

MINNESOTA STATUTES 1977 SUPPLEMENT

116.18 POLLUTION CONTROL AGENCY

gate 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.

[For text of subds 5 and 6, see M.S.1976]

[1977 c 418 s 2,3]

116.36 Definitions.

Subdivision 1. For the purposes of sections 116.36 and 116.37 the following terms shall have the meanings given;

[For text of subds 2 to 5, see M.S.1976]

[1977 c 347 s 16]

116.39 Ozone layer preservation.

Subdivision 1. Except as provided by subdivision 3, after July 1, 1979 no person shall sell or offer for sale in this state any pressurized container which contains as a propellant trichloromonofluoromethane, difluorodichloromethane, dichlorotetrafluoroethane, or any other saturated chlorofluorocarbon compound or other similar inert fluorocarbon compound that does not contain reactive carbon hydrogen bonds.

Subd. 2. Commencing October 31, 1977, no person shall sell or offer for sale at wholesale in this state a pressurized container using chlorofluorocarbon propellants unless the container has prominently displayed on the front panel this statement: "Warning: Contains a chlorofluorocarbon that may harm the public health and environment by reducing ozone in the upper atmosphere."

Subd. 3. Nothing in this section prohibits the sale or use of refrigeration equipment containing chlorofluorocarbon compounds, or the sale of chlorofluorocarbon compounds for use in such equipment. This section shall not apply to the sale of chlorofluorocarbon compounds for the following essential medical uses:

- (a) metered-dose steroid human drugs for nasal inhalation;
- (b) metered-dose steroid human drugs for oral inhalation;
- (c) metered-dose adrenergic bronchodilator human drugs for oral inhalation;
- (d) contraceptive vaginal foams for human use; or
- (e) cytology fixatives; nor

for other medical uses by or under the supervision of a licensed physician, dentist or veterinarian, or a hospital, nursing home or other health care institution licensed by the department of health. This section shall also not apply to the sale of chlorofluorocarbon compounds for use in the cleaning, maintenance, testing and repair of electronic equipment.

Subd. 4. A violation of this section is a misdemeanor.

[1977 c 373 s 1]

CHAPTER 116A. PUBLIC WATER AND SEWER SYSTEMS

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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 all necessary orders for, and cause to be constructed and maintained, public water or sewer systems or combined water and sewer systems, including

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outlets, treatment plants, pumps, lift stations, service connections, mains, valves, hydrants, wells, reservoirs, tanks, and other appurtenances of public water or sewer systems, in any area of the county or judicial district not organized into cities, or in any area added to a public water or sewer system or combined water and sewer system by action taken in accordance with subdivision 4.

Subd. 1a. Municipal authority. 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 4, may acquire, construct, finance, operate and maintain the system under and exercise all the rights and authority and perform all the duties of a statutory city under chapters 117, 412, 429 and 475 and sections 115.46, 444.075 and 471.59, instead of this chapter, upon receiving authorization in accordance with this subdivision. To receive authorization the county board shall file, 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 is authorized to 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 statutory city under chapters 117, 412, 429 and 475 and sections 115.46, 444.075 and 471.59.

Subd. 2. Establishment of system. Upon receipt of a petition for the establishment of a water or sewer system or combined water and sewer system in any area of the county not organized into cities, or in any area to be included within a system in accordance with subdivision 4, and after determining the sufficiency of the petition as provided in section 116A.02 and making such investigations and surveys as it considers necessary to ascertain whether it should be granted, the court or board may by resolution provide for the establishment of such a system; cause plans and specifications to be prepared for water system facilities adequate to obtain, store, treat, and distribute water for domestic, commercial, and industrial use therein, or sewer system facilities adequate to collect, treat, and dispose of sewage and waste in a sanitary manner, or both such types of facilities; contract for the construction of such facilities; acquire land and easements for the purpose by purchase, gift, condemnation, or other lawful means; establish, collect, and revise charges for the use and availability of water or sewer service or both to all premises within the area to which service is furnished or made reasonably available, and for connection to the facilities, in the manner provided in section 444.075; levy special assessments upon properties specially benefited by the construction of the facilities; issue bonds of the county to finance such construction as provided in section 116A.20, and require hook up or attachment to the system by all residents in the service area.

[For text of subd 3, see M.S.1976]

Subd. 4. Area to be served. The area to be served by any public water or sewer or combined system or to be included in a district formed under section 116A.02, subdivision 4, 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 or included in the district. 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 governing body shall exercise all the rights and be subject to all the duties of an owner of the area, and shall have

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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.

[For text of subd 5, see M.S.1976]

[1977 c 442 s 1-4]

116A.02 Petition.

[For text of subds 1 and 2, see M.S.1976]

Subd. 2a. **Use of petitioner's land.** Each owner who joins in the petition or who prior to June 3, 1977 has signed a petition for such a district, grants to the county or counties or commission, if the system is thereafter established, an easement to use his land within the system area for the purposes of the system in any manner that will not permanently and substantially disturb his own use, including the right to enter upon his land temporarily for construction or maintenance of the system, if notice that the petition has the effect of granting the easement is set forth in the petition or is otherwise given in writing to the owner prior to his execution of the petition, or the petition was signed prior to June 3, 1977. Unless an emergency exists, the owner may require one week's notice before entry upon the property is permitted pursuant to this subdivision.

[For text of subds 3 and 4, see M.S.1976]

[1977 c 442 s 6]

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; estimated 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

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which may 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.

[1977 c 442 s 7]

116A.11 Viewers; appointment; qualification.

[For text of subds 1 to 3, see M.S.1976]

Subd. 4. **Viewers; duties.** The viewers, with or without the engineer, shall estimate damages to all lands and properties affected by the proposed system and shall report their findings. The report shall show in tabular form the description of each lot and tract, or fraction thereof, under separate ownership, damaged and the names of the owners as the same appear on the current tax duplicate of the county. Estimated damages shall be reported on all lands owned by the state the same as upon taxable lands. The viewers shall report all estimated damages that will result to all railways and other utilities, including lands and property used for railway or other utility purposes. In case the viewers are unable to agree, each viewer shall state separately his findings on any matter disagreed upon. A majority of the viewers shall be competent to perform the duties required of them by sections 116A.01 to 116A.26.

[For text of subd 5, see M.S.1976]

[1977 c 442 s 8]

116A.12 Second hearing.

[For text of subds 1 to 9, see M.S.1976]

Subd. 10. **Damages, payment.** When damages are awarded and duly confirmed with respect to any property, the board or court may order the same paid and provide for the filing with the county recorder of the county in which the property is located a copy of the viewers' report and the order confirming the damages. Thereafter the board or court or commission may enter upon the property for the purpose of constructing or maintaining the water or sewer or combined system as contemplated in the viewers' report without first securing for that purpose a separate easement by purchase, condemnation under chapter 117, or otherwise. In case of appeal, the damages shall not be paid until the final determination thereof. If there is doubt as to who is entitled to the damages, the board or court may pay the same to the clerk of the district court in the county in which the property is located, and the damages shall be disbursed by the clerk, upon order of the district court, to the persons thereunto entitled.

[1977 c 442 s 5]

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 or from any federal or state grant moneys, or from any combination of these receipts.

[1977 c 442 s 9]

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116A.20 Bond issues.

[For text of subd 1, see M.S.1976]

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 principal and interest. 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 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 received in the fund, to pay all of the bonds and interest thereon when due.

[For text of subds 3 to 5, see M.S.1976]

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 subdivision 1 exist, to issue for any of the purposes set forth in 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 subdivision 4 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 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.

[1977 c 347 s 17; 1977 c 442 s 11]

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

Subdivision 1. Any time after the establishment of a water or sewer or combined water or sewer system, or the formation of a district under section 116A.02, subdivision 4, the board or boards or, when a multi-county system is established under section 116A.12, the court may 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

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from within a district formed under section 116A.02, subdivision 4, 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 boards or court so that as nearly as possible an equal number of members will be replaced or reappointed each year. When multi-county systems are involved, commission membership shall be apportioned by the boards or 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 and the commission members are not appointed from within a district formed under section 116A.02, subdivision 4, which includes the enlarged system, the board or boards 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 filed with and confirmed by order of the district court, the water or sewer or water and sewer commission or when a multi-county system is involved a county board may do all things necessary to establish, 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 local government unit and the commissioners of transportation 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

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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.

(h) Exercise any other powers granted to the board or boards or court under section 116A.01, subdivision 2, relating to the establishment of a water or sewer or water and sewer system, except for the power to issue bonds.

Subd. 3. The payment of the cost of construction of a multi-county system established by order pursuant to section 116A.12, and of the subsequent improvement 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, or in any other proportion which the counties, by concurring resolutions, confirmed by order of the court, may determine is just and reasonable. 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 and any debt service ad valorem taxes levied 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, or in a single joint account administered by the commission on behalf of the counties for payment into the respective sinking fund accounts of the counties at such times and in such amounts as the county boards mutually determine is just and reasonable. 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 or any other proportion which the counties mutually determine is just and reasonable; 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.

All accounts authorized by this subdivision may be established within a single fund administered by the commission on behalf of the counties and held in a single bank mutually designated by the county boards to serve as a depository for all sums, including bond proceeds, special assessments, tax levies and revenues received on account of the system.

Subd. 4. [Repealed, 1977 c 442 s 16]

[1977 c 442 s 12-14]