

## CHAPTER 458D

### WESTERN LAKE SUPERIOR SANITARY DISTRICT

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#### 458D.01 PURPOSE AND POLICY.

The legislature determines that in the lower St. Louis River basin area there are serious problems of water pollution and disposal of sewage and solid waste which cannot be effectively or economically dealt with by existing government units under existing laws. The legislature, therefore, declares that for the protection of the public health, safety and welfare of the area, for the preservation and best use of waters, land and other natural resources of the state in the area, for the prevention, control and abatement of water pollution and disposal of solid waste in the area, and for the efficient and economic collection, treatment and disposal of sewage and solid waste, it is necessary to establish in Minnesota for said area a sanitary board assigned the responsibility of carrying on a continuous long range program of planning with respect thereto and given the authority to take over, acquire, construct, better, administer, operate and maintain any and all interceptors and treatment works needed for the collection, treatment and disposal of sewage and solid waste in such area, as well as local sanitary sewer facilities over which the board agrees to assume responsibility at the request of any local government unit. The board may construct, operate and regulate solid waste disposal sites and facilities.

**History:** 1971 c 478 s 1; 1974 c 377 s 1

#### 458D.02 DEFINITIONS.

Subdivision 1. **Application.** The terms defined in this section shall have the meaning given them unless otherwise provided or indicated by the context.

Subd. 2. **Western Lake Superior Sanitary District; district.** "Western Lake Superior Sanitary District" and "district" mean the area over which the sanitary board has jurisdiction which shall include the area comprised on July 8, 1971, of the city of Cloquet, the cities of Carlton, Scanlon, Thomson and Wrenshall, and the townships of Knife Falls, Silver Brook, Thomson, and Twin Lakes in the county of Carlton; the city of Duluth, the city of Proctor, and the townships of Canosia, Duluth, Grand Lake, Herman, Lakewood, Midway, Rice Lake and Solway

in the county of St. Louis; other territory included in the district pursuant to section 458D.22; and any waters of the state adjacent thereto.

Subd. 3. **Sanitary board.** "Sanitary board" or "board" means the sanitary board established for the Western Lake Superior Sanitary District as provided in section 458D.03.

Subd. 4. **Person.** "Person" means any individual, partnership, corporation, cooperative or other organization or entity, public or private.

Subd. 5. **Local government unit.** "Local government unit" or "government unit" means any municipal or public corporation or governmental or political subdivision or agency located in whole or in part in the district, authorized by law to provide for the collection and disposal of sewage.

Subd. 6. **Acquisition, betterment.** "Acquisition" and "betterment" shall have the meanings given to them in chapter 475.

Subd. 7. **Agency.** "Agency" means the Minnesota Pollution Control Agency created and established by chapter 116.

Subd. 8. **Sewage.** "Sewage" means all liquid or water-carried waste products from whatever sources derived, together with such groundwater infiltration and surface water as may be present and shall also include shipboard effluent.

Subd. 9. **Pollution, sewer system, waters of the state.** "Pollution", "sewer system" and "waters of the state" shall have the meanings given them in section 115.01.

Subd. 10. **Shipboard effluent.** "Shipboard effluent" means water-carried waste products and other wastes which are found on ships, boats and other vessels and which may pollute or tend to pollute the St. Louis River basin area or other waters of the state adjacent to the district.

Subd. 11. **Treatment works, disposal system.** "Treatment works" and "disposal system" shall have the meanings given them in section 115.01, and shall also include facilities for the collections, removal and treatment of shipboard effluent.

Subd. 12. **Interceptor.** "Interceptor" means any sewer and necessary appurtenances thereto, including but not limited to, mains, pumping stations, and sewage flow regulating and measuring stations, which is designed for or used to conduct sewage originating in more than one local government unit, or which is designed or used to conduct all or substantially all the sewage originating in a single local government unit from a point of collection in that unit to an interceptor or treatment works outside that unit, or which is determined by the board to be a major collector of sewage used or designed to serve a substantial area in the district.

Subd. 13. **District disposal system.** "District disposal system" means any and all of the interceptors or treatment works owned, constructed or operated by the board unless designated by the board as local sanitary sewer facilities.

Subd. 14. **Local sanitary sewer facilities.** "Local sanitary sewer facilities" means all or any part of any disposal system in the district other than the district disposal system.

Subd. 15. **Municipality.** "Municipality" means any home rule charter or statutory city or town located in whole or in part in the district.

Subd. 16. **Total costs of acquisition and betterment.** "Total costs of acquisition and betterment" and "costs of acquisition and betterment" mean all acquisition and betterment expenses which are permitted to be financed out of bond proceeds issued in accordance with

section 458D.14, subdivision 4, whether or not such expenses are in fact financed out of such bond proceeds.

Subd. 17. **Current costs of acquisition, betterment, and debt service.** "Current costs of acquisition, betterment and debt service" means interest and principal estimated to be due during the budget year on bonds issued to finance said acquisition and betterment and all other costs of acquisition and betterment estimated to be incurred during such year but not otherwise payable out of bond proceeds and federal or state grants.

Subd. 18. **Solid waste.** "Solid waste" means garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semisolid, liquid, or contained gaseous form, resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders, or rock; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial wastewater effluents or discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended, and dissolved material in irrigation return flows; or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.

Subd. 19. **Solid waste disposal site or facility.** "Solid waste disposal site or facility" means transfer stations and all property, real or personal, including negative and positive easements and water and air rights, which is or may be needed or useful for the disposal of solid waste, except property for the collection of solid waste directly from the source of generation.

Subd. 20. **Transfer station.** "Transfer station" means an intermediate solid waste disposal facility in which solid waste collected from any source is temporarily deposited to await transportation to the final disposal site or facility, but does not include the hauling of solid waste from a transfer station to a disposal site or facility, nor does it include processing of solid waste at a disposal site or facility.

Subd. 21. **Collection of solid waste.** "Collection of solid waste" means the door-to-door pickup and hauling of solid waste from pickup point to transfer station or disposal site or facility, but does not include the hauling of solid waste from a transfer station to a disposal site or facility, nor does it include the processing of solid waste at a disposal site or facility.

**History:** 1971 c 478 s 2; 1973 c 123 art 5 s 7; 1974 c 377 ss 2,3,4,5; 1982 c 514 s 1; 1991 c 55 s 1; 2002 c 379 art 1 s 85,86; 2005 c 10 art 1 s 70

### **458D.03 SANITARY BOARD.**

Subdivision 1. **Establishment.** A sanitary board with jurisdiction in the Western Lake Superior Sanitary District is established as a public corporation and political subdivision of the state with perpetual succession and all the rights, powers, privileges, immunities, and duties which may be validly granted to or imposed upon a municipal corporation, as provided in sections 458D.01 to 458D.24.

Subd. 2. **Members and selection.** The board shall be composed of nine members selected as follows:

(a) The mayor of the city of Duluth shall select four members and shall designate the term of each such member in accordance with subdivision 5, subject to the approval of the Duluth City Council.

(b) The Cloquet City Council by majority vote shall select three members and shall designate the term of each member in accordance with subdivision 5.

(c) The elected chief executives of all other municipalities in the district in the county of Carlton shall elect one member. The auditor of the county of Carlton shall, upon at least ten days' notice by mail, call a meeting of such chief executives, to be held at a suitable place in the district designated in the notice by the auditor. At the meeting, said chief executives shall elect the board member. A majority of the elected chief executives present in person or by their duly designated representatives shall constitute a quorum, but less than a majority may adjourn the meeting from time to time and compel the attendance of absent chief executives or their duly designated representatives. Each chief executive shall have one vote and an additional vote for each full 1,000 population in the municipality according to the latest census. The majority of the votes cast by the chief executives present and voting shall be required for election of the board member. Any chief executive may designate some other elected official of the same governing body of the municipality to attend the meeting in the chief executive's place and exercise the same voting power to which the chief executive would be entitled if present.

(d) The elected chief executives of all other municipalities in the district in the county of St. Louis shall elect one member. The auditor of the county of St. Louis shall, upon at least ten days' notice by mail, call a meeting of such chief executives, to be held at a suitable place in the district designated in the notice by the auditor. At the meeting, such chief executives shall elect the board member. A majority of the elected chief executives present in person or by their duly designated representatives shall constitute a quorum, but less than a majority may adjourn the meeting from time to time and compel the attendance of absent chief executives or their duly designated representatives. Each chief executive shall have one vote and an additional vote for each full 1,000 population in the municipality according to the latest census. The majority of the votes cast by the chief executives present and voting shall be required for election of the board member. Any chief executive may designate some other elected official of the same governing body of the municipality to attend the meeting in the chief executive's place and exercise the same voting power to which the chief executive would be entitled if present.

**Subd. 3. Time limits for selection; alternative appointment by district judge.** The nine board members to be selected under subdivision 2, paragraphs (a), (b), (c) and (d), shall be selected as hereinbefore provided within 60 days after July 8, 1971. The successor to each board member shall be selected at any time within 60 days before the expiration of the term in the same manner as the predecessor was selected. Any vacancy on the board shall be filled within 60 days after it occurs. If any selection is not made as hereinbefore provided within the time prescribed therefor, the chief judge of the Sixth Judicial District of the Minnesota District Court on application by any interested person shall forthwith appoint an eligible person to the board with like effect as if the selection were made as hereinabove or otherwise provided.

**Subd. 4. Vacancies.** If the office of any board member becomes vacant, the vacancy shall be filled for the unexpired term in like manner as provided for selection of the member who vacated the office. The office shall be deemed vacant under the conditions specified in section 351.02, or if the member fails to attend two consecutive regular meetings of the board without the consent of the board given no later than 30 days after the second such meeting.

**Subd. 5. Terms of office.** The terms of the first board members shall expire on July 1 in the following calendar years: Two of the board members selected under subdivision 2, paragraph (a), and one of the board members selected under subdivision 2, paragraph (b), in the year

1972; another board member selected under subdivision 2, paragraph (a), and another board member selected under subdivision 2, paragraph (b), in the year 1973; another board member selected under subdivision 2, paragraph (a), another board member selected under subdivision 2, paragraph (b), and the board member elected under subdivision 2, paragraph (d), in the year 1974. Succeeding terms of all board members shall be three years, except that each member shall serve until a successor has been duly selected and qualified.

Subd. 6. **Removal.** A board member may be removed by the governor for malfeasance or nonfeasance in the performance of official duties as provided by sections 351.14 to 351.23.

Subd. 7. **Qualifications.** Each board member shall be a resident of the district and may but need not be an elected public official.

Subd. 8. **Certificates of selection; oath of office.** A certificate of selection of every board member selected under subdivision 2, paragraphs (a) and (b), stating the term for which the member was selected, shall be made by the respective city clerks, and a certificate of selection of the board member elected pursuant to subdivision 2, paragraphs (c) and (d), shall be made by the respective county auditors. Such certificates, with the approval appended by other authority, if required, shall be filed with the secretary of state. Counterparts thereof shall be furnished to the board member and the secretary of the board. Each member shall qualify by taking and subscribing the oath of office prescribed by the Minnesota Constitution, article 5, section 6. Such oath, duly certified by the official administering the same, shall be filed with the secretary of state and the secretary of the board.

Subd. 9. **Board members' compensation.** Each board member shall be paid a per diem compensation of \$50 for meetings and for such other services as are specifically authorized by the board, and shall be reimbursed for all reasonable expenses incurred in the performance of the member's duties as determined by the board.

**History:** 1971 c 478 s 3; 1974 c 377 s 6; 1991 c 199 art 2 s 1; 1993 c 13 art 2 s 1; 1999 c 145 s 1

#### **458D.04 ORGANIZATION AND OPERATION OF BOARD.**

Subdivision 1. **Organization; officers; meetings; seal.** After the selection and qualification of all board members, they shall meet to organize the board at the call of any two board members, upon seven days' notice by registered mail to the remaining seven board members, at a time and place within the district specified in the notice. Seven members shall constitute a quorum at that meeting and all other meetings of the board, but a lesser number may meet and adjourn from time to time and compel the attendance of absent members. At the first meeting the board shall select its officers as hereinafter provided and conduct such other organizational business as may be necessary. Thereafter the board shall meet regularly at such time and place as the board shall by resolution designate. Special meetings may be held at any time upon call of the chair or any two members, upon written notice sent by mail to each member at least three days prior to the meeting, or upon such other notice as the board by resolution may provide, or without notice if each member is present or files with the secretary a written consent to the meeting either before or after the meeting. Any action within the authority of the board may only be taken by the affirmative vote of seven of the members present at a regular or adjourned regular meeting or at a duly held special meeting. All meetings of the board shall be open to the public. The board may adopt a seal, which shall be officially and judicially noticed, to authenticate instruments executed by its authority, but omission of the seal shall not affect the validity of any instrument.

Subd. 2. **Chair.** The board shall elect a chair from its membership. The term of the first chair of the board shall expire on July 1, 1972, and the terms of successor chairs shall expire on July 1 of each succeeding year. The chair shall preside at all meetings of the board, if present, and shall perform all other duties and functions usually incumbent upon such an officer, and all administrative functions assigned by the board. The board shall elect a vice chair from its membership to act for the chair during temporary absence or disability. The chair may be paid so much compensation in addition to compensation as a board member as the board shall determine.

Subd. 3. **Secretary and treasurer.** The board shall select a person or persons who may but need not be a member or members of the board, to act as its secretary and treasurer. The secretary and treasurer shall hold office at the pleasure of the board, subject to the terms of any contract of employment which the board may enter into with the secretary or treasurer. The secretary shall record the minutes of all meetings of the board, and shall be custodian of all books and records of the board except such as the board shall entrust to the custody of a designated employee. The treasurer shall be the custodian of all money received by the board except such as the board shall entrust to the custody of a designated employee. The board may appoint a deputy to perform any and all functions of either the secretary or the treasurer. No such secretary or treasurer who is not a member of the board or a deputy of either shall have any right to vote.

Subd. 4. **Executive director.** The board shall appoint an executive director who shall be selected solely upon the basis of training, experience and other qualifications and who shall serve at the pleasure of the board and at a salary to be determined by the board. The executive director need not be a resident of the district. An executive director shall attend all meetings of the board, but shall not vote, and shall have the following powers and duties:

- (a) To see that all resolutions, rules, regulations, or orders of the board are enforced.
- (b) To appoint and remove, upon the basis of merit and fitness, all subordinate officers and regular employees of the board except the secretary and the treasurer and their deputies.
- (c) To present to the board plans, studies and other reports prepared for board purposes and recommend to the board for adoption such measures as the executive director deems necessary to enforce or carry out the powers and duties of the board, or the efficient administration of the affairs of the board.
- (d) To keep the board fully advised as to its financial condition, and to prepare and submit to the board its annual budget and such other financial information as it may request.
- (e) To recommend to the board for adoption such rules and regulations as the executive director deems necessary for the efficient operation of a district disposal system and all local sanitary sewer facilities over which the board may assume responsibility as provided in section 458D.19.
- (f) To perform such other duties as may be prescribed by the board.

Subd. 5. **Public employees.** All persons employed by the executive director shall be public employees, and shall have all the rights and duties conferred on public employees under sections 179A.01 to 179A.25. The board may elect to have such employees become members of either the Public Employees Retirement Association or the Minnesota State Retirement System. The compensation and conditions of employment of such employees shall not be governed by any rule applicable to state employees in the classified service nor to any of the provisions of chapter 15A, unless the board so provides.

Subd. 6. **Personnel code; merit system; board procedures.** The board shall by resolution adopt a personnel code for its employees, subject to the provisions of subdivision 5. The code shall include a job classification plan, procedures for employment and promotion of personnel based on merit, procedures for demotion, suspension or discharge of employees, procedures for hearing grievances, procedures for salary administration, and such other provisions as the board deems appropriate. The executive director of the board shall administer the code under the supervision of the board.

All employees of the board except those expressly designated for the unclassified service, shall serve in the classified service. The unclassified service shall include: members of the board; the executive director of the board; all officers of the board; and any employee of the board who is determined by the board to have a confidential relationship to the board and any employee of the board expressly exempted from the classified service by law. The code shall also include procedures for open competitive examinations to test the relative fitness of all applicants for positions in the classified service. Such examinations may consist of written or oral tests of the subjective or objective type, physical tests, and practical or demonstrative tests for the evaluation of past training and experience. Oral tests may be used to test the applicant's knowledge of the position applied for or personal fitness for the position. Where there is more than one applicant for the position, the code shall provide for the employment of any one of the two or three applicants best qualified for it.

When a board employee has been demoted, suspended or dismissed by the executive director, the employee may, within 30 days after such action becomes effective, file with the board a written request for a hearing showing a present mailing address. Upon receipt of the request for a hearing the board shall appoint three of its members to act as an appeal board and preside at a hearing on the action of the executive director. The hearing shall be held within 30 days after the request is received by the board, upon written notice mailed or delivered to the employee at the present mailing address, and not less than seven days before the hearing. The appeal board shall approve or disapprove the action of the executive director, and in the case of approval the action of the executive director shall be final. In a case of disapproval the appeal board may reinstate the employee under such conditions as it deems proper, and may order the payment to the employee of compensation lost as a result of the demotion, suspension or dismissal.

The board shall adopt resolutions and bylaws establishing procedures for board action, keeping records, approving claims, authorizing or making disbursements, safekeeping funds and audit of all financial operations of the board.

Subd. 7. **Surety bonds and insurance.** The board may procure surety bonds for its officers and employees and in such amounts as are deemed necessary to assure proper performance of their duties and proper accounting for funds in their custody. It may procure insurance against such risks to property and such liability of the board and its officers, agents, and employees for personal injuries or death and property damage and destruction and in such amounts as may be deemed necessary or desirable, with the force and effect stated in chapter 466.

**History:** 1971 c 478 s 4; 1991 c 199 art 2 s 1

#### **458D.05 COMPREHENSIVE PLAN.**

Subdivision 1. **Board plan and program.** The board shall prepare and by resolution adopt a comprehensive plan for the collection, treatment, and disposal of sewage in all or a designated part of the district through a system of interceptors and treatment works for such designated period as the board deems proper and reasonable; and, when adopted, such plan shall be followed

in that part of the district covered in the plan, subject to the provisions of sections 458D.01 to 458D.24. The plan shall take into account the preservation and best and most economic use of water and other natural resources in the area; the preservation, use and potential for use of lands adjoining waters of the state to be used for the disposal of sewage; and the impact such a disposal system will have on present and future land use in the area affected thereby. The plan shall include the general location of needed interceptors and treatment works, a description of the area that is to be served by the various interceptors and treatment works, a long range capital improvements program and such other details as the board shall deem appropriate. In developing the plan, the board shall consult with persons designated by governing bodies of any municipal or public corporation or governmental or political subdivision or agency within the district to represent such entities for such purpose and shall consider the data, resources and input offered to the board by such entities and any planning agency acting on behalf of one or more such entities. Such plan may be revised as often as the board deems necessary.

Subd. 2. **Solid waste plan.** The board shall prepare by January 1, 1975, and by resolution adopt a comprehensive plan for the management and disposal of solid waste in the district. The plan shall be subject to the approval of the agency. In developing the plan, the board shall consider the preservation and best and most economical use of the land and water resources in the district. The plan shall include a statement of goals and policies for solid waste disposal, criteria for solid waste disposal sites, the general location and capacities of needed disposal sites and facilities, projections of disposal capacities required, regulations for the operation of disposal sites and facilities, a description of disposal techniques which may be used, the type or types of solid waste to be disposed of at each site or facility, a long range capital improvements program and such other details as the board shall require. Criteria for solid waste disposal sites and regulations for the operation of disposal sites and facilities, included in the plan, shall be consistent with regulations adopted by the agency. The plan may provide for the continued operation or acquisition and operation of disposal sites or facilities by local government units, private persons or the board and may provide that only the board shall own, maintain and operate disposal sites and facilities within the district. In developing the plan, the board shall consult with persons designated by governing bodies of any municipal or public corporation or governmental or political subdivision or agency within the district and shall consider their data. The plan may be revised as often as the board deems necessary. A copy of the comprehensive plan and each revision thereof shall be delivered or mailed to the agency, the county auditor of each county located within the district and the clerk of each city and township in the district. Prior to the adoption by the board of its comprehensive plan, no local government unit shall acquire any solid waste disposal site or facility unless approved by the board. After the comprehensive plan is adopted local government units and persons shall acquire and operate solid waste disposal sites and facilities in accordance with the plan. The board shall hold hearings as provided in subdivision 2 and coordinate with municipal plans as provided in subdivision 3.

Subd. 3. **Comprehensive plans; hearing.** Before adopting the first or any subsequent comprehensive plan the board shall hold a public hearing on such proposed plan at such time and place in the district as it shall determine. The hearing may be continued from time to time. Not less than 45 days before the hearing, the board shall publish notice thereof in a newspaper or newspapers having general circulation in the district, stating the date, time and place of the hearing, and the place where the proposed plan may be examined by any interested person. At the hearing, all interested persons shall be permitted to present their views on the plan.



**Subd. 4. Municipal plans and programs; coordination with board's responsibilities.**

As soon as practicable after the adoption by the board of the first applicable comprehensive plan, and before undertaking the construction of new sewers or other disposal facilities or the substantial alteration or improvement of any existing sewers or other disposal facilities, each local government unit included in the plan shall adopt a similar comprehensive plan and program for the collection, treatment and disposal of sewage for which the local government unit is responsible, coordinated with the board's plan, and may revise the same as often as it deems necessary. Each such local plan or revision thereof shall be submitted forthwith to the board for review and shall be subject to the approval of the board as to those features of the plan affecting the board's responsibilities as determined by the board. Any such features disapproved by the board shall be modified in accordance with the board's recommendations. Once the board's plan is adopted, no such construction project involving such features shall be undertaken by the local government unit unless its governing body shall first find the project to be in accordance with the government unit's comprehensive plan and program as approved by the board. Prior to approval by the board of the comprehensive plan and program of any local government unit in the district, no such construction project shall be undertaken by such government unit unless approval of the project is first secured from the board as to those features of the project affecting the board's responsibilities as determined by the board.

**History:** 1971 c 478 s 5; 1974 c 377 s 7

**458D.06 SEWER SERVICE FUNCTION.**

Subdivision 1. **Interceptors and treatment works.** The board may, to the extent it deems proper and reasonable to implement its comprehensive plan, acquire, construct, better, equip, operate and maintain any or all interceptors and treatment works for the district, subject to the provisions of sections 458D.01 to 458D.24. A treatment works owned by a local government unit may be acquired or operated by the board to implement the comprehensive plan if any part of the treatment works is needed for such purpose.

Subd. 2. **Acquisition of local facilities.** The board may require any local government unit to transfer to the board, all of its right, title and interest in any interceptors or treatment works and all necessary appurtenances thereto owned by such local government unit which will be needed for the purpose stated in subdivision 1. Appropriate instruments of conveyance for all such property shall be executed and delivered to the board by the proper officers of each local government unit concerned. All persons regularly employed by a local government unit to operate and maintain any treatment works or interceptors so transferred to the board, on the date on which the transfer becomes effective, shall be employees of the board, and may at their option become members of the retirement system applicable to persons employed directly by the executive director or may continue as members of a public retirement association under chapter 422, or any other law, to which they belong before such date, and shall retain all pension rights which they may have under such latter laws, and all other rights to which they are entitled by contract or law. The board shall make the employer's contributions to pension funds of its employees. Such employees shall perform such duties as may be prescribed by the board.

Subd. 3. **Payment of existing debt.** The board, upon assuming ownership of any interceptors or treatment works pursuant to subdivision 2, shall become obligated to pay the local government unit such amounts at such times as will be necessary to pay when due all remaining principal of and interest on bonds issued by such local government unit for the acquisition or betterment of all such interceptors or treatment works taken over. The board shall also assume the

same obligation with respect to so much of any other existing disposal system owned by a local government unit as the board determines to have been replaced or rendered useless by the district disposal system. The amounts to be paid under this subdivision may be offset against any amount to be paid to the board by the local government unit as provided in section 458D.09.

**Subd. 4. Credit for local facility value.** Upon assuming ownership of any interceptor or treatment works as provided in subdivision 2, the board may give the local government unit or units which paid all or part of the costs of such facility, directly or pursuant to contracts for reimbursement of costs, a credit against amounts to be allocated to them under section 458D.09, which may be spread over such period not exceeding 30 years as the board shall determine, and an additional credit equal to interest on the unused credit balance from time to time at such rate as may be determined by the board but not to exceed five percent per annum. If the board determines to give such a credit, it shall be given with respect to all existing interceptors and treatment works over which the board assumes ownership. The amount of such credit shall equal the current value of the facility at the time the board acquires it computed by the board in the following manner. The original cost of the facility for purposes of such computation shall be the total actual costs of constructing it, including engineering, legal, and administrative costs, less (a) any part of the cost of such facility paid from state or federal grants, and (b) the principal amount of any bonds outstanding at the time of acquisition which were issued to finance its construction. The original cost shall be multiplied by a factor equal to a cost index current at the time of acquisition divided by the same cost index at the time of the construction, to determine replacement cost. The cost indices used shall be Engineering News Record Construction Cost Indices for facilities or parts thereof completed before 1930, and the United States Public Health Service Federal Water Pollution Control Values for Sewer and Treatment Plant Construction, as applied to facilities or parts thereof completed in or after 1930. The current value of the facility shall be the replacement cost depreciated by 2.50 percent per annum from the date of construction of treatment works and 1.25 percent per annum from the date of construction of interceptors; and decreased further by a reasonable allowance for obsolescence if the board determines that the facility or any part thereof will not be useful for board purposes for at least the remaining period required to depreciate it fully, assuming no salvage value. The current value of each such facility shall be credited to each local government unit in proportion to the amount of the construction costs paid by that unit, as determined by the board, taking into account reimbursements previously made under contracts between any of the local government units. The board shall prepare an itemized statement of the amount of credit each local government unit is given under this subdivision, and the years and amounts of installments of principal and interest thereon, and shall cause it to be mailed or delivered to the governing body of each local government unit concerned. The amount of the annual credits of principal and interest made under this subdivision to each local government unit shall be allocated as current costs in accordance with section 458D.09.

**Subd. 5. Contracts between local government units.** The board may terminate upon 60 days' mailed notice to the contracting parties, any existing contract between or among local government units requiring payments by a local government unit to any other local government unit, for the use of a disposal system, or as reimbursement of capital costs of such a disposal system, all or part of which will be needed to implement the board's comprehensive plan. All contracts between or among local government units for use of a disposal system entered into subsequent to July 8, 1971, shall be submitted to the board for approval as to those features

affecting the board's responsibilities as determined by the board and shall not become effective until such approval is given.

**History:** 1971 c 478 s 6

#### **458D.07 SEWAGE COLLECTION AND DISPOSAL.**

Subdivision 1. **Powers.** In addition to all other powers conferred upon the board in sections 458D.01 to 458D.24, it shall have the powers specified in this section.

Subd. 2. **Solid waste disposal.** The board may implement its comprehensive plan, acquire, construct, better, equip, operate and maintain all solid waste disposal sites or facilities within the district. A solid waste disposal site or facility owned by a local government unit or private person may, after payment of just compensation, be acquired or operated by the board.

Except as otherwise provided hereafter, should the comprehensive plan provide for the operation of one or more disposal sites or facilities by the district, the district shall acquire, subject to the payment of just compensation, the disposal facility, both real and personal property presently operated by Carlton County, and located in section 9, township 48 north, range 17 west, Carlton County, Minnesota, and the disposal facility, both real and personal property, presently operated by Duluth Disposal Company and located in section 31, township 51, range 14, St. Louis County, Minnesota. Notwithstanding such requirement, the district and Carlton County, or the district and Duluth Disposal Company, or its successors and assigns, as the case may be, may, by agreement, provide for the continued ownership or operation of the disposal facilities referred to above by Carlton County or such company, as the case may be, upon such terms and subject to such conditions as the district and Carlton County or the district and such company may agree.

Subd. 3. **Solid waste disposal method.** (a) Except as provided in paragraph (b), the board shall treat and dispose of solid waste by landfill, incineration or other disposal method subject to the rules and regulations of the agency.

(b) Ash produced by the fluidized bed sewage sludge incinerators operated by the board is not subject to rules adopted by the agency under section 115A.97, subdivision 3, provided that the ash is disposed of under the rules of the agency relating to the disposal of industrial solid waste.

Subd. 4. **Utilization of district system.** (a) The board may provide that every person or local government unit located in the district must dispose of solid waste as provided in the comprehensive plan.

(b) Upon the adoption of a solid waste plan under section 458D.05, subdivision 2, the plan governs all solid waste management in the district and a public entity, as defined in section 16B.122, subdivision 1, within the district may not:

(1) enter into a binding agreement governing a solid waste management activity that is inconsistent with that plan, without the consent of the district; or

(2) develop or implement a solid waste management activity, other than an activity to reduce waste generation or reuse waste materials, that is inconsistent with a solid waste plan that the district is actively implementing, without the consent of the district.

Subd. 5. **Collection process.** Nothing contained in this chapter shall be construed to permit the district to engage in the collection of solid waste.

Subd. 5a. **Recycling.** The district may require recycling and regulate the collection of recyclable materials in the district.

Subd. 6. **Discharge of treated sewage.** The board shall have the right to discharge the effluent from any treatment works operated by it into any waters of the state, subject to the approval of the agency if required, and in accordance with any effluent or water quality standards lawfully adopted by the agency, by any interstate agency or by any federal agency having jurisdiction.

Subd. 7. **Utilization of district system.** The board may require any person or local government unit located in the district to provide for the discharge of any sewage, directly or indirectly, into the district disposal system, or to connect any disposal system or a part thereof with the district disposal system wherever reasonable opportunity therefor is provided; may regulate the manner in which such connections are made; may require any person or local government unit discharging sewage into the disposal system to provide preliminary treatment therefor; may prohibit the discharge into the district disposal system of any substance which it determines will or may be harmful to the system or any persons operating it; and may require any local government unit to discontinue the acquisition, betterment, or operation of any facility for such unit's disposal system wherever and so far as adequate service is or will be provided by the district disposal system.

Subd. 8. **Cost recovery subject to state, federal law.** The board may require that any charges, connection fees or other cost recovery techniques imposed by a local government unit on persons discharging sewage directly or indirectly into the district disposal system, comply with applicable state and federal law, including but not limited to state and federal regulations governing grant applications.

**History:** 1971 c 478 s 7; 1974 c 377 s 8; 1991 c 337 s 61,62; 1993 c 191 s 1; 1996 c 470 s 22

#### **458D.08 BUDGET.**

The board shall prepare and adopt, on or before December 31, 1971, and on or before November 1, 1972, and each year thereafter, a budget showing for the following calendar year or other fiscal year determined by the board, sometimes referred to in sections 458D.01 to 458D.24 as the budget year, the estimated revenue from all sources, including but not limited to, income earned in the operation of the district disposal system, federal or state grants, taxes on property, and funds on hand at the beginning of the year, and estimated expenses for:

- (1) credits to each local government unit under section 458D.06, subdivision 4;
- (2) deferred payments under section 458D.09, subdivision 3;
- (3) costs of operation, administration and maintenance of the district disposal system;
- (4) costs of acquisition and betterment of the district disposal system; and
- (5) debt service, including principal and interest, on general obligation bonds and certificates issued pursuant to section 458D.14, obligations assumed under section 458D.06, subdivision 3, and any money judgments entered by a court of competent jurisdiction. Expenses within these general categories, and such others as the board may from time to time determine, shall be itemized in such detail as the board shall prescribe. The board and its officers, agents and employees shall not incur an expense for any purpose other than debt service without having set forth such expense in the budget nor in excess of the amount set forth in the budget therefor, and no obligation to incur such an expense shall be enforceable except as the obligation of the person or persons incurring it; providing that the board may amend the budget at any time by transferring from one purpose to another any revenue except for debt service and bond proceeds and by increasing expenses in any amount by which revenue during the budget year is estimated

to exceed the total amounts designated in the original budget. The creation of any obligation pursuant to section 458D.14 or the award of any federal or state grant is a sufficient budget designation of the proceeds for the purpose for which it is authorized, and of the tax or other revenue pledged to pay the obligation and interest on it, whether or not specifically included in any annual budget. The budget shall contain, in addition to the provisions above, the estimated revenue from income earned in the operation of solid waste disposal sites or facilities and estimated expenses for the operation of such solid waste disposal sites or facilities. Revenues from the operation of disposal sites or facilities shall not be used to fund in whole or in part the maintenance or operation of the district disposal system as that term is defined in section 458D.02.

**History:** 1971 c 478 s 8; 1974 c 377 s 9; 1982 c 514 s 2; 1991 c 55 s 2

#### **458D.09 ALLOCATION OF COSTS.**

Subdivision 1. **Definition of current costs.** The estimated cost of administration, operation, maintenance and debt service of the district disposal system and the estimated costs of acquisition and betterment of the system which the board shall incur in the budget year other than cost of acquisition and betterment which are payable out of state or federal grants and bond proceeds and all other previously unrecovered costs incurred by the board pursuant to sections 458D.01 to 458D.24 to be allocated in such year are referred to as current costs and shall be recovered by the board from the local government units as hereinafter provided in the budget for such year.

Subd. 2. **Allocation method.** All current costs shall be allocated to local government units in the district on such equitable basis as the board may from time to time determine by resolution to be in the best interests of the district. In determining what is an equitable basis and in the best interests of the district, the board shall take into account the quantity, pollution qualities and difficulty of treatment of sewage discharged directly or indirectly into the district disposal system and any substantial or demonstrable error in any previous allocation of costs, and may take into account all or any combination of the following: the extent to which the facilities are not used to total capacity, any substantial benefit to the district as a whole, the assessed value of all taxable property within each local government unit in the district, the area primarily served by all or part of the district disposal system, the population of each local government unit in the district, the extent to which the territory of a local government unit has been connected to the district disposal system, distinctions between operating and capital costs, and any other factors which the board deems to be fair and reasonable for purposes of allocating costs.

Subd. 3. **Deferment of payments.** The board may by resolution provide for the deferment of payment of all or part of current costs, except the costs of administration, operation and maintenance, which are allocated by the board to a local government unit in any budget year repayable at such time or times as the board shall specify in the resolution with interest at the approximate average annual rate borne by bonds issued by the board and outstanding at the time of the deferment as determined by the board or if no bonds are outstanding at such rate as may be determined by the board but not to exceed the maximum rate of interest which may be paid on bonds issued by the board at the time of deferment. Payment of current costs may be deferred only when the board determines that the amount of such payments or some portion thereof will be disproportionate to the available economic resources of the unit at the time. Such deferred payments shall to the extent necessary be reallocated to and paid by those remaining local government units with respect to which no payments have been deferred, in the same proportion as the current costs allocated to such remaining local government units bear to the current costs allocated to all such remaining local government units. When such deferred payments are repaid,

they shall be applied in reduction of the total amount of current costs thereafter allocated to each of the local government units to which such deferred payments were reallocated in the year of deferment in the same proportion as such deferred payments were reallocated.

**History:** 1971 c 478 s 9; 1982 c 514 s 3

#### **458D.10 COSTS OF SOLID WASTE DISPOSAL.**

Subdivision 1. **Definition of current costs.** The estimated cost to the district of the administration, operation, maintenance and debt service of solid waste disposal sites or facilities and the estimated costs of acquisition and betterment of the disposal sites or facilities which the board shall incur in the budget year, other than cost of acquisition and betterment which are payable out of state or federal grants and bond proceeds, and all other previously unrecovered costs incurred by the board are referred to as current costs and shall be recovered by the board through a system of user charges.

Subd. 2. **Method of recovering current costs.** Prior to commencing the operation of any solid waste disposal site or facility, the board shall establish a system of nondiscriminatory rates for the use of solid waste disposal sites and facilities. The rates shall be designed to recover current costs. The rates shall be adjusted by the board at any time to reflect actual costs of operating the disposal sites and facilities.

Subd. 3. **Emergency certificates of indebtedness.** Notwithstanding the provisions of subdivision 1, if in any budget year the receipts from user charges are insufficient to pay the current costs of operating such disposal sites and facilities, the board may issue negotiable general obligation certificates of the indebtedness in an amount sufficient to meet the deficiency. The certificates shall be issued as provided by section 458D.14, subdivisions 3 and 5.

Subd. 4. **General obligation bonds.** The board may by resolution authorize the issuance of general obligation bonds for the acquisition or betterment of solid waste disposal sites and facilities, including but without limitation, the payment of interest during construction and for a reasonable period thereafter, the establishment of a reserve for bond payments, working capital, refunding of outstanding bonds, certificates of indebtedness, or judgments. The board shall pledge its full faith and credit and taxing power for the payment of the bonds and provide for the issuance and sale and for the security of such bonds in the manner provided in chapter 475, and shall have the same powers and duties as a municipality issuing bonds under that law, except no election shall be required and the debt limitations of chapter 475 shall not apply to the bonds. The board may pledge for payment of the bonds, revenues received from users. The board may by resolution and prior to beginning operation of any solid waste disposal site or facility authorize the issuance of general obligation bonds in an amount not to exceed 50 percent of the estimated cost of operating the disposal site or facility for the first 12 months of operation. The estimated cost shall be the best estimate of the board declared in resolution form. The board shall pledge its full faith, credit and taxing powers for the payment of such bonds and provide for the issuance and sale and for the security of such bonds in the manner provided in chapter 475, and shall have the same powers and duties as a municipality issuing bonds under that law, except no election shall be required and the debt limitations of chapter 475 shall not apply to the bonds. The board may also pledge for the payment of the bonds any revenues receivable from user charges.

**History:** 1974 c 377 s 10; 1982 c 514 s 4

**458D.11 GOVERNMENT PAYMENTS.**

Subdivision 1. **Obligations of government units.** Each government unit shall pay to the board all sums charged to it as provided in section 458D.09, at the times and in the manner determined by the board. The governing body of each such government unit shall take all action that may be necessary to provide the funds required for such payments and to make the same when due.

Subd. 2. **Amounts due board; when payable.** Charges payable to the board by local government units may be made payable at such times during each year as the board determines, after it has taken into account the dates on which taxes, assessments, revenue collections and other funds become available to the government units required to pay such charges.

Subd. 3. **General powers of government units.** To accomplish any duty imposed on it by the board, the governing body of every government unit may, in addition to the powers granted in sections 458D.01 to 458D.24 and in any other law or charter, exercise the powers granted any municipality by chapters 117, 412, 429, 475, and sections 115.46, 444.075 and 471.59. In addition thereto, the governing body of every government unit may levy taxes upon all taxable property in that part of the government unit located in the district for all or a part of the amount payable to the board, to be assessed and extended as a tax upon such taxable property by the county auditor for the next calendar year, free from any limitation of rate or amount imposed by law or charter. Such tax shall be collected and remitted in the same manner as other general taxes of the government unit.

Subd. 4. **Deficiency tax levies.** If the local government unit fails to make any payment to the board when due, the board may certify to the auditor of the county in which the government unit is located the amount required for payment of such amount with interest at not more than the maximum rate per annum authorized at that time on assessments pursuant to section 429.061, subdivision 2. The auditor shall levy and extend such amount as a tax upon all taxable property in that part of the government unit located in the district for the next calendar year, free from any existing limitations imposed by law or charter. Such tax shall be collected in the same manner as other general taxes of the government unit, and the proceeds thereof, when collected, shall be paid by the county treasurer to the treasurer of the board and credited to the government unit for which the tax was levied.

**History:** 1971 c 478 s 10

**458D.111 COLLECTION OF SOLID WASTE MANAGEMENT SERVICE CHARGES.**

Subdivision 1. **Authority.** The board shall have the powers of a county as specified in section 400.08.

Subd. 2. **Method of collecting certain service charges.** The board shall determine the method of collecting service charges in a service area by resolution.

Subd. 3. **Service charges on real estate.** In addition to any methods provided in section 400.08, the board may assess and collect service charges as follows. On or before October 15 of each year, the board shall certify to each county auditor an itemized list of solid waste management service charges and a description of parcels of lands against which the charges arise. It shall be the duty of the county auditors to include the charges upon the tax rolls of the county for the taxes due and payable for the following year. The solid waste management service charge shall be enforced and collected in the manner provided for the enforcement and collection of real property taxes. The service charges shall be subject to the same penalties, interest, and

other conditions provided for the collection of property taxes. The board shall reimburse each county auditor for the costs of collection of the service charge.

**History:** 1997 c 231 art 16 s 18

#### **458D.12 PUBLIC HEARING AND SPECIAL ASSESSMENTS.**

Subdivision 1. **Project hearing requirement.** Before the board orders any project involving the acquisition or betterment of any interceptor or treatment works, all or a part of the cost of which will be allocated to local government units pursuant to section 458D.09, as current costs, the board shall hold a public hearing on the proposed project following two publications in a newspaper or newspapers having general circulation in the district, stating the time and place of the hearing, the general nature and location of the project, the estimated total cost of acquisition and betterment, that portion of such costs estimated to be paid out of federal and state grants, and that portion of such costs estimated to be allocated to each local government unit affected thereby. The two publications shall be a week apart and the hearing shall be at least three days after the last publication. Not less than 45 days before the hearing, notice thereof shall also be mailed to each clerk of all local government units in the district, but failure to give mailed notice or any defects in the notice shall not invalidate the proceedings. The project may include all or part of one or more interceptors or treatment works. No such hearing shall be held on any project unless the project is within the area covered by a comprehensive plan adopted by the board pursuant to section 458D.05, except that the hearing may be held simultaneously with a hearing on such a comprehensive plan. A hearing is not required with respect to a project, no part of the costs of which are to be allocated to local government units as the current costs of acquisition, betterment and debt service.

Subd. 2. **Notice to benefited property owners.** If the governing body of any local government unit in the district proposes to assess against benefited property within such unit all or any part of the allocable costs of the project as provided in subdivision 5, such governing body shall, not less than ten days prior to the hearing provided for in subdivision 1 cause mailed notice thereof to be given to the owner of each parcel within the area proposed to be specially assessed and shall also give one week's published notice of the hearing. The notice of hearing shall contain the same information provided in the notice published by the board pursuant to subdivision 1, and in addition, a description of the area proposed to be assessed by the local government unit. For the purpose of giving mailed notice, owners shall be those shown to be 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. However, as to properties which are tax exempt or subject to taxation on a gross earnings basis and are not listed on the records of the county auditor or the county treasurer, the owners thereof shall be ascertained by any practicable means and mailed notice shall be given them as herein provided. Failure to give mailed notice or any defects in the notice shall not invalidate the proceedings of the board or the local governing body.

Subd. 3. **Board proceedings pertaining to hearing.** Prior to adoption of the resolution calling for such a hearing, the board shall secure from the district engineer or some other competent person of the board's selection a report advising it in a preliminary way as to whether the proposed project is feasible and as to whether it should best be made as proposed or in connection with some other project and the estimated costs of the project as recommended; but no error or omission in such report shall invalidate the proceeding. The board may also take such other steps prior to the hearing, as will in its judgment provide helpful information in



determining the desirability and feasibility of the project, including but not limited to preparation of plans and specifications and advertisement for bids thereon. The hearing may be adjourned from time to time and a resolution ordering the project may be adopted by the board at any time within six months after the date of the hearing. In ordering the project the board may reduce but not increase the extent of the project as stated in the notice of hearing and shall find that the project as ordered is in accordance with the comprehensive plan and program adopted by the board pursuant to section 458D.05.

**Subd. 4. Emergency action.** If the board by resolution determines that an emergency exists requiring the immediate purchase of materials or supplies or the making of emergency repairs, it may order the purchase of such supplies and materials and the making of such repairs prior to any hearing required under this section, provided that the board shall set as early a date as practicable for such hearing at the time it declares such emergency. All other provisions of this section shall be followed in giving notice of and conducting such hearing. Nothing herein shall be construed as preventing the board or its agents from purchasing maintenance supplies or incurring maintenance costs without regard to the requirements of this section.

**Subd. 5. Power of government unit to specially assess.** A local government unit may specially assess all or any part of the costs of acquisition and betterment as herein provided, of any project ordered by the board pursuant to this section. Such special assessments shall be levied in accordance with the provisions of sections 429.051 to 429.081, except as otherwise provided in this subdivision. No other provisions of chapter 429 shall apply. For purposes of levying such special assessments, the hearing on such project required in subdivision 1 shall serve as the hearing on the making of the original improvement provided for by section 429.051. The area assessed may be less than but may not exceed the area proposed to be assessed as stated in the notice of hearing on the project provided for in subdivision 2. For the purpose of determining the allocable cost of the project, or part thereof, to the local government unit, the government unit may adopt one of the following two procedures:

(1) At any time after a contract is let for the project, the local government unit may obtain from the board a current written estimate, on the basis of such historical and reasonably projected data as may be available, of that part of the total costs of acquisition and betterment of such project or of some portion of the project which the government unit shall designate, which will be allocated to the government unit and the number of years over which such costs will be allocated as current costs of acquisition, betterment and debt service pursuant to section 458D.09. The board shall not in any way be bound by this estimate for the purpose of allocating the costs of such project to local government units.

(2) The governing body may obtain from the board a written statement setting forth, for such prior period as the governing body designates, that portion of the costs previously allocated to the local government unit as current costs of acquisition, betterment and debt service only, of all or any part of the project designated by the governing body. In addition to the allocable costs so ascertained, the local government unit may include in the total expense it will pay, as a basis for levying assessments, all other expenses incurred directly by the government unit in connection with said project, or any part thereof. Special assessments levied by the government unit with respect to previously allocated costs ascertained under the second procedure above shall be payable in equal annual installments extending over a period not exceeding by more than one year the number of years over which such costs had been allocated to the government unit or the estimated useful life of said project, or part thereof, whichever number of years is the lesser. No limitation is placed upon the number of times the governing body of a government unit may

assess such previously allocated costs not previously assessed by the government unit. The power to specially assess provided for in this section shall be in addition and supplemental to and not in substitution of all other powers of government units to levy special assessments granted by law or charter; and, to the extent practicable, a local government unit may exercise such existing power to levy special assessments for the purpose of paying all or part of the allocable costs and other expenses incurred by the government unit in connection with all or a part of said project, ascertained in accordance with the provisions of this subdivision and subject to the limitation in this subdivision with respect to the number of years over which the payment of such assessments for previously allocated costs may be extended.

**History:** 1978 c 478 s 11

**458D.13** [Repealed, 1996 c 310 s 1]

#### **458D.14 BONDS, CERTIFICATES AND OTHER OBLIGATIONS.**

Subdivision 1. **Budget anticipation certificates.** At any time or times after adoption of its annual budget and in anticipation of the collection of tax and other revenues estimated and set forth by the board in such budget, except (a) taxes already anticipated by the issuance of certificates under subdivision 2, (b) deficiency taxes levied pursuant to this subdivision, and (c) taxes levied for the payment of certificates issued pursuant to subdivision 3, the board may, by resolution, authorize the issuance, negotiation and sale in accordance with subdivision 5 in such form and manner and upon such terms as it may determine of its negotiable general obligation certificates of indebtedness in aggregate principal amounts not exceeding 50 percent of the total amount of such tax collections and other revenues and maturing not later than three months after the close of the budget year in which issued. The proceeds of the sale of such certificates shall be used solely for the purposes for which such tax collections and other revenues are to be expended pursuant to such budget. All such tax collections and other revenues included in the budget for such budget year, after the expenditure of such tax collections and other revenues in accordance with the budget, shall be irrevocably pledged and appropriated to a special fund to pay the principal and interest on the certificates when due. If for any reason such tax collections and other revenues are insufficient to pay the certificates and interest when due, the board shall levy a tax in the amount of the deficiency on all taxable property in the district and shall appropriate this amount when received to the special fund.

Subd. 2. [Repealed, 1998 c 254 art 1 s 89]

Subd. 3. **Emergency certificates.** If in any budget year the receipts of tax and other revenues should for some unforeseen cause become insufficient to pay the board's current expenses, or if any calamity or other public emergency should subject it to the necessity of making extraordinary expenditures, the board may by resolution authorize the issuance, negotiation, and sale in accordance with subdivision 5 in such form and manner and upon such terms and conditions as it may determine of its negotiable general obligation certificates of indebtedness in an amount sufficient to meet such deficiency and the board shall forthwith levy on all taxable property in the district a tax sufficient to pay the certificates and interest thereon, and shall appropriate all collections of such tax to a special fund created for the payment of such certificates and the interest thereon. Certificates issued under this subdivision shall mature not later than April 1 in the year following the year in which such tax is collectible.

Subd. 4. **General obligation bonds.** The board may by resolution authorize the issuance of general obligation bonds for the acquisition or betterment of any part of the district disposal

system, including but without limitation the payment of interest during construction and for a reasonable period thereafter and the establishment of reserves for bond payments and for working capital, or for the refunding of outstanding bonds, certificates of indebtedness, or judgments. The board shall pledge its full faith and credit and taxing powers for the payment of such bonds and provide for the issuance and sale and for the security of such bonds in the manner provided in chapter 475, and shall have the same powers and duties as a municipality issuing bonds under that law, except that no election shall be required and the debt limitations of chapter 475, shall not apply to such bonds. The board may also pledge for the payment of such bonds any revenues receivable under section 458D.11.

Subd. 5. **Manner of sale and issuance of certificates.** Certificates issued under subdivisions 1, 2, and 3 may be issued and sold by negotiation, without public sale, and may be sold at a price equal to such percentage of the par value thereof, plus accrued interest, and bearing interest at such rate or rates as may be determined by the board. No election shall be required to authorize the issuance of such certificates. Such certificates shall bear the same rate of interest after maturity as before and the full faith and credit and taxing power of the board shall be pledged to the payment of such certificates.

**History:** 1971 c 478 s 13

#### **458D.145 APPLICABLE ELECTED REPRESENTATIVE.**

For purposes of section 147(f) of the Internal Revenue Code of 1986 and any successor provisions requiring public approval for qualified bonds, the applicable elected representative of the board shall be all the state senators representing any part of the geographic area of the district.

**History:** 1995 c 41 s 1

#### **458D.15 TAX LEVIES.**

The board shall have power to levy taxes for debt service of the district disposal system, including solid waste disposal facilities, upon all taxable property within the district without limitation of rate or amount and without affecting the amount or rate of taxes which may be levied by the board for other purposes or by any local government unit in the district. No other provision of law relating to debt limit shall restrict or in any way limit the power of the board to issue the bonds and certificates authorized in section 458D.14. The board shall also have power to levy taxes as provided in section 458D.11. Each of the county auditors shall annually assess and extend upon the tax rolls of the auditor's county the portion of the taxes levied by the board in each year which is certified by the board. Each county treasurer shall collect and make settlement of such taxes with the treasurer of the board.

**History:** 1971 c 478 s 14; 1974 c 377 s 11; 1998 c 254 art 1 s 90

#### **458D.16 DEPOSITORIES.**

The board shall from time to time designate one or more national or state banks, or trust companies authorized to do a banking business, as official depositories for money of the board, and thereupon shall require the treasurer to deposit all or a part of such money in such institutions. Such designation shall be in writing and shall set forth all the terms and conditions upon which the deposits are made, and shall be signed by the chair and treasurer, and made a part of the minutes of the board. Any bank or trust company so designated shall qualify as a depository by furnishing

a corporate surety bond or collateral in the amounts required by section 118A.03. However, no bond or collateral shall be required to secure any deposit insofar as it is insured under federal law.

**History:** 1971 c 478 s 15; 1996 c 399 art 2 s 12

#### **458D.17 MONEY, ACCOUNTS, AND INVESTMENTS.**

Subdivision 1. **Receipt and application.** All money received by the board shall be deposited or invested by the treasurer and disposed of as the board may direct in accordance with its budget; provided that any money that has been pledged or dedicated by the board to the payment of obligations or interest thereon or expenses incident thereto, or for any other specific purpose authorized by law, shall be paid by the treasurer into the fund to which they have been pledged.

Subd. 2. **Funds and accounts.** The board's treasurer shall establish such funds and accounts as may be necessary or convenient to handle the receipts and disbursements of the board in an orderly fashion.

Subd. 3. **Deposit and investment.** The money on hand in said funds and accounts may be deposited in the official depositories of the board or invested as hereinafter provided. The amount thereof not currently needed or required by law to be kept in cash on deposit may be invested in obligations authorized for the investment of municipal sinking funds by section 118A.04. Such money may also be held under certificates of deposit issued by any official depository of the board.

Subd. 4. **Bond proceeds.** The use of proceeds of all bonds issued by the board for the acquisition and betterment of the district disposal system, and the use, other than investment, of all money on hand in any sinking fund of funds of the board, shall be governed by the provisions of chapter 475, the provisions of sections 458D.01 to 458D.24 and the provisions of resolutions authorizing the issuance of such bonds. Such bond proceeds when received shall be transferred to the treasurer of the board for safekeeping, investment and payment of the costs for which they were issued.

Subd. 5. **Audit.** The board shall provide for and pay the cost of an independent annual audit of its official books and records by the state auditor or a certified public accountant.

**History:** 1971 c 478 s 16; 1996 c 399 art 2 s 12; 1Sp2003 c 1 art 2 s 110

#### **458D.18 GENERAL POWERS OF BOARD.**

Subdivision 1. **Necessary, convenient.** The board shall have all powers which may be necessary or convenient to discharge the duties imposed upon it by law. Such powers shall include those herein specified, but the express grant or enumeration of powers shall not be deemed to limit the generality or scope of the grant of power contained in this subdivision.

Subd. 2. **Suits.** The board may sue or be sued.

Subd. 3. **Contracts.** The board may enter into any contract necessary or proper for the exercise of its powers or the accomplishment of its purposes.

Subd. 4. **Rules; penalties.** The board shall have the power to adopt rules and regulations relating to the board's responsibilities and may provide penalties for the violation thereof of imprisonment for not more than 90 days or the payment of a fine or civil penalty of not more than \$1,000, or both, for each violation. Any rule or regulation prescribing a penalty for violation shall be published at least once in a newspaper having general circulation in the district. Such violations may be prosecuted before any court in the district having jurisdiction of misdemeanors, and every such court shall have jurisdiction of such violations. Any peace officer of any municipality in the district may make arrests for such violations committed anywhere in the district in like manner

and with like effect as for violations of village ordinances or for statutory misdemeanors. All fines collected in such cases shall be deposited in the treasury of the board, or may be allocated between the board and the municipality in which such prosecution occurs on such basis as the board and the municipality agree.

Subd. 5. **Gifts, grants, loans.** The board may accept gifts, may apply for and accept grants or loans of money or other property from the United States, the state, or any person for any of its purposes, may enter into any agreement required in connection herewith, and may hold, use and dispose of such money or property in accordance with the terms of the gift, grant, loan or agreement relating thereto and, with respect to any loans or grants of funds or real or personal property or other assistance from any state or federal government or any agency or instrumentality thereof, the board and, where appropriate, one or more local government units, may contract to do and perform all acts and things required as a condition or consideration therefor pursuant to state or federal law or regulations, whether or not included among the powers otherwise granted to the board or such local government unit by sections 458D.01 to 458D.24 or any other law or charter.

Subd. 6. **Joint, cooperative action.** The board may act under the provisions of section 471.59, or any other appropriate law providing for joint or cooperative action between government units whether or not such joint or cooperative action is with one or more governmental units located outside the district in this or any other state.

Subd. 7. **Research, hearings, investigations, advice, assistance.** The board may conduct research studies and programs, collect and analyze data, prepare reports, maps, charts, and tables, and conduct all necessary hearings and investigations in connection with the design, construction and operation of the district disposal system; and may advise and assist other government units on system planning matters within the scope of its powers, duties and objectives.

Subd. 8. **Professional services, fidelity bonds, insurance.** The board may employ on such terms as it deems advisable, persons or firms performing engineering, legal or other services of a professional nature; requiring any employee to obtain and file with it an individual bond of fidelity insurance policy; and procure insurance in such amounts as it deems necessary against liability of the board or its officers 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.

Subd. 9. **Real, personal property.** The board may 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 interceptor, treatment works, or water facilities determined to be necessary or convenient for the collection and disposal of sewage in the district. 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, 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 unit or agency. All powers conferred by this subdivision may be exercised both within or without the district as may be necessary for the exercise by the board of its powers or the accomplishments of its purposes. The board may hold, lease, convey or otherwise dispose of such property 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 117.012 to 117.56, 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 board is paramount to such use. Except in case of property in actual public use, the board 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.

Subd. 10. **No franchise required.** The board may 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 on such public properties and shall not unnecessarily obstruct the public use of such rights-of-way.

Subd. 11. **Surplus property.** The board may sell, lease or otherwise dispose of any real or personal property acquired by it which is no longer required for accomplishment of its purposes. Such property may be sold in the manner provided by section 469.065, insofar as practical. The board may give such notice of sale as it shall deem appropriate. When the board determines that any property or any part of the district disposal system which has been acquired from a local government unit without compensation is no longer required but is required as a local facility by the government unit from which it was acquired, the board may by resolution transfer it to such government unit.

Subd. 12. **Use with or by other public entity.** The board may contract with the United States or any agency thereof, any state or agency thereof, the Head of the Lakes Council of Governments or any other multistate public entity with jurisdiction over any part of the district, the Arrowhead Regional Development Commission or any other regional public entity in the state with jurisdiction over any part of the district, or any other municipal or public corporation, or governmental subdivision or agency or political subdivision in any state, 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, including but not limited to planning, on such terms as may be agreed upon by the contracting parties. Unless designated by the board as a local sanitary sewer facility, any treatment works or interceptor jointly used, or operated on behalf of the board, as provided in this subdivision, shall be deemed to be operated by the board for the purposes of including said facilities in the district disposal system.

**History:** 1971 c 478 s 17; 1990 c 469 s 3; 1991 c 199 art 2 s 1; 2005 c 10 art 2 s 4; 2008 c 277 art 1 s 85

#### **458D.19 LOCAL FACILITIES.**

Subdivision 1. **Sanitary sewer facilities.** Except as otherwise provided in sections 458D.01 to 458D.24, local government units shall retain responsibility for the acquisition, betterment, operation, administration and maintenance of all local sanitary sewer facilities as provided by law.

Subd. 2. **Assumption of responsibility.** The board may upon request of any government unit or units enter into an agreement under which the board may assume either alone or jointly with the local government unit or units all or any part of the responsibility of the local government unit described in subdivision 1. Except as provided in subdivision 4 and for the purpose of exercising such responsibility the board shall have all the powers and duties elsewhere conferred

in sections 458D.01 to 458D.24 with the same force and effect as if such local sanitary sewer facilities were a part of the district disposal system.

Subd. 3. **Water and street facilities.** The board may, upon request of any government unit or units enter into an agreement under which the board may assume either alone or jointly with such unit or units, the responsibility for the acquisition and construction of water and street facilities in conjunction with (a) any project for the acquisition or betterment of the district disposal system or (b) any project undertaken by the board under subdivision 2 above. Except as provided in subdivision 4, and for the purpose of exercising any responsibilities pursuant to this subdivision the board shall have all the powers and duties elsewhere conferred in sections 458D.01 to 458D.24 with the same force and effect as if such water or street facilities were a part of the district disposal system.

Subd. 4. **Allocation of current costs.** All current costs attributable to responsibilities assumed by the board over local sanitary sewer facilities and water and street facilities as provided in this section shall be allocated solely to the local unit or units of government for or with whom such responsibilities are assumed on such terms as may be agreed upon by the board and such local government unit or units.

Subd. 5. **May include in district system.** Nothing contained in this section or in any other part of sections 458D.01 to 458D.24 shall be construed to prevent the board from including, where appropriate, treatment works or interceptors, previously designated or treated as local sanitary sewer facilities, as a part of the district disposal system.

Subd. 6. **Local powers.** Any local government unit may enter into any agreement provided for in this section and perform all acts and things required as a condition or consideration therefor consistent with the purposes of sections 458D.01 to 458D.24, whether or not included in the powers otherwise granted to such local governmental unit by sections 458D.01 to 458D.24 or any other law or charter.

**History:** 1971 c 478 s 18

#### **458D.20 SERVICE CONTRACTS OUTSIDE JURISDICTION.**

The board may contract with the United States or any agency thereof, any state or any agency thereof, or any municipal or public corporation, governmental subdivision or agency or political subdivision in any state, outside the jurisdiction of the board, for furnishing to such entities any services which the board may furnish to local government units in the district under sections 458D.01 to 458D.24, including but not limited to planning for and the acquisition, betterment, operation, administration and maintenance of any or all interceptors, treatment works and local sanitary sewer facilities, provided that the board may further include as one of the terms of the contract that such entity also pay to the board such amount as may be agreed upon as a reasonable estimate of the proportionate share properly allocable to the entity of costs of acquisition, betterment and debt service previously allocated to local government units in the district. When such payments are made by such entities to the board, they shall be applied in reduction of the total amount of costs thereafter allocated to each local government unit in the district, on such equitable basis as the board deems to be in the best interests of the district, applying so far as practicable and appropriate the criteria set forth in section 458D.09, subdivision 2. Any municipality in the state of Minnesota may enter into such contract and perform all acts and things required as a condition or consideration therefor consistent with the purposes of

sections 458D.01 to 458D.24, whether or not included among the powers otherwise granted to such municipality by law or charter.

**History:** 1971 c 478 s 19

#### **458D.21 CONSTRUCTION CONTRACTS.**

Subdivision 1. **Plans and specifications.** When the board orders a project involving the acquisition or betterment of a part of the district disposal system, it shall cause plans and specifications of the project to be made, or if previously made, to be modified, if necessary, and to be approved by the agency if required, and after any required approval by the agency, one or more contracts for work and materials called for by such plans and specifications may be awarded as provided in this section.

Subd. 2. **Contracts in excess of \$5,000.** No contract for any construction work, or for the purchase of materials, supplies, or equipment, estimated to cost more than \$5,000 shall be made by the board without publishing once in a newspaper having general circulation in the district and once in a trade paper or legal newspaper published in any city of the first class, not less than 14 days before the last day for submission of bids, notice that bids or proposals will be received. Such notice shall state the nature of the work or purchase and the terms and conditions upon which the contract is to be awarded, and the time and place where such bids will be received, opened, and read publicly. After such bids have been duly received, opened, read publicly, and recorded, the board shall within a reasonable time award such contract to the lowest responsible bidder or it may reject all bids and readvertise. Each contract shall be duly executed in writing and the party to whom the contract is awarded shall give sufficient bond or security to the board for the faithful performance of the contract as required by law. If the board by resolution determines that an emergency exists requiring the immediate purchase of materials or supplies or in making emergency repairs, at a cost estimated to be in excess of \$5,000, it shall not be necessary to advertise for bids.

Subd. 2a. **Contracts in excess of \$5,000; best value alternative.** As an alternative to the procurement method described in subdivision 2, the board may issue a request for proposals and award the contract to the vendor or contractor offering the best value as described in section 16C.28, subdivision 1, paragraph (a), clause (2), and paragraph (c).

Subd. 3. **Contracts or purchases for \$5,000 or less.** The board may, without advertising for bids, enter into any contract or purchase any materials, supplies or equipment of the type referred to in subdivision 2 the costs of which is estimated to be \$5,000 or less, or it may in the alternative authorize the executive director to enter into a contract on behalf of the board for such work or to make such purchases without prior approval of the board and without advertising for bids.

Subd. 4. **Uniform municipal contracting law.** Except as otherwise provided in this section, section 471.345 shall apply.

**History:** 1971 c 478 s 20; 2007 c 148 art 3 s 26

#### **458D.22 ANNEXATION OF TERRITORY.**

Any municipality upon resolution adopted by at least a four-fifths vote of its governing body may petition the board for annexation to the district of the area then comprising the municipality, or any part thereof and, if accepted by the board, such area shall be deemed annexed to the district and subject to the jurisdiction of the board under the terms and provisions of sections 458D.01 to 458D.24. The territory so annexed shall be subject to taxation and assessment pursuant to the



provisions of sections 458D.01 to 458D.24 and shall be subject to taxation by the board like other property in the district for the payment of principal and interest thereafter becoming due on general obligations of the board, whether authorized or issued before or after such annexation. The board may in its discretion condition approval of the annexation upon the contribution, by or on behalf of the municipality petitioning for annexation, to the board of such amount as may be agreed upon as being a reasonable estimate of the proportionate share, properly allocable to the municipality, of costs of acquisition, betterment and debt service previously allocated to local government units in the district, on such terms as may be agreed upon. For the purpose of paying this contribution, the municipality petitioning annexation may exercise the powers conferred in sections 458D.11 and 458D.12. When such contributions are made by the municipality to the board, they shall be applied in reduction of the total amount of costs thereafter allocated to all other local government units in the district, on such equitable basis as the board deems to be in the best interests of the district, applying so far as practicable and appropriate the criteria set forth in section 458D.09, subdivision 2. Upon annexation of such territory, the secretary of the board shall certify to the auditor and treasurer of the county in which the municipality is located the fact of such annexation and a legal description of the territory annexed.

**History:** 1971 c 478 s 21

#### **458D.23 PROPERTY EXEMPT FROM TAXATION.**

Any properties, real or personal, owned, leased, controlled, used, or occupied by the sanitary board for any purpose under sections 458D.01 to 458D.24 are declared to be acquired, owned, leased, controlled, used and occupied for public, governmental, and municipal purposes, and shall be exempt from taxation by the state or any political subdivision of the state, except to the extent that the property is subject to the sales and use tax under chapter 297A, provided that such properties shall be subject to special assessments levied by a political subdivision for a local improvement in amounts proportionate to and not exceeding the special benefit received by the properties from such improvement. No possible use of any such properties in any manner different from their use as part of a disposal system at the time shall be considered in determining the special benefit received by such properties. All such assessments shall be subject to final approval by the board, whose determination of the benefits shall be conclusive upon the political subdivision levying the assessment. All bonds, certificates of indebtedness or other obligations of the board, and the interest thereon, shall be exempt from taxation by the state or any political subdivision of the state.

**History:** 1971 c 478 s 22; 2000 c 418 art 2 s 6; 2002 c 379 art 1 s 87

#### **458D.24 RELATION TO EXISTING LAWS.**

The provisions of sections 458D.01 to 458D.24 shall be given full effect notwithstanding the provisions of any law or charter inconsistent therewith, provided however the powers conferred on the board under sections 458D.01 to 458D.24 shall in no way diminish or supersede the powers conferred on the agency by sections 103F.701 to 103F.755 and chapters 115 and 116 or any obligation of the agency incurred pursuant to the exercise of such powers. Any reference to the statutory provisions of Minnesota Statutes 1969, shall include any subsequent amendments thereto.

**History:** 1971 c 478 s 23; 1990 c 391 art 10 s 3; 2011 c 107 s 107