CHAPTER 400

SOLID WASTE MANAGEMENT

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400.01 POLICY AND AUTHORIZATION.

In order to protect the state's water, air, and land resources so as to promote the public safety, health, welfare, and productive capacity of its population, it is in the public interest that counties conduct solid waste management programs.

History: *1971 c 403 s 1*

400.02 APPLICABILITY.

Sections 400.01 to 400.17 apply to all counties other than the counties of Hennepin, Ramsey, Washington, Anoka, Dakota, Scott, and Carver.

History: *1971 c 403 s 2*

400.03 Subdivision 1. MS 2002 [Renumbered 400.03]

Subd. 2. MS 1978 [Repealed, 1980 c 564 art 13 s 2]

Subd. 3. MS 1978 [Repealed, 1980 c 564 art 13 s 2]

Subd. 4. MS 1978 [Repealed, 1980 c 564 art 13 s 2]

Subd. 5. MS 1978 [Repealed, 1980 c 564 art 13 s 2]

Subd. 6. MS 1978 [Repealed, 1980 c 564 art 13 s 2]

Subd. 7. MS 1978 [Repealed, 1980 c 564 art 13 s 2]

400.03 DEFINITIONS IN CHAPTER 116, SECTION 115A.03 APPLY.

The terms defined in chapter 116 and section 115A.03 also apply to the terms used in sections 400.01 to 400.17.

History: *1971 c 403 s 3; 1973 c 153 s 1; 1974 c 346 s 6; 1980 c 564 art 9 s 1; 1991 c 199 art 1 s 75*

400.04 SOLID WASTE MANAGEMENT PROGRAM.

Subdivision 1. **General.** Any county may conduct a solid waste management program which may include activities authorized by sections 400.01 to 400.17 and such other activities as are necessary and convenient

to effectively carry out the purposes of sections 400.01 to 400.17. A county that enters into a joint powers agreement under section 471.59 with a metropolitan county as defined in section 473.121, subdivision 4, to accomplish a solid waste management purpose may exercise the powers of the metropolitan county for the purpose of solid waste management under the joint powers agreement.

Subd. 2. **Acquisition of real property.** A county may acquire by gift, lease, purchase, or eminent domain as provided by law any land or interest in land upon such terms and conditions as it shall determine, including the use of contracts for deed, within or outside of the county, which the board deems suitable for these purposes; provided that no such land or interest in land situated in any other county shall be acquired without the approval by resolution of the county board thereof.

Subd. 3. **Acquisition, construction, and operation of property and facilities.** A county may acquire, construct, enlarge, improve, repair, supervise, control, maintain, and operate any and all solid waste facilities and other property and facilities needed, used, or useful for solid waste management purposes. Notwithstanding any other law to the contrary, a county may purchase and lease materials, equipment, machinery, and such other personal property as is necessary for such purposes including recycling upon terms and conditions determined by the board, with or without advertisement for bids including the use of conditional sales contracts and lease-purchase agreements. If a county contract is let by negotiation, without advertising for bids, the county shall conduct such negotiation and award the contract using a fair and open procedure and in full compliance with chapter 13D. If a county contract is to be awarded by bid, the county may, after notice to the public and prospective bidders, conduct a fair and open process of prequalification of bidders prior to advertisement for bids. A county may employ such personnel as are reasonably necessary for the care, maintenance and operation of such property and facilities. A county shall contract with private persons for the construction, maintenance, and operation of solid waste facilities where the facilities are adequate and available for use and competitive with other means of providing the same service.

Subd. 4. **Management and service contracts.** Notwithstanding sections 375.21 and 471.345, a county may enter into contracts for the construction, installation, maintenance, and operation of property and facilities on private or public lands and may contract for the furnishing of solid waste management services upon terms and conditions determined by the board, with or without advertisement for bids, including the use of conditional sales contracts and lease-purchase agreements. If a county contract is let by negotiation, without advertising for bids, the county shall conduct negotiations and award the contract using a fair and open procedure and in full compliance with chapter 13D. If an agency permit is required for a solid waste service, a contract entered into under this subdivision is not binding until the permit is issued.

Subd. 5. **Plans.** The county may provide for surveys and plans to determine locations available, appropriate, and suitable for property and facilities needed for the program, and plans for the improvement of property and facilities.

Subd. 6. **Expenditure of funds.** A county is authorized to expend funds for the purposes enumerated in this section and for any other activities necessary to an efficient solid waste management program.

History: *1971 c 403 s 4; 1980 c 564 art 9 s 2; 1984 c 644 s 56; 1985 c 274 s 15; 1989 c 325 s 49; 1993 c 249 s 36,37; 1994 c 585 s 39*

400.05 MS 1984 [Repealed, 1986 c 425 s 46]

400.06 INSPECTION; COOPERATION WITH AGENCY.

All counties shall provide for the periodic inspection of mixed municipal solid waste facilities and mixed municipal solid waste management property and facilities located and being operated within their respective

boundaries to determine whether the property and facilities are being maintained and operated in compliance with applicable county ordinances and rules, regulations, standards, orders, permits, and requirements of the agency. In the event that the property and facilities are not so in compliance, the county board shall take actions necessary to assure future compliance with all applicable ordinances, rules, regulations, standards, and requirements, according to law, and shall cooperate with the agency in obtaining and maintaining compliance. All inspectors provided or used by the county under this section shall be certified by the agency in accordance with section 116.41.

History: *1971 c 403 s 6; 1980 c 564 art 9 s 3*

400.07 DEVELOPMENT OF RESOURCE RECOVERY SYSTEMS.

All counties shall cooperate with the agency in the planning, development, and implementation of resource recovery systems, and toward that end, shall modify applicable county ordinances consistent with rules and standards of the agency.

History: *1971 c 403 s 7; 1980 c 564 art 9 s 4*

400.08 SERVICE AREAS AND CHARGES.

Subdivision 1. **Definition.** For purposes of this section, "solid waste management services" includes recycling and waste reduction services, collection, processing, and disposal of solid waste, closure and postclosure care of a solid waste facility, and response, as defined in section 115B.02, to releases from a solid waste facility or closed solid waste facility.

Subd. 2. **Service areas.** In addition to the power that the county may exercise under other law, and in order to provide solid waste management services to those areas needing services, the county board by resolution may establish and determine the boundaries of solid waste management service areas in the county. Before the adoption of the resolution the county board shall hold a public hearing on the question. If a service area is established, the county board may impose service charges for solid waste management services for the area and may levy a tax on all the property in the area, or any combination of charges and taxes. The county board may enlarge any existing service area following the procedures specified in this section. Upon the petition of the landowner, land may be added to the service area without a public hearing on the enlargement.

Subd. 3. **Service charges.** The county may establish by ordinance, revise when deemed advisable, and collect just and reasonable rates and charges for solid waste management services provided by the county or by others under contract with the county. The ordinance may obligate the owners, lessees, or occupants of property, or any or all of them, to pay charges for solid waste management services to their properties, including properties owned, leased, or used by the state or a political subdivision of the state, the Metropolitan Airports Commission established in section 473.603, the State Agricultural Society established in section 37.01, a local government unit, and any other political subdivision, and may obligate the user of any facility to pay a reasonable charge for the use of the facility. Rates and charges may take into account the character, kind, and quality of the service and of the solid waste, the method of disposition, the number of people served at each place of collection, and all other factors that enter into the cost of the service, including but not limited to depreciation and payment of principal and interest on money borrowed by the county for the acquisition or betterment of facilities. A notice of intention to enact an ordinance, published pursuant to section 375.51, subdivision 2, shall provide for a public hearing prior to the meeting at which the ordinance is to be considered.

Subd. 4. **Collection.** (a) The rates and charges may be billed and collected in a manner the board shall determine.

(b) On or before October 15 in each year, the county board may certify to the county auditor all unpaid outstanding charges, and a description of the lands against which the charges arose. It shall be the duty of the county auditor, upon order of the county board, to extend the assessments, with interest not to exceed the interest rate provided for in section 279.03, subdivision 1, upon the tax rolls of the county for the taxes of the year in which the assessment is filed. For each year ending October 15 the assessment with interest shall be carried into the tax becoming due and payable in January of the following year, and shall be enforced and collected in the manner provided for the enforcement and collection of real property taxes in accordance with the provisions of the laws of the state. The charges, if not paid, shall become delinquent and be subject to the same penalties and the same rate of interest as the taxes under the general laws of the state.

(c) In addition to any other manner of collection that may be established under paragraph (a), a county may:

(1) require as a condition of a license issued under section 115A.93 that the licensee collect service charges established under subdivision 3 from solid waste generators for remittal to the county; and

(2) audit a licensed collector's records of the charges collected under clause (1) and the amount of waste collected only to the extent necessary to ensure that all charges required to be collected are remitted to the county.

Data received under clause (2) are private or nonpublic data as defined in section 13.02, subdivision 9 or 12.

Subd. 5. **Financial incentives to recycle.** A county may:

(1) charge or may require any person who collects solid waste in the county to charge solid waste generators rates for solid waste management services that increase as the weight or volume of waste increases;

(2) require collectors to provide financial incentives to solid waste generators who separate recyclable materials from their waste; or

(3) require use of any other mechanism to provide encouragement or rewards to solid waste generators who reduce their waste generation or who separate recyclable materials from their waste.

History: *1971 c 403 s 8; 1979 c 164 s 1; 1986 c 425 s 30; 1Sp1989 c 1 art 20 s 25; 1991 c 337 s 60; 1992 c 593 art 1 s 37,38; 1993 c 249 s 38; 1994 c 628 art 3 s 32*

400.09 REVENUE BONDS.

The county may issue revenue bonds, payable solely from net revenues derived from rates and charges established as provided in section 400.08 in excess of current, reasonable, and necessary costs of the operation and maintenance of the county solid waste management program, for the acquisition or betterment of facilities for the program, or for refunding outstanding revenue bonds. It may irrevocably pledge and appropriate for the payment of the revenue bonds and interest thereof the net revenues from the operation of all or any defined portion of the solid waste management program, and by resolution of the board or by an indenture executed under its authority may make any and all covenants with the bondholders, or with a trustee for the bondholders, which are determined by it to be necessary or proper to assure the marketability of the bonds, the completion of the facilities financed thereby, the segregation of the revenues pledged in a special account in the solid waste management fund, and the establishment, maintenance, and collection of rates and charges

sufficient to produce net revenues adequate to pay the bonds and interest thereon when due and to create and maintain a reserve for that purpose, and may mortgage the site and facilities to the trustee. The bonds shall be authorized, issued, and sold as provided in chapter 475.

History: *1971 c 403 s 9*

400.10 MS 1984 [Repealed, 1986 c 425 s 46]

400.101 BONDS.

The county, by resolution, may authorize the issuance of bonds to provide funds for the acquisition or betterment of solid waste facilities, closure, postclosure, and contingency costs, related transmission facilities, or property or property rights for the facilities, for responses, as defined in section 115B.02, to releases from closed solid waste facilities, or for refunding any outstanding bonds issued for any such purpose, and may pledge to the payment of the bonds and the interest thereon, its full faith, credit, and taxing powers, or the proceeds of any designated tax levies, or the gross or net revenues or charges to be derived from any facility operated by or for the county, or any combination thereof. The proceeds of bonds issued under this section for closure, postclosure, and contingency costs and noncapital responses to releases may be used only for solid waste facilities in existence on May 15, 1989. Except as otherwise provided in this section, the bonds must be issued and sold in accordance with the provisions of chapter 475. The proceeds of the bonds may be used in part to establish a reserve as further security for the payment of the principal and interest of the bonds when due. Bonds issued under this section may be sold at public or private sale upon conditions that the county board determines. No election is required to authorize the issuance of bonds under this section.

History: *1986 c 425 s 31; 1989 c 355 s 2; 1991 c 342 s 7*

400.11 TAX LEVIES; ADVANCE FUNDING.

The county may levy taxes for solid waste management purposes upon all taxable property within the county. The county may levy a tax in anticipation of need for solid waste management purposes as specified in the resolution levying the tax, appropriating the proceeds of the tax to a special fund to be used only for those purposes and, until used, to be invested in securities authorized in section 118A.04.

History: *1971 c 403 s 11; 1973 c 583 s 32; 1986 c 425 s 32; 1996 c 399 art 2 s 12*

400.12 MS 1971 [Repealed, 1973 c 583 s 37]

400.13 SOLID WASTE MANAGEMENT FUND.

Any county owning or operating solid waste management property or facilities pursuant to section 400.04, subdivision 3, and establishing fees for the provision of services by the county pursuant to section 400.08, shall continuously maintain a special account on its official books and records designated as the solid waste management fund, to which it shall credit all receipts from the rates and charges authorized in section 400.08 and from the sale of real or personal property pertaining to solid waste management purposes, and the proceeds of all gifts, grants, loans, and issues of bonds for such purposes, and to which it shall charge all costs of the acquisition, construction, enlargement, improvement, repair, supervision, control, maintenance, and operation of property, facilities, and services. Separate accounts may be established within this fund for the segregation of revenues pledged for the payment of bonds or loans, or money granted or borrowed for use for a specific purpose.

History: *1971 c 403 s 12; 1980 c 564 art 9 s 5*

400.14 DISPOSITION OF PROPERTY.

The county board may sell, lease, convey, or otherwise dispose of any real or personal property held for solid waste management purposes, upon determination that it is no longer needed for such purposes, or may provide for its use for other lawful county purposes. Real or personal property shall be sold, leased, and conveyed upon advertisement for bids in accordance with section 373.01.

History: *1971 c 403 s 13*

400.15 GIFTS, GRANTS, OR LOANS.

The county may by resolution of the board accept gifts, grants, or loans of other property from the United States of America, the state of Minnesota, or any agency or subdivision thereof, or from any other source, for any solid waste management purpose; may enter into any agreement required in connection therewith, for repayment or otherwise, and may hold, use, and dispose of such money or property in accordance with the terms of the gifts, grant, loan, or agreement.

History: *1971 c 403 s 14*

400.16 SOLID WASTE AND SEWAGE SLUDGE MANAGEMENT REGULATIONS.

The county may by ordinance establish and revise rules, regulations, and standards for solid waste and sewage sludge management and land pollution, relating to (a) the location, sanitary operation, and maintenance of solid waste facilities and sewage sludge disposal facilities by the county and any municipality or other public agency and by private operators; (b) the collection, processing, and disposal of solid waste and sewage sludge; (c) the amount and type of equipment required in relation to the amount and type of material received at any solid waste facility or sewage sludge disposal facility; (d) the control of salvage operations, water or air or land pollution, and rodents at such facilities; (e) the termination or abandonment of the facilities or activities; and (f) other matters relating to the facilities as may be determined necessary for the public health, welfare, and safety. The county may issue permits or licenses for solid waste facilities and may require that the facilities be registered with an appropriate county office. The county shall adopt the ordinances for mixed municipal solid waste management. The county shall make provision for issuing permits or licenses for mixed municipal solid waste facilities and shall require that the facilities be registered with an appropriate county office. No permit or license shall be issued for a mixed municipal solid waste facility unless the applicant has demonstrated to the satisfaction of the county board the availability of revenues necessary to operate the facility in accordance with applicable state and local laws, ordinances, and rules. No permit shall be issued for a solid waste facility used primarily for resource recovery or a transfer station serving such a facility, if the facility or station is owned or operated by a public agency or if the acquisition or betterment of the facility or station is secured by public funds or obligations issued by a public agency, unless the county finds and determines that adequate markets exist for the products recovered and that any displacement of existing resource recovery facilities and transfer stations serving such facilities that may result from the establishment of the new facility is required in order to achieve the waste management objectives of the county. The county ordinance shall require appropriate procedures for termination or abandonment of any mixed municipal solid waste facilities or services, which shall include provision for long-term monitoring for possible land pollution, and for the payment by the owners or operators thereof, or both, of any costs incurred by the county in completing the procedures. The county may require the procedures and payments with respect to any facilities or services regulated pursuant to this section. In the event the operators or owners fail to complete the procedures in accordance with the ordinance, the county may recover the costs of completion in a civil action in any court of competent jurisdiction or, in the discretion of the board, the costs may be certified to the county auditor as a special tax against the land to be collected as other taxes

are collected. The ordinance may be enforced by injunction, action to compel performance, other appropriate action in the district court, or administrative penalty order authorized under section 116.072. Any ordinance enacted under this section shall embody minimum standards and requirements established by rule of the agency.

History: *1971 c 403 s 15; 1980 c 564 art 9 s 6; 1982 c 569 s 20; 1995 c 247 art 1 s 45*

400.161 HAZARDOUS WASTE REGULATIONS.

(a) The county may by ordinance establish and revise rules, regulations, and standards relating to (1) identification of hazardous waste, (2) the labeling and classification of hazardous waste, (3) the collection, transportation, processing, disposal, and storage of hazardous waste, and (4) other matters as may be determined necessary for the public health, welfare, and safety. The county may issue permits or licenses for hazardous waste generation and may require the generators be registered with a county office. The ordinance may require appropriate procedures for the payment by the generator of any costs incurred by the county in completing such procedures. If the generator fails to complete such procedures, the county may recover the costs of completion in a civil action in any court of competent jurisdiction or, in the discretion of the board, the costs may be certified to the county auditor as a special tax against the land as other taxes are collected. The ordinance may be enforced by injunction, action to compel performance, other action in district court, or administrative penalty order authorized under section 116.072. County hazardous waste ordinances shall embody and be consistent with agency hazardous waste rules. Counties shall submit adopted ordinances to the agency for review. In the event that agency rules are modified, each county shall modify its ordinances accordingly and shall submit the modification to the agency for review within 120 days. Issuing, denying, modifying, imposing conditions upon, or revoking permits or licenses and county hazardous waste regulations and ordinances shall be subject to review, denial, suspension, modification, and reversal by the Pollution Control Agency. The Pollution Control Agency shall after written notification have 15 days in the case of hazardous waste permits and licenses and 30 days in the case of hazardous waste ordinances to review, deny, suspend, modify, or reverse the action of the county. After this period, the action of the county board shall be final subject to appeal to the district court as provided in section 115.05.

(b) A county may not impose a fee under this section on material that is reused at the facility where the material is generated in a manner that the facility owner or operator can demonstrate does not increase the toxicity of, or the level of hazardous substances or pollutants or contaminants in, products that leave the facility.

History: *1974 c 346 s 7; 1980 c 564 art 9 s 7; 1981 c 352 s 30; 1992 c 593 art 1 s 39; 1995 c 247 art 1 s 46*

400.162 COUNTY DESIGNATION OF RESOURCE RECOVERY FACILITY.

A qualifying county may be authorized to designate a resource recovery facility under sections 115A.80 to 115A.89.

History: *1980 c 564 art 9 s 8; 1982 c 569 s 21; 1984 c 644 s 57*

400.17 CITATION.

Sections 400.01 to 400.17 may be cited as the County Solid Waste Management Act of 1971.

History: *1971 c 403 s 16*