexpired term of the certificate. Operators whose certificates expire under this section may be issued new certificates of a like classification provided appropriate proof of competency is presented to the board. Successful completion of an examination may be required at the discretion of the board.

[1971 c 828 s 5]

115.76 CERTIFICATES GIVEN WITHOUT EXAMINATION. The secretary in the case of water supply system operators and the director, in the case of waste-

water treatment facility operators, upon application therefor, and recommendation of the board, may issue certificates without examination, in a comparable classification to any person who holds a certificate in any state, territory, or possession of the United States or any country, providing the requirements for certification of operators under which the person's certificate was issued do not conflict with the provisions of sections 115.71 to 115.82 and are of a standard not lower than that specified by regulations adopted under sections 115.71 to 115.82.

[1971 c 828 s 6]

115.77 FEES. Subdivision 1. **Establishment of fee schedule.** The board with the advice and approval of the state department of health and the Minnesota pollution control agency shall establish a schedule of fees for the filing of applications and the issuance of certificates by an appropriate rule promulgated in accordance with applicable state laws. The fees so established shall be reasonable and shall be related to the actual cost of the certification program.

Subd. 2. **Fees paid to state treasurer.** All fees established pursuant to subdivision 1 shall be paid to the state department of health in the case of water supply system operators and to the Minnesota pollution control agency in the case of wastewater treatment facility operators. The fees received by these agencies shall be deposited in the state treasury.

[1971 c 828 s 7]

115.78 ISSUANCE OF CERTIFICATION. Subdivision 1. Certificates in appropriate classifications shall be issued to operators who, on July 1, 1971, hold certificates of competency attained by examination under the voluntary certification program now being administered by the state department of health and the Minnesota pollution control agency.

Subd. 2. Certificates of proper classification may be issued upon application and without examination to the person or persons certified by the governing body or owner to have been in direct responsible charge of the water supply system or wastewater treatment facility on July 1, 1972. A certificate so issued will be valid only for that particular water supply system or wastewater treatment facility.

[1971 c 828 s 8]

115.79 POWER OF THE BOARD. The board, with the advice and approval of the state department of health and the Minnesota pollution control agency, and in accordance with any other appropriate state laws shall make such rules and regulations as are necessary to carry out the intent of sections 115.71 to 115.82. The rules and regulations shall include but are not limited to, provisions establishing the bases for classification of water supply systems and wastewater treatment facilities in accordance with section 115.72 and provisions establishing qualifications of applicants and procedures for examination of candidates and such other provisions as are necessary for the administration of sections 115.71 to 115.82.

[1971 c 828 s 9]

115.80 VIOLATION DATE. On or after July 1, 1972, it shall be unlawful for any person, firm, or corporation, either municipal or private, operating a water supply system or wastewater treatment facility which serves the public or any considerable number of persons to operate same unless the competency of the operator is duly certified to by the secretary or the director under provisions of sections 115.71 to 115.82. Furthermore, it shall be unlawful for any person to perform the duties of an operator without being duly certified under the provisions of sections 115.71 to 115.82.

[1971 c 828 s 10]

115.81 VIOLATION A MISDEMEANOR. Any person, firm, or corporation, either municipal or private, violating any provisions of sections 115.71 to 115.82 or the rules and regulations adopted thereunder is guilty of a misdemeanor. Each day of operation in violation of sections 115.71 to 115.82 or any rules and regulations adopted thereunder shall constitute a separate offense.

[1971 c 828 s 11]

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115.82 VOLUNTARY CERTIFICATION TO CONTINUE. The voluntary certification program now being administered by the state department of health and the Minnesota pollution control agency may continue to certify water supply system operators and wastewater treatment facility operators until such time as the board of certification created by sections 115.71 to 115.82 terminates said voluntary certification program.

[1971 c 828 s 12]