

116.41 POLLUTION CONTROL AGENCY

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

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|---------|---|---------|---|
| Sec. | | Sec. | |
| 116A.01 | Powers of county boards and of district courts. | 116A.19 | Appeals. |
| 116A.02 | Petition. | 116A.20 | Bond issues. |
| 116A.09 | Order for detailed survey. | 116A.21 | Emergency certificates of indebtedness. |
| 116A.12 | Second hearing. | 116A.22 | Service charges; a special assessment against benefited property. |
| 116A.15 | Contract and bond. | 116A.24 | Appointment and powers of water and sewer commission. |
| 116A.16 | Apportionment of cost. | | |
| 116A.17 | Assessment procedure and final hearing. | | |
| 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

PUBLIC WATER AND SEWER SYSTEMS 116A.09

assessment levied with respect to any system, the entire area to be served within any city or village shall be treated as if it were owned by a single person, and the governing body shall exercise all the rights and be subject to all the duties of an owner of the area, and shall have power to provide for the payment of all special assessments and other charges imposed upon the area with respect to the system by the appropriation of money, the collection of service charges, or the levy of taxes, which shall be deemed special levies and shall be subject to no limitation of rate or amount.

[1973 c 322 s 1]

116A.02 Petition

Subdivision 1. Form. Before any public water or sewer system or combined water and sewer system authorized by sections 116A.01 to 116A.26 is established, a petition therefor shall be filed with the county auditor, if for a system entirely within one county, or with the clerk of the district court, if for a system within two or more counties. The petition shall be signed by the owners of at least 50 percent of the area, exclusive of the holders of easements for electric or telephone transmission and distribution lines of lands described in the petition as those to be served by the proposed system, and shall state that the system will be of public benefit and utility and will promote the public health and that the petitioners will pay all costs and expenses which may be incurred in case the proceedings are dismissed or for any reason no contract for the construction thereof is let. The petition may be signed by the authorized representative of any municipal corporation or by the commissioner of highways, or the authorized agent of any public institution or any corporation which may be affected by or assessed for the proposed construction. Petitioners may employ an attorney to represent them in all proceedings pursuant to sections 116A.01 to 116A.26, and said attorney shall be compensated as ordered by the board or court.

[1973 c 322 s 2]

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

116A.09 Order for detailed survey

Upon the filing of the order as specified in section 116A.08, the board or court shall order the engineer to proceed to make a detailed survey and furnish all necessary plans and specifications for the proposed improvement, together with an estimate of the total cost of construction of the system, and report the same to the board or court with all reasonable dispatch. The cost estimate shall include the amounts payable to contractors at and prior to completion of construction in accordance with the plans and specifications; all court costs; damages payable as reported by the viewers in accordance with section 116A.11; the cost of acquisition of all lands and easements required; the cost of necessary engineering, financial, legal, and other professional service; the cost of printing, publication, and mailing of all required notices of court proceedings, hearings, and bond sales; interest estimated to accrue on money to be borrowed for the system from the date or dates of borrowing to the initial date or dates of collection of special assessments or revenues of the system sufficient to carry current interest cost; and all other items of expense incurred and estimated to be incurred in the establishment of the system from its inception to its completion. The board or court may direct the engineer to include in his report an assessment roll based upon calculation, by the county auditor or auditors with the assistance of the engineer or another qualified person selected by the board or court, of the proper amount to be specially assessed for the system against every assessable lot, piece, or parcel of land, without regard to cash valuation. The assessment roll shall be based upon the engineer's estimate of the total cost, but the board or court may direct the engineer also to calculate the expenses of operation of the system when completed, the times and numbers of connections thereto from buildings on individual lots, pieces, and parcels of land, the rates and amounts of connection charges and periodic use charges which may

116A.09 PUBLIC WATER AND SEWER SYSTEMS

be made for the use and availability of the service of the system, the net revenues, over and above the current cost of operation and maintenance, which are estimated to be available, after completion, for the payment of principal and interest on money borrowed for the system, and the amounts by which the special assessments to be collected annually may be reduced or their payment deferred if such net revenues are realized.

[1973 c 322 s 3]

116A.12 Second hearing

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

Subd. 2. Form of notice. The notice shall state the pendency of the petition, that the engineer's and viewers' reports have been filed, the time and place set for the hearing, and, if an assessment roll has been prepared in accordance with section 116A.09, that hearing will also be held on the special assessments proposed therein. The notice shall contain a brief description of the proposed system in general terms, the area proposed to be assessed, and the lands and properties damaged thereby as shown by the engineer's and viewers' reports. It shall be sufficient if the lands affected are listed in narrative form by governmental sections or otherwise.

In judicial proceedings, separate notices may be prepared, published, posted and mailed in each county affected, showing only that portion of the water or sewer system or combination thereof and the descriptions of the properties affected in the county.

[1973 c 322 s 4]

[For text of subd. 3, see M.S.1971]

Subd. 3a. Persons entitled to notice; publication. The auditor or clerk shall cause notice of the time and place of the hearing to be given to all persons interested by publication, posting and mailing. The publication shall be made no less than three weeks before the date of the hearing. A printed copy of the notice of hearing made for each county shall be posted within one week after the beginning of publication at the front door of the court house in each county. Within one week after the beginning of publication, the auditor or clerk shall give notice by mail of the time and place of the hearing to all persons, corporations, and public bodies affected by the proposed system as shown by the engineer's and viewers' reports. The notice mailed to the owner of each parcel damaged by the improvement shall describe the parcel and state the amount of the damages as ascertained by the viewers. The notice mailed to the owner of each parcel appearing on the assessment roll, if filed for hearing at this time, shall describe the parcel and state the amount of the cost potentially assessable thereto as set forth in the assessment roll. Ownership of the respective parcels shall be established as provided in section 116A.17, subdivision 1.

[1973 c 322 s 5]

[For text of subds. 4 to 6, see M.S.1971]

Subd. 7. Assessment roll; payments. If an assessment roll has been made and filed, the board or court may take action with respect thereto at the hearing or at any adjournment thereof in the manner provided in section 116A.17; provided that the board or court may permit prepayment of any assessment in full, without interest, within any stated period from the date of confirmation of the assessments, and may provide that the first installment shall be payable in the year following the expiration of such period. The board or court may in its order confirm the special assessments in the full amounts required to pay the total estimated cost of the system, as set forth in the assessment roll, or may confirm them at any fraction not less than 25 percent thereof. If special assessments are confirmed in any amount less than the total cost of the system as finally ascertained, the board or court may at any subsequent time make supplemental assessments as provided in

PUBLIC WATER AND SEWER SYSTEMS 116A.15

section 116A.18, to the full amount required to pay the total cost of the system including the principal of and interest on all bonds issued to finance the system.

[1973 c 322 s 6]

Subd. 8. Orders; special assessments. No order shall be entered confirming special assessments for any system under the provisions of this section or section 116A.17 unless it is determined that the amount of the special assessments confirmed in the order, and to be extended upon the tax rolls in each year of the term of any bonds issued to finance the system, together with interest payable on such assessments and net revenues to be received in excess of the cost of operation of the system during the same period, will be sufficient to pay all of such bonds and interest thereon when due. The board or court may make this determination in the order establishing the system or by subsequent order, based upon the engineer's report and such other investigation as it may deem necessary, whether or not special assessments are finally confirmed at the time of the entry of such order.

[1973 c 322 s 7]

Subd. 9. Jurisdiction for special assessments; enlargement of assessable area. The board or court, after ordering the establishment of any water or sewer or combined system, shall retain jurisdiction thereof for the purpose of the levy of special assessments therefor, unless confirmed by the order establishing the system, the levy of supplemental assessments, reassessments, and reapportionment assessments when required, the approval of all contracts for construction, extension, and improvement of the system, and the enlargement of the area assessable for the original system and any extensions or improvements, when determined to be necessary or expedient and in the public interest. Proceedings for enlargement of the assessable area shall be taken in the same manner as provided for establishment of the system in sections 116A.01 to 116A.12, except that the owner of any property may petition for the inclusion of such property in the area and for connection to the system, and the board or court may grant such petition with or without further hearing as it may deem expedient. No hearing shall be required on any improvement or extension, but proceedings for contracting and levying special assessments for any improvement or extension shall be taken in accordance with the provisions of sections 116A.13 to 116A.19.

[1973 c 322 s 8]

4

116A.15 Contract and bond

Subdivision 1. Provisions. The contract and bond to be executed and furnished by the contractor shall be attached. The contract shall contain the specific description of the work to be done, either expressly or by reference to the plans and specifications, and shall provide that the work shall be done and completed as provided in the plans and specifications and subject to the inspection and approval of the engineer. The county attorney, the engineer, and the attorney for the petitioners shall prepare the contract and bond. The contractor shall make and file with the auditor or clerk a bond, with good and sufficient surety, to be approved by the auditor or clerk, in a sum not less than 100 percent of the contract price of the work. Every such contract and bond shall embrace all the provisions required by sections 116A.01 to 116A.26 and provided by law for bonds given by contractors for public works, and shall be conditioned as provided by statute in case of public contractors for the better security of the contracting county or counties and of parties performing labor and furnishing material in and about the performance of the contract. The bond shall provide that the bondsmen shall be liable for all damages resulting from any such failure, whether the work be resold or not, and that any person or corporation, public or private, showing himself injured by such failure, may maintain an action upon such bond in his own name, and actions may be successive in favor of all persons so injured; provided, however, that the aggregate liability of the surety for all such damages

116A.15 PUBLIC WATER AND SEWER SYSTEMS

shall in no event exceed the amount of said bond. Such contractor shall be considered a public officer, and such bond an official bond within the meaning of the statutory provisions construing the official bonds of public officers as security to all persons, and providing for actions on such bonds by any injured party.

[1973 c 322 s 9]

Subd. 2. Changes during construction. The contract shall give the engineer the right, with the consent of the board or court, to modify his reports, plans and specifications as the work proceeds and as circumstances may require. It shall provide that the increased cost resulting from such changes will be paid by the county to the contractor at not to exceed the price for like work in the contract. No change shall be made that will substantially impair the usefulness of any part of the water or sewer system or substantially alter its original character, or will increase its total cost by more than ten percent of the total original contract price, unless determined by the board or court to be necessary to complete the system described in the original plans and specifications in such manner as to make it usable for the purpose contemplated.

[1973 c 322 s 10]

116A.16 Apportionment of cost

The cost of any water or sewer or combined system and of any improvement or extension thereof, or any part of such cost, may be assessed upon property benefited thereby, based upon the benefits received, whether or not the property abuts on the improvement. If less than all of the cost is assessed, the remainder, including the principal of and interest on all bonds issued to pay the cost, shall be paid or reimbursed to the county or counties paying it from the net revenues from time to time received, in excess of the current costs of operating and maintaining the system, from the establishment and collection of charges for connection to the system and for service furnished and made available by it to any person, firm, corporation, or political subdivision.

[1973 c 322 s 11]

116A.17 Assessment procedure and final hearing

Subdivision 1. Calculation, notice. At any time after the expense incurred and to be incurred in the completion of a water or sewer or combined system, or of any subsequent improvement or extension thereof, has been calculated under the direction of the board or court the county auditor or auditors, with the assistance of the engineer or another qualified person shall calculate the proper amount to be specially assessed for the improvement against every assessable lot, piece or parcel of land, without regard to cash valuation. The proposed assessment roll shall be filed with the county auditor and open to public inspection. In a judicial proceeding the assessment roll shall be filed with the county auditor in each county wherein assessments are to be levied. The auditor or clerk shall then, under the board's or court's direction, publish notice of a hearing in the official papers covering the area of the improvement to consider the proposed assessment. The notice shall be published in the newspaper at least once and shall be mailed to the owner of each parcel described in the assessment roll. For the purpose of giving mailed notice under this subdivision, owners shall be those shown to be such on the records of the county auditor or, in any county where tax statements are mailed by the county treasurer, on the records of the county treasurer; but other appropriate records may be used for this purpose. Publication and mailing shall be no less than two weeks prior to the hearing. Except as to the owners of tax exempt property or property taxed on a gross earnings basis, every property owner whose name does not appear on the records of the county auditor or the county treasurer shall be deemed to have waived the mailed notice unless he has requested in writing that the county auditor or county treasurer, as

the case may be, include his name on the records for such purpose. The notice shall state the date, time, and place of the meeting, the general nature of the improvement, the area proposed to be assessed, that the proposed assessment roll is on file with the auditor, and that written or oral objections thereto by any property owner will be considered.

[1973 c 322 s 12]

Subd. 2. Adoption; interests. At the hearing or at any adjournment thereof the board or court shall hear and pass upon all objections to the proposed assessment, whether presented orally or in writing. The board or court may amend the proposed assessment as to any parcel and by resolution adopt the same as the special assessment against the lands named in the assessment roll. Notice of any adjournment of the hearing shall be adequate if the minutes of the meeting so adjourned show the time and place when and where the hearing is to be continued, or if three days notice thereof be published in the newspaper. The assessment, with accruing interest, shall be a lien upon all private and public property included therein, from the date of the resolution adopting the assessment, concurrent with general taxes; but the lien shall not be enforceable against public property as long as it is publicly owned, and during such period the assessment shall be recoverable from the owner of such property only in the manner and to the extent provided in section 435.19. All assessments shall be payable in equal annual installments extending over such period, not exceeding 30 years, as the board or court may direct. The first installment shall be payable on the first Monday in January next following the adoption of the assessment and its extension on the tax rolls, which shall be completed as soon as practicable; except that the board or court may direct the payment of the assessment on one or more lots, pieces, and parcels of land to be deferred for a specified period, or until it is connected to the system, or to be extended over a longer period not exceeding 50 years, if it finds that such method of payment in any case will be more commensurate with the benefits to be received by the property and that the net revenues of the system will be sufficient to meet any deficiency in funds available to pay principal and interest when due on bonds to be issued to finance the system, resulting from deferment or extension of such assessment payments. All assessments not paid in full within 30 days from the date of confirmation of the assessments shall bear interest at the rate fixed by the board or court, but not exceeding eight percent per annum. To the first installment shall be added interest on the entire assessment from the date of levying the assessment until December 31 of the year in which the first installment is payable; provided that the board or court, if payment of the first installment on any property is deferred, may provide that interest during the period of the deferment shall be paid annually, or shall be forgiven in whole or in part, or, if not paid or forgiven, shall be added to the principal amount of the special assessment payable in annual installments after the expiration of the period of deferment. To each installment after the first one there shall be added interest for one year on all unpaid installments. In lieu of the method of payment provided above, special assessments may be made payable in equal annual installments including both principal and interest, each in the amount annually required to pay the principal over such period with interest at such rate as previously determined not exceeding the maximum period and rate specified. In this event no prepayment shall be accepted without payment of all installments due to and including December 31 of the year of prepayment, and the original principal amount reduced only by the amounts of principal included in such installments, computed on an annual amortization basis. No special assessments levied under the provisions of section 116A.12 or this section shall be subject to deferment under the provisions of section 273.111, subdivision 11, or of any other law except this subdivision 2.

[1973 c 322 s 13]

[For text of subd. 3, see M.S.1971]

Subd. 4. Collection; tax exempt property. On the confirmation of any assessments the auditor shall notify the county board of commissioners of the amount payable by any county and shall mail a notice to the clerk or recorder of any other political subdivision specifying the amount payable by the political subdivision, and to the owner of any right of way at its principal office in the state, a notice specifying the amount payable on account of any right of way. The amount payable on account of any right of way or public property or by any city or village connected to the system shall be payable to the water or sewer system's special fund and shall be payable in like installments and with like interest and penalties as provided for in reference to installments payable on account of assessable real property, except that interest accruing shall not begin to run until the notice provided in this subdivision has been properly given and 30 days thereafter have elapsed. The governing body of any such political subdivision shall provide for the payment of these amounts and shall take appropriate action to that end. If the assessment is not paid in a single installment, the auditor shall annually mail to each connected city or village, to the owner of any right of way and, as long as the property is publicly owned, to the owner of any public property a notice stating that an installment is due and should be paid to the water or sewer district's special fund. The auditor may collect the amount due on account of the right of way of any railroad or privately owned public utility by distress and sale of personal property in the manner provided by law in case of taxes levied upon personal property or by suit brought to enforce the collection of this indebtedness unless a different method of collecting such amounts is provided for by any contract between the owner of any right of way and the board or court. Any amount payable by any city or village connected to the system, if not paid when due, may be extended by the auditor as a tax upon all taxable property within the city or village for collection with other taxes in the following year.

[1973 c 322 s 14]

116A.18 Supplemental assessments; reassessment

Subdivision 1. Supplemental assessments. The county board or court may make supplemental assessments to correct omissions, errors, or mistakes in the assessment relating to the total cost of the improvement or any other particular, or whenever it is ascertained that the collections of special assessments and interest thereon, together with the net revenues of the system, are not sufficient to pay all bonds issued to finance the system and interest thereon when due. A supplemental assessment shall be preceded by personal or mailed notice to the owner of each parcel included in the supplemental assessment and a hearing as provided for the original assessment.

[1973 c 322 s 15]

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

116A.19 Appeals

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

Subd. 2. Effect of determination. In all cases of appeal from an order determining damages to property from the construction of any system, improvement, or extension, the amount awarded by the jury as finally determined shall stand for and in the place of the amount from which the appeal was taken. In all cases of appeal from an order confirming special assessments, the court shall either affirm the assessment or set it aside and order a reassessment as provided in section 116A.18, subdivision 2. The court may order reassessment of one or more or all of the properties appearing on any special assessment roll. Upon reassessment of any property, the board or court shall have jurisdiction to reassess such other properties as it may deem necessary to spread the cost equitably, provided that notice is given to the owners of all properties reassessed. In any case of appeal from a special assessment, no

reassessment shall be ordered unless the original assessment is determined to be arbitrary, unreasonable, or based on a mistake of law.

[1973 c 322 s 16]

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

116A.20 Bond issues

Subdivision 1. The county board of each county is authorized, at any time after the establishment of any system, to issue the bonds of the county in such amount as may be necessary to defray, in whole or in part, the cost of establishing and constructing the system. The board may in like manner issue bonds to pay the cost of improvement or extension of any system, when ordered in accordance with section 116A.12. It may also issue bonds to refund outstanding bonds issued pursuant to this section, in accordance with chapter 475.

[1973 c 322 s 17]

Subd. 2. Such bonds shall be sold and issued in accordance with chapter 475, as amended, and shall pledge the full faith, credit, and resources of the county for the prompt payment of the principal and interest thereof, but shall be primarily payable from the special assessments and revenues to be credited to the fund of the system financed by the bonds. An election shall be required to authorize bonds to be issued under this section, unless the board or court having jurisdiction of the system has determined the sufficiency of the special assessments and revenues for their payment, by order entered pursuant to section 116A.12, subdivision 8. The bonds shall be further secured by a pledge of any and all net revenues from the system financed thereby to the debt redemption fund, and a covenant that rates and charges shall be established for the service of such system, sufficient to pay all costs of operation and maintenance thereof and to produce net revenues adequate, with special assessments received in the fund, to pay all of the bonds and interest thereon when due.

[1973 c 322 s 18]

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

Subd. 5. The board shall pay the principal of and interest on bonds issued under the provisions of this section out of any available funds in the county treasury when the moneys on hand in the fund from which they are primarily payable are insufficient therefor; but the funds from which said moneys have been taken shall be replenished with interest for the time actually needed at the rate of eight percent per annum from the assessments levied for the water or sewer or combined system or from the net revenues of the system.

[1973 c 322 s 19]

116A.21 Emergency certificates of indebtedness

If in any budget year the receipts of revenues of the system should from some unforeseen cause become insufficient to pay current expenses of the operation, maintenance, or debt service of the system, or if any calamity or other public emergency should cause the necessity of making extraordinary expenditures, the board may make an emergency appropriation of an amount sufficient to meet the deficiency and may authorize the issuance, negotiation, and sale of certificates of indebtedness in this amount. The board shall forthwith levy on all taxable property subject to special assessment for the system a tax sufficient to pay the certificates and interest thereon, and shall appropriate all collections of such tax to a special fund created for that purpose. The certificates may mature not later than April in the year following the year in which the tax is collectible. Emergency certificates of indebtedness shall be a general obligation of the county, and may be refunded by the issuance of bonds pursuant to section 116A.20, if the board determines that payment thereof in one year would place an undue burden upon property as-

116A.21 PUBLIC WATER AND SEWER SYSTEMS

sessable for the system and that net revenues of the system will be sufficient to pay the refunding bonds as well as outstanding bonds and interest thereon when due.

[1973 c 322 s 20]

116A.22 Service charges; a special assessment against benefited property

Charges established for connections to and the use and availability of service from any water or sewer or combined system, if not paid when due, shall, together with any penalties established for nonpayment, become a lien upon the property connected or for which service was made available. On or before July 1 in each year written notice shall be mailed to the owner of any property as to which such charges are then due and unpaid, stating the amount of the charges and any penalty thereon and that unless paid by October 1 thereafter, or unless a hearing is desired on the question whether such amount and penalty is properly due and payable, the same will be certified, extended, and assessed as a tax or special assessment upon the property for collection with and as a part of other taxes in the following year. Upon request of any property owner, he shall be notified of the time and place of such hearing, and the county board, or the commission appointed pursuant to section 116A.24 shall then hear all matters presented by him and determine the amount and penalty, if any, which is properly due and payable, and shall cause the same to be certified, extended, and assessed as stated in the notice. The county board or the commission may also provide by resolution for discontinuance of water services to any premises in the event of nonpayment of charges for any water or sewer service provided to the premises, upon reasonable notice to the owner and opportunity for hearing upon any claim that the charges are not properly due and payable.

[1973 c 322 s 21]

116A.24 Appointment and powers of water and sewer commission

Subdivision 1. In all proceedings wherein a board or court orders the establishment of a water or sewer or combined water or sewer system, the board or court may after the issuance of the order provide for the appointment of a water or sewer or water and sewer commission. Such a commission shall be appointed before the final award of a contract for the construction of any system ordered by the district court. The commission shall have not less than five members and not more than 11. Members shall be appointed at large by the county board or boards from within the areas in their respective counties which are served by the improvement. Commission members shall serve for terms of four years and until their successors are appointed and qualify. The commencement date of the term of each member and his successors shall be fixed by order of the board or court so that as nearly as possible an equal number of members will be replaced or reappointed each year. When multicounty systems are established, commission membership shall be apportioned by the court among the counties on the basis of their population served by the system. When the area served by any system is enlarged pursuant to section 116A.12, subdivision 9, the board or court shall reapportion or increase the membership and reestablish the terms so as to conform to the foregoing provisions, but each member shall continue to serve for the term for which he was appointed. Vacancies due to death, incapacity to serve, removal, or resignation shall be filled by the appointing boards for the unexpired terms.

[1973 c 322 s 22]

Subd. 2. Subject to the approval of the board or boards, the water or sewer or water and sewer commission or county board may do all things necessary to construct, operate and maintain a system including but not limited to the following:

(a) Employ on such terms as it deems advisable, persons or firms performing engineering, legal or other services of a professional nature; require any

PUBLIC WATER AND SEWER SYSTEMS 116A.24

employee to obtain and file with it an individual bond or fidelity insurance policy; and procure insurance in such amounts as it deems necessary against liability of the board or its officers and employees or both, for personal injury or death and property damage or destruction, with the force and effect stated in chapter 466, and against risks of damage to or destruction of any of its facilities, equipment, or other property as it deems necessary.

(b) Construct or maintain its systems or facilities in, along, on, under, over, or through public streets, bridges, viaducts, and other public rights of way without first obtaining a franchise from any local government unit having jurisdiction over them; but such facilities shall be constructed and maintained in accordance with the ordinances and resolutions of any such government unit relating to construction, installation, and maintenance of similar facilities in such public properties and shall not obstruct the public use of such rights of way.

(c) Enter into any contract necessary or proper for the exercise of its powers or the accomplishment of its purposes.

(d) Have the power to adopt rules and regulations relating to the establishment of water or sewer rentals or user fees as may be deemed advisable and the operation of any system operated by it, and may provide penalties for the violation thereof not exceeding the maximum which may be specified for a misdemeanor. Any rule or regulation prescribing a penalty for violation shall be published at least once in a newspaper having general circulation in the area.

(e) Act under the provisions of section 471.59, or any other appropriate law providing for joint or cooperative action between government units.

(f) Acquire by purchase, lease, condemnation, gift, or grant, any real or personal property including positive and negative easements and water and air rights, and it may construct, enlarge, improve, replace, repair, maintain, and operate any system determined to be necessary or convenient for the collection and disposal of sewage or collection, treatment, and distribution of water in its jurisdiction. Any local government unit and the commissioners of highways and natural resources are authorized to convey to or permit the use of any such facilities owned or controlled by it by the board or commission, subject to the rights of the holders of any bonds issued with respect thereto, with or without compensation, without an election or approval by any other government agency. The board or commission may hold such property for its purposes, and may lease any such property so far as not needed for its purposes, upon such terms and in such manner as it shall deem advisable. Unless otherwise provided, the right to acquire lands and property rights by condemnation shall be exercised in accordance with sections 117.011 to 117.232, and shall apply to any property or interest therein owned by any local government unit; provided, that no such property devoted to an actual public use at the time, or held to be devoted to such use within a reasonable time, shall be so acquired unless a court of competent jurisdiction shall determine that the use proposed by the commission is paramount to such use. Except in case of property in actual public use, the board or commission may take possession of any property for which condemnation proceedings have been commenced at any time after the issuance of a court order appointing commissioners for its condemnation.

(g) Contract with the United States or any agency thereof, any state or agency thereof, or any local government unit or governmental agency or subdivision, for the joint use of any facility owned by the board or such entity, for the operation by such entity of any system or facility of the board, or for the performance on the board's behalf of any service, on such terms as may be agreed upon by the contracting parties.

[1973 c 35 s 32]

Subd. 3. The payment of the cost of construction of a multicounty system established by order pursuant to section 116A.12, and of the subsequent im-

116A.24 PUBLIC WATER AND SEWER SYSTEMS

provement or extension of the system when ordered by the court, is the obligation of each of the counties containing property assessable for the system, in proportion to the area of such property situated within the county. When bonds are sold and issued by the counties to pay such cost pursuant to section 116A.20, the proceeds of the bonds, except such portion as the county shall retain to pay interest until the system is self-supporting, shall be remitted to the commission, and the commission shall receive and disburse all revenues of the system, and shall act as agent of the counties in supervising the construction, improvement, and extension thereof, and thereafter in operating and maintaining the system. All collections of special assessments for the system on property within each county shall be deposited as received in the sinking fund for bonds issued by that county to finance the system or extensions or improvements thereof. The commission shall remit to the counties the net revenues from time to time received in excess of the amounts needed to pay current operation and maintenance expenses of the system and to maintain a reasonable operating reserve. The net revenues remitted each year shall be apportioned among the counties in proportion to the principal amount of bonds of each county then outstanding, which were issued for the establishment, improvement, or extension of the system; provided that with the consent of the county boards, the commission may retain any portion of the net revenues not needed for the payment of their bonds in a special fund to be expended for the improvement or extension of the system.

[1973 c 322 s 23]

Subd. 4. A commission appointed to construct, operate, and maintain any system pursuant to this section, when authorized by order of the county board or, in the case of a multi-county system, by orders of the county boards of all counties containing areas served by the system, filed with and confirmed by order of the district court, may exercise within the area served by the system and any extensions thereof all powers granted in this chapter to county boards for the financing of the construction, improvement, extension, operation, and maintenance of the system, including the power to levy taxes upon all taxable property within such area, to assess benefits and damages, and to issue general obligation bonds and certificates of indebtedness of the commission, supported by an irrevocable pledge of its power to tax such property, without limitation of rate or amount and without affecting the amount of debt to be incurred or taxes levied by any county or other political subdivision. Such authorization shall be irrevocable so long as any indebtedness of the commission is outstanding.

[1973 c 322 s 24]