

# MINNESOTA STATUTES 1975 SUPPLEMENT

## PUBLIC WATER AND SEWER SYSTEMS 116A.01

in the amount of \$84,000,000, 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.

[1975 c 354 s 1,2]

[For text of subs 5 and 6, see M.S.1974]

### CHAPTER 116A. PUBLIC WATER AND SEWER SYSTEMS

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

[For text of subd 1, see M.S.1974]

**Subd. 1a. Operating under municipal authorization.** Any county board that has established a water or sewer system or combined water and sewer system under the provisions of this chapter, or that has formed a district under the provisions of section 116A.02, subdivision 3, may operate the system under and exercise all the rights and authority and perform all the duties of a municipality under chapters 117, 412, 429 and 475 and sections 115.46, 444.075 and 471.59, 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 acquire, construct, finance, operate and maintain the water or sewer system or combined water and sewer system in the same manner and to the same extent accorded a municipality under chapters 117, 412, 429 and 475 and sections 115.46, 444.075 and 471.59.

[For text of subs 2 and 3, see M.S.1974]

**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 which by resolution of its governing body requests that its facilities be connected to the system, or that all or any part of the area within its corporate limits be included in the area to be served by the system. For the purpose of any petition filed or special assessment levied with respect to any system, the entire area to be served within any city shall be treated as if it were owned by a single person, provided that in any event mailed notice of all hearings required under this chapter shall also be sent to the actual owners of such property to the same extent and in the same manner provided for owners of property located in an area to be served by the system outside of any city, and the

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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; provided that in the alternative the board or boards and the court with jurisdiction over the system, or a water and sewer commission to the extent authorized by the board or boards and the court under section 116A.24, may, to the extent authorized by resolution of the governing body of the city, exercise within the area of the city served by the system, or any extensions of the system, the same powers granted to the county board or boards and the court for areas located outside any city by this chapter.

**Subd. 5. Exclusion of land from area to be served.** After any land has been included in the area to be served by any public water or sewer or combined system or in a district formed under section 116A.02, subdivision 4, the county board, or if two or more county boards are involved, the court, upon petition of the county boards or the commission formed under section 116A.24, may at any time order the exclusion from such area or district of any land that has not been specially assessed under section 116A.17, upon determining that the land is contiguous to land located outside the area or district and will not be served by such system, provided that either the owner or owners of the land first consent to the exclusion, or the proposed exclusion first be considered at one of the public hearings required under this chapter and be made a part of the order thereafter required of the board or court or at a separate public hearing on the proposed exclusion after notice of the hearing has been given in the manner and to the extent required in section 116A.08, subdivision 1.

[1975 c 294 s 1-3]

## 116A.02 Petition.

[For text of subs 1 and 2, see M.S.1974]

**Subd. 3. Proceeding initiated by county board.** Any county board, by duly adopted resolution, and without a petition filed therefor, may initiate the proceedings for the establishment of a water or sewer system or combined water and sewer system as provided in sections 116A.01 to 116A.26. The proceedings thereafter shall be the same as for proceedings initiated by petition except that no bond need be filed. If any proceeding initiated by resolution of a county board is dismissed, the county shall pay all expenses connected with such proceeding.

**Subd. 4. Initial formation of district.** A county board, or boards if more than one county is involved, by duly adopted resolution, may, without a petition filed therefor and after making such investigations as the board or boards consider necessary, form a water or sewer district or combined water or sewer district within the county or counties and may expend available funds for this purpose without the board or, if more than one county is involved, the court first ordering the establishment of a water or sewer system or combined water and sewer system as provided in sections 116A.01 to 116A.26. Thereafter the county board or court may establish for all or a part of the district one or more water systems or sewer systems or combined water and sewer systems either by petition or on the initiative of the board of any county located in whole or part within the district, as provided in sections 116A.01 to 116A.26, except that no bond need be filed whenever the county board elects to proceed on its own initiative. If a proceeding is initiated by resolution of a county board and is dismissed, the county shall pay the expenses connected with the proceeding.

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[1975 c 294 s 4,5]

### 116A.12 Second hearing.

[For text of subs 1 to 7, see M.S.1974]

**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, the taxes, if any, and the 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.

[1975 c 294 s 6]

[For text of subd. 9, see M.S.1974]

### 116A.19 Appeals.

[For text of subs 1 to 4, see M.S.1974]

**Subd. 5. Additional surety bonds.** Whenever any appeal from an order of the board or court is taken under section 116A.19, any involved county or, if two or more counties are involved and a commission is formed under section 116A.24, the commission, may move the court having jurisdiction over the appeal for an order requiring the appellant, or appellants, to file a surety bond as hereinafter set forth. Three days written notice of the motion shall be given. If the court determines that loss or damage to the public or taxpayers may result from the pendency of the appeal, the court may require the appellant, or appellants, to file a surety bond, which shall be approved by the court, in such amount as the court may determine. The bond shall be conditioned for payment to the county, or commission, of any loss or damage which may be caused to the county, the commission or the taxpayers by the pendency of the appeal, to the extent of the penal sum of such bond, if the appellant, or appellants, shall not prevail therein. If the surety bond is not filed within a reasonable time allowed therefor by the court, the appeal shall be dismissed with prejudice. If such appellant, or appellants, file a bond as herein required and prevail in the appeal, any premium paid on the bond shall be repaid by or taxed against the county or commission.

[1975 c 294 s 7]

### 116A.20 Bond issues.

Subdivision 1. The county board of each county is authorized, at any time after the establishment of any system, or the formation of any district under section 116A.02, subdivision 3, 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 a 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.

Subd. 2. Such bonds shall be sold and issued in accordance with chapter

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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 at least 60 percent of the interest and principal shall be payable from special assessments and revenues credited to the systems 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 that special assessments, taxes, if any, and revenues are sufficient for their payment, by order entered pursuant to section 116A.12, subdivision 8. The bonds shall be further secured by pledge of the net revenues from the systems financed by the bonds 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 and taxes, if any, received in the fund, to pay all of the bonds and interest thereon when due.

*[For text of subds 3 and 4, see M.S.1974]*

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 or from the taxes, if any, levied for the payment of principal and interest on the bonds.

Subd. 6. Notwithstanding anything in sections 116A.01 to 116A.26 to the contrary, the county board of each county is authorized, at any time after the conditions in section 116A.20, subdivision 1 exist, to issue for any of the purposes set forth in section 116A.20, subdivision 1, general obligation temporary bonds in anticipation of and in an amount not to exceed any grant or loan of state or federal funds. Such bonds shall mature within not more than three years from the date of issuance and shall otherwise be sold and issued in accordance with chapter 475, and shall pledge the full faith, credit, and resources of the county for the prompt payment of the principal and interest thereof, except that no election shall be required and the debt limitations of chapter 475 shall not apply to such bonds. Prior to the issuance of such bonds the board shall secure a commitment for the grant or loan in anticipation of which the bonds are to be issued, and if any of the bonds are to be issued in anticipation of a loan, the board shall also determine that all conditions exist precedent to the authorization of definitive bonds in an amount equal at least to the principal sum of the loan. In the event such temporary bonds are issued, the proceeds of the grant or loan when received shall be irrevocably appropriated to the sinking fund for the temporary bonds, and the estimated amount thereof may be deducted from the tax which would otherwise be required by section 475.61, subdivision 1, to be levied. The provisions of section 116A.20, subdivision 3 shall apply to such bonds. Any amount of the temporary bonds which cannot be paid at maturity from the proceeds of the grant or loan or from any other funds appropriated by the board for the purpose, shall be paid from the proceeds of definitive obligations to be issued and sold before the maturity date in accordance with section 116A.20, subdivisions 2, 3 and 4, except that no election shall be required; or, if sufficient funds are not available for payment in full of the temporary obligations at maturity, the holders thereof shall have the right to require the issuance in exchange therefor of such definitive obligations bearing interest at the maximum rate permitted by law.

*[1975 c 294 s 8-11]*

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

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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 system or from within a district formed under section 116A.02, subdivision 3, which district includes the served areas. 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 or, if a district has been formed, on the basis of population located within that portion of each county situated within the district. When the area served by any system is enlarged pursuant to section 116A.12, subdivision 9, and the commission members are not appointed from within a district formed under section 116A.02, subdivision 3, 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.

Subd. 2. Subject to the approval of the board or boards except to the extent that approval is waived by the board or boards in an order issued pursuant to subdivision 4, 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 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

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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.

[For text of subd 3, see M.S.1974]

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 to the extent provided in the orders, within the area served by the system and any extensions thereof, or, if a district has been formed under section 116A.02, subdivision 4, within the district, all powers granted in this chapter to county boards and the court 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.

[1975 c 294 s 12-14]

## CHAPTER 116C. ENVIRONMENTAL QUALITY COUNCIL

Sec.  
116C.05 Citizens advisory committee.

### 116C.05 Citizens advisory committee.

Subdivision 1. There is established a citizens advisory committee composed of one resident from each congressional district and three members at large as a vehicle for citizen participation in the activities of the council. The governor shall appoint the members of the citizens advisory committee, and the committee annually shall elect one of their members to serve as chairman. The committee shall expire and the terms, compensation, and removal of mem-