

**115.49 WATER POLLUTION CONTROL; SANITARY DIST.**

municipality operating the disposal system during the life of the contract. In the event of a unilateral application to the agency, the agency may, after 30 days written notice, hold a public hearing for the purpose of hearing evidence relating to the application. Pursuant to an application under this subdivision, the agency may enter its order reforming or terminating the contract, ordering a refundment of overpayment or payment of underpayment, as aforesaid, or granting any further relief that is reasonable under the circumstances. Any party aggrieved by the agency's decision may thereafter appeal to district court from the agency's order.

[1973 c 374 s 18]

**CLASSIFICATION OF WATER SUPPLY AND WASTE WATER  
TREATMENT FACILITIES**

**115.81** [Repealed, 1973 c 374 s 22]

**CHAPTER 116. POLLUTION CONTROL AGENCY**

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**116.02 Pollution control agency, creation**

[For text of subds. 1 and 2, see M.S.1971]

Subd. 3. The membership of the pollution control agency shall be broadly representative of the skills and experience necessary to effectuate the policy of sections 116.01 to 116.08, except that no member appointed shall be an officer or employee of the state or federal government. Only two members at one time may be officials or employees of a municipality or any governmental subdivision, but neither may be a member ex-officio or otherwise on the management board of a municipal sanitary sewage disposal system.

[1973 c 35 s 27]

[For text of subds. 4 and 5, see M.S.1971]

**116.03 Director**

[For text of subd. 1, see M.S.1971]

Subd. 2. The director shall organize the agency and employ such assistants and other officers, employees and agents as he may deem necessary to discharge the functions of his office, define the duties of such officers, employees and agents, and delegate to them any of his powers, duties, and responsibilities, subject to his control and under such conditions as he may prescribe. The director may also contract with persons, firms, corporations, the federal government and any agency or instrumentality thereof, the water research center of the university of Minnesota or any other instrumentality of such university, for doing any of the work of his office, and none of the provisions of chapter 16, relating to bids, shall apply to such contracts. All personnel employed and all contracts entered into pursuant to this subdivision shall be subject to the approval of the pollution control agency. Agreements to exercise delegated powers shall be by written order filed with the secretary of state. An employee of the state board of health engaged in environmental sanitation work may transfer to the pollution control agency with the approval of the director. Under such

a transfer the employee shall be assigned to a position of similar responsibility and pay without loss of seniority, vacation, sick leave, or other benefits under the state civil service act.

[1973 c 35 s 28]

[For text of subds. 3 to 6, see M.S.1971]

#### 116.05 Cooperation

Subdivision 1. All state departments and agencies are hereby directed to cooperate with the pollution control agency and its director and assist them in the performance of their duties, and are authorized to enter into necessary agreements with the agency, and the pollution control agency is authorized to cooperate and to enter into necessary agreements with other departments and agencies of the state, with municipalities, with other states, with the federal government and its agencies and instrumentalities, in the public interest and in order to control pollution under this chapter and chapter 115.

[1973<sup>c</sup> 374 s 19]

[For text of subds. 2 and 3, see M.S.1971]

#### 116.06 Definitions

Subdivision 1. The definitions given in this section shall obtain for the purposes of sections 116.01 to 116.08 except as otherwise expressly provided or indicated by the context.

[1973 c 35 s 29]

[For text of subds. 2 to 12, see M.S.1971]

#### 116.07 Powers and duties

[For text of subd. 1, see M.S.1971]

**Subd. 2. Adoption of standards.** The pollution control agency shall improve air quality by promoting, in the most practicable way possible, the use of energy sources and waste disposal methods which produce or emit the least air contaminants consistent with the agency's overall goal of reducing all forms of pollution. The agency shall also adopt standards of air quality, including maximum allowable standards of emission of air contaminants from motor vehicles, recognizing that due to variable factors, no single standard of purity of air is applicable to all areas of the state. In adopting standards the pollution control agency shall give due recognition to the fact that the quantity or characteristics of air contaminants or the duration of their presence in the atmosphere, which may cause air pollution in one area of the state, may cause less or not cause any air pollution in another area of the state, and it shall take into consideration in this connection such factors, including others which it may deem proper, as existing physical conditions, zoning classifications, topography, prevailing wind directions and velocities, and the fact that a standard of air quality which may be proper as to an essentially residential area of the state, may not be proper as to a highly developed industrial area of the state. Such standards of air quality shall be premised upon scientific knowledge of causes as well as effects based on technically substantiated criteria and commonly accepted practices. No local government unit shall set standards of air quality which are more stringent than those set by the pollution control agency.

The pollution control agency shall promote solid waste disposal control by encouraging the updating of collection systems, elimination of open dumps, and improvements in incinerator practices. The agency shall also adopt standards for the control of the collection, transportation and disposal of solid waste for the prevention and abatement of water, air and land pollution, recognizing that due to variable factors, no single standard of solid waste control is applicable to all areas of the state. In adopting standards, the pollution control agency shall give due recognition to the fact that elements of control which may be reasonable and proper in densely populated areas of the

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state may be unreasonable and improper in sparsely populated or remote areas of the state, and it shall take into consideration in this connection such factors, including others which it may deem proper, as existing physical conditions, topography, soils and geology, climate, transportation, and land use. Such standards of solid waste control shall be premised on technical criteria and commonly accepted practices.

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

[1973 c 412 s 13]

[For text of subds. 3 and 4, see M.S.1971]

**Subd. 5. Variances.** The pollution control agency may after public hearing grant variances from the requirements of regulations or standards upon such procedure and conditions as it may by regulation prescribe in order to avoid undue hardship and promote the effective and reasonable application and enforcement of laws, regulations, and standards for prevention, abatement and control of water, air, noise, and land pollution, provided that no public hearing shall be required for variances from feed lot regulations and standards relating to family farm and family farm corporation buildings used for the raising of livestock, poultry and other animals in which the animals and waste are confined. Notice of said public hearing shall be given as provided in section 15.0412, subdivision 4.

No local government unit authorized by contract with the pollution control agency pursuant to section 116.05 to exercise administrative powers under this chapter shall grant variances from any law, ordinance, regulation, or standard for prevention, abatement, or control of water, air, noise and land pollution, adopted pursuant to said administrative powers and under the provisions of this chapter, except after notice and public hearing in accordance with Laws 1973, Chapter 733.

[1973 c 733 s 1]

[For text of subd. 6, see M.S.1971]

**Subd. 7. Counties; processing of applications for animal lot permits.** Any Minnesota county board may, by resolution, with approval of the pollution control agency, assume responsibility for processing applications for such permits as may be required by the pollution control agency under this section for livestock feedlots, poultry lots or other animal lots. The responsibility for such permit application processing, if assumed by a county, may be delegated by the county board to any appropriate county officer or employee.

For the purposes of this subdivision, the term "processing" shall include:

(a) The distribution to applicants of forms provided by the pollution control agency;

(b) The receipt and examination of completed application forms, and the certification, in writing, to the pollution control agency either that the animal lot facility for which a permit is sought by an applicant will comply with applicable regulations and standards, or, if such facility will not comply, the respects in which a variance would be required for the issuance of a permit; and

(c) Rendering to applicants, upon request, such assistance as may be necessary for the proper completion of an application.

For the purposes of this subdivision, the term "processing" may include, at the option of the county board:

(d) Issuing, denying, modifying, imposing conditions upon, or revoking permits pursuant to the provisions of this section or regulations promulgated hereunder, subject to review, suspension, and reversal by the pollution control agency. The pollution control agency shall after written notification have 15 days to review, suspend, modify, or reverse the issuance of the permit. After this period, the action of the county board shall be final, subject to appeal to the district court as provided in section 115.05.

The pollution control agency, by January 1, 1974, and in the manner provided by chapter 15, shall adopt rules governing the issuance and denial of permits for livestock feedlots, poultry lots or other animal lots pursuant to this section. These rules shall apply both to permits issued by counties and to permits issued by the pollution control agency directly.

The pollution control agency shall exercise supervising authority with respect to the processing of animal lot permit applications by a county.

[1973 c 573 s 1]

#### **116.075    Hearings and records public**

Subdivision 1. All hearings conducted by the pollution control agency pursuant to chapters 115 and 116 shall be open to the public, and the transcripts thereof are public records. All final records, studies, reports, orders, and other documents prepared in final form by order of, or for the consideration of, the agency, are public records. Any documents designated as public records by this section may be inspected by members of the public at all reasonable hours and places under such rules and regulations as the agency shall promulgate.

Subd. 2. Any records or other information obtained by the pollution control agency or furnished to the agency by the owner or operator of one or more air contaminant or water or land pollution sources which are certified by said owner or operator, and said certification, as it applies to water pollution sources, is approved in writing by the director, to relate to (a) sales figures, (b) processes or methods of production unique to the owner or operator, or (c) information which would tend to affect adversely the competitive position of said owner or operator, shall be only for the confidential use of the agency in discharging its statutory obligations, unless otherwise specifically authorized by said owner or operator. Provided, however that all such information may be used by the agency in compiling or publishing analyses or summaries relating to the general condition of the state's water, air and land resources so long as such analyses or summaries do not identify any owner or operator who has so certified. Notwithstanding the foregoing, the agency may disclose any information, whether or not otherwise considered confidential which it is obligated to disclose in order to comply with federal law and regulations, to the extent and for the purpose of such federally required disclosure.

[1973 c 374 s 20]

**116.08    [Repealed, 1973 c 374 s 22]**

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## 116.11 Emergency powers

In the event that there is imminent and substantial danger to the health and welfare of the people of the state, or of any part thereof, as a result of the pollution of air, land or water; upon such finding, the agency may by emergency order direct the immediate discontinuance or abatement of such pollution without notice and without a hearing or at the request of the agency, the attorney general of the state may bring an action in the name of the state in the appropriate district court for a temporary restraining order to immediately abate or prevent such pollution. Such agency order or temporary restraining order shall remain effective until notice, hearing and determination are effected pursuant to other provisions of law, or, in the interim, as otherwise ordered. Such agency order shall be appealable to the appropriate district court and the provisions of chapter 15 shall govern the procedure and scope of review on such appeal.

[1973 c 374 s 21]

116.15 [Repealed, 1973 c 423 s 10]

## 116.16 Minnesota state water pollution control fund

[For text of subd. 1, see M.S.1971]

## Subd. 2. Definitions. In this section and section 116.17:

(1) Agency means the Minnesota pollution control agency created by chapter 116;

(2) Municipality means any county, city, village, borough, and town, the metropolitan sewer board created by chapter 473C and the metropolitan council when acting under the provisions of that chapter or an Indian tribe or an authorized Indian tribal organization, and any other governmental subdivision of the state responsible by law for the prevention, control, and abatement of water pollution in any area of the state;

(3) Pollution control fund means the Minnesota state water pollution control fund created by subdivision 1;

(4) Bond account means the Minnesota state water pollution control bond account created in the state bond fund by section 116.17, subdivision 4;

(5) Terms defined in section 115.01 have the meanings therein given them;

(6) The eligible cost of any municipal project, except as otherwise provided in clause (7), includes (a) preliminary planning to determine the economic, engineering, and environmental feasibility of the project; (b) engineering, architectural, legal, fiscal, economic, sociological, project administrative costs of the agency and the municipality, and other investigations and studies; (c) surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary to the planning, design, and construction of the project; (d) erection, building, acquisition, alteration, remodeling, improvement, and extension of disposal systems; (e) inspection and supervision of construction; and (f) all other expenses of the kinds enumerated in section 475.65.

(7) For state grant purposes hereunder, the eligible cost for grant applicants shall be the eligible cost as determined by the United States environmental protection agency under the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1314 et seq.

[1973 c 423 s 1]

**Subd. 3. Receipts.** The state auditor and treasurer shall deposit in the fund as received (a) all proceeds of Minnesota water pollution control bonds, except accrued interest and premiums received upon the sale thereof, (b) all other money appropriated by law for purposes stated in subdivision 1, (c) all money granted to the state for such purposes by the federal government or any agency thereof, and (d) all money appropriated to the agency by section 116.15, subdivision 5, and not yet expended or committed. All such receipts are annually appropriated for the permanent construction and improvement

purposes of the fund, and shall be and remain available for expenditure in accordance with this section and federal law until the purposes for which such appropriations were made have been accomplished or abandoned.

[1973 c 423 s 2]

**Subd. 4. Disbursements.** Disbursements from the fund shall be made by the state treasurer upon order of the state auditor at the times and in the amounts requested by the agency in accordance with the federal laws and regulations and the state appropriation acts governing such disbursements; except that no appropriation or loan of state funds for any project shall be disbursed to any municipality until and unless the agency has by resolution determined the total estimated cost of the project, and ascertained that financing of the project is assured by:

- (1) A grant to the municipality by an agency of the federal government within the amount of funds then appropriated to that agency and allocated by it to projects within the state; or
- (2) A grant of funds appropriated by state law; or
- (3) A loan authorized by state law; or
- (4) The appropriation of proceeds of bonds or other funds of the municipality to a fund for the construction of the project; or
- (5) Any or all of the means referred to in paragraphs (1) to (4); and
- (6) An irrevocable undertaking, by resolution of the governing body of the municipality, to use all funds so made available exclusively for the construction of the project, and to pay any additional amount by which the cost of the project exceeds the estimate, by the appropriation to the construction fund of additional municipal funds or the proceeds of additional bonds to be issued by the municipality; and
- (7) Conformity of the project and of the loan or grant application with the state water pollution control plan as certified to the federal government and with all other conditions under federal laws and regulations for a grant of federal funds of the nature and in the amount involved.

[1973 c 423 s 3]

[For text of subd. 5, see M.S.1971]

**Subd. 6. Priorities.** The rules of the agency shall provide that a high priority shall be given to applications from municipalities which because of limited tax base, excessive bonded indebtedness, or critical conditions of water pollution requiring agency action pursuant to law, would face extreme financial hardship without the assistance provided through the state water pollution control fund, and to applications from sanitary districts or for systems to be constructed to serve more than one municipality. The rules shall contain criteria relating to:

- (1) The extent and nature of pollution,
- (2) Per capita costs of the proposed projects,
- (3) Financial capability of the municipality,
- (4) The technological feasibility of the project, and
- (5) The adequacy of provision made to assure proper and efficient operation and maintenance of the project after the construction is completed.

[1973 c 423 s 4]

**Subd. 7. Determination of priorities by director.** Notwithstanding any other provision in subdivision 6 to the contrary, the director may, as necessary to establish priorities for applications submitted for federal disposal system construction grant assistance under the Federal Water Pollution Control Act, as amended, and regulations and guidelines of the United States environmental protection agency promulgated pursuant thereto, establish such cri-

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teria for determining priorities upon a basis other than that provided herein to the extent required to comply with said federal act, guidelines and regulations, or resulting therefrom.

[1973 c 423 s 5]

[For text of subd. 8, see M.S.1971]

**Subd. 9. Applications.** Applications by municipalities for grants or loans from the fund shall be made to the director of the agency on forms requiring information prescribed by rules of the agency. The director shall certify to the agency those applications which appear to meet the criteria set forth in sections 116.16 to 116.18 and the rules promulgated hereunder, and the agency shall award grants or loans on the basis of the criteria and priorities established in its rules and in sections 116.16 to 116.18.

[1973 c 423 s 6]

**116.17 Minnesota state water pollution control bonds**

[For text of subds. 1 to 4, see M.S.1971]

**Subd. 5. Appropriations to bond account.** The premium and accrued interest received on each issue of Minnesota state water pollution control bonds, and all loan payments received under the provisions of section 116.16, subdivision 5, shall be credited to the bond account. All income from the investment of the Minnesota state water pollution control fund, shall be credited to the bond account identified in Minnesota Statutes 1971, Section 116.16. In order to reduce the amount of taxes otherwise required to be levied, there shall also be credited to the bond account therein from the general fund in the state treasury, on November 1 in each year, a sum of money sufficient in amount, when added to the balance then on hand therein, to pay all Minnesota water pollution control bonds and interest thereon due and to become due to and including July 1 in the second ensuing year. All money so credited and all income from the investment thereof is annually appropriated to the bond account for the payment of such bonds and interest thereon, and shall be available in the bond account prior to the levy of the tax in any year required by the Constitution, Article IX, Section 6, Subdivision 4. The state auditor and treasurer are directed to make the appropriate entries in the accounts of the respective funds.

[1973 c 423 s 7]

[For text of subd. 6, see M.S.1971]

**116.18 Water pollution control fund; appropriations and bonds**

**Subdivision 1. Appropriation from the fund.** The sum of \$55,000,000, or so much thereof as may be necessary, is appropriated from the Minnesota state water pollution control fund in the state treasury to the pollution control agency, for the period commencing on July 23, 1971 and ending June 30, 1975, to be granted and disbursed to municipalities and agencies of the state in aid of the construction of projects conforming to section 116.16, in accordance with the rules, priorities, and criteria therein described. Except as otherwise provided in subdivision 2, these state funds shall be expended at 15 percentum of the eligible cost of construction and shall be expended only for projects tendered a grant of federal funds under section 201(g), section 202, section 203 or section 206(f) of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1314 et seq., at 75 percentum of the eligible cost for construction of the treatment works; provided, that not less than 10 percent of such cost shall be paid by the municipality or agency constructing the project. In the event that a municipality is tendered such federal and state grants in a percentage cumulatively exceeding 90 percentum of the eligible cost of construction, the state pollution control agency shall reduce the grant to such municipality under this chapter to the extent necessary to assure that not less than 10 percent of such costs shall be paid by said municipality. It is the purpose of this appropriation that a grant of state funds for each project approved in each of the fiscal years ending June 30, 1971, 1972, 1973,

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1974, and 1975 shall be made in an amount not less than that required in federal law and regulations as a condition for the grant of federal funds for the project and for all other water pollution control projects for which federal grants are allocated in the same year, in the maximum amount permissible under such law and regulations.

Notwithstanding any other provision, the agency may, in its discretion, and after consideration of the amount of state funds required to match federal funds, make a grant of state funds not exceeding 25 percentum to a municipality that would qualify for a grant of federal funds but desires to initiate construction of a project without a federal grant where such project is necessary to abate an immediate health hazard. The agency may limit the scope and eligible cost of such project.

[1973 c 423 s 8; 1973 c 771 s 1]

**Subd. 2. Additional purposes of appropriation.** If the pollution control agency, acting in accordance with section 116.16, subdivision 4 and rules promulgated by the agency establishing criteria for financial hardship cases, determines that the prevention, control, and abatement of water pollution and the public health of the state requires the construction of a project by a municipality or agency that is unable to provide 10 percent of the eligible cost thereof, the funds appropriated in subdivision 1 may be expended to reduce or eliminate its contribution to the eligible cost.

[1973 c 423 s 9]

**Subd. 3.** [Repealed, 1973 c 423 s 10]

**Subd. 4. Bond authorization.** For the purpose of providing money appropriated in subdivision 1 for expenditure from the Minnesota state water pollution control fund through grants to municipalities and agencies of the state for the acquisition and betterment of public land, buildings, and improvements of a capital nature needed for the prevention, control, and abatement of water pollution, including reimbursement of amounts expended from the general fund for this purpose, the state auditor is authorized upon request of the pollution control agency to sell and issue Minnesota state water pollution control bonds in the amount of \$55,000,000, in the manner and upon the conditions prescribed in section 116.17 and in the Constitution, Article IX, Section 6. The proceeds of such bonds, except as provided in section 116.17, subdivision 5, are appropriated and shall be credited to the Minnesota state water pollution control fund. The amount of bonds issued pursuant to this authorization shall not exceed at any time the amount needed to produce a balance in the water pollution control fund equal to the aggregate amount of grants then approved and not previously disbursed, plus the amount of such grants to be approved in the current and the following fiscal year, as estimated by the pollution control agency.

[1973 c 771 s 2]

[For text of subds. 5 and 6, see M.S.1971]

116.30 [Repealed, 1973 c 374 s 22]

116.31 [Repealed, 1973 c 374 s 22]

**116.41 Solid waste disposal facilities; classification; training and certification of operators**

**Subdivision 1. Classification.** The pollution control agency may classify facilities for the disposal of solid waste according to the degree of hazard to public health or the environment involved in their operation, and according to the volume or hazardous character of solid waste disposed of at the facility. The agency may develop standards of competence for persons operating various classes of facilities for the disposal of solid waste.

**Subd. 2. Training programs.** The agency may conduct training programs for persons operating facilities for the disposal of solid waste, and may charge such fees as are necessary to cover the actual costs of the training programs.



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

**Subd. 4. Regulations.** The agency may adopt, amend, and rescind such rules and regulations as may be necessary to carry out the provisions of this section.

[1973 c 646 s 1]

CHAPTER 116A. PUBLIC WATER AND  
SEWER SYSTEMS

Sec.		Sec.	
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116A.16	Apportionment of cost.		
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116A.18	Supplemental assessments; re-assessment.		

116A.01 Powers of county boards and of district courts

**Subdivision 1. Generally.** The county boards of the several counties except counties in the seven county metropolitan area, and the district courts are authorized to make, with respect to any area of the county or judicial district not organized into cities or villages, all necessary orders for, and cause to be constructed and maintained, public water or sewer systems or combined water and sewer systems to serve such area, including outlets, treatment plants, pumps, lift stations, service connections, mains, valves, hydrants, wells, reservoirs, tanks, and other appurtenances of public water or sewer systems.

[1973 c 407 s 1]

**Subd. 1a.** Any county board that has established a water or sewer system or combined water and sewer system under the provisions of this chapter may acquire the right to operate the system under and exercise all the rights and authority of section 444.075, instead of this chapter, upon the filing by the county board, in the office of the clerk of district court of the county, a petition to the court asking that the county board be granted such authority. The clerk of district court, as directed by the judge, shall thereupon fix a time and place for hearing upon the petition. Notice of the hearing shall be given by publication for two successive weeks in a newspaper published in the county. The clerk of district court shall give written notice of the hearing to the Minnesota pollution control agency. If at the hearing the court finds that it is for the best interests of the county board to be granted such authority, it may by order grant such petition. Thereafter the county board may operate and maintain the water or sewer system or combined water and sewer system as provided in section 444.075.

[1973 c 702 s 25]

[For text of subds. 2 and 3, see M.S.1971]

**Subd. 4. Area to be served.** The area to be served by any public water or sewer or combined system may include any part or all of the area of any city or village which by resolution of its governing body requests that its facilities be connected to the system. For the purpose of any petition filed or special