

MAINE STATE LEGISLATURE

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1 (EMERGENCY)

2 SECOND REGULAR SESSION
3

4 ONE HUNDRED AND ELEVENTH LEGISLATURE
5

6 Legislative Document

No. 1993

7
8 S.P. 721

In Senate, January 24, 1984

9 Approved for introduction by the Legislative Council pursuant to Joint
10 Rule 26.

11 Reference to the Committee on Energy and Natural Resources is
suggested and ordered printed.

Presented by Senator Pray of Penobscot.
12

Cosponsored by Senator Perkins of Hancock, Representative Hall of
Sangerville and Representative Kelleher of Bangor.

13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-FOUR
17

18 AN ACT to Repeal and Replace the Regional
19 Refuse Disposal District Enabling Act.
20

21 **Emergency preamble.** Whereas, Acts of the Legis-
22 lature do not become effective until 90 days after
23 adjournment unless enacted as emergencies; and

24 Whereas, the State requires each municipality to
25 provide for the disposal of domestic and commercial
26 solid waste generated within a municipality; and

27 Whereas, many municipalities have found that en-
28 ergy recovery may reduce the cost of solid waste dis-
29 posal; and

30 Whereas, energy recovery technology is complex
31 and expensive; and

1 1. Development of refuse disposal districts. It
2 is the policy of the State to encourage the develop-
3 ment of refuse disposal districts consisting of:

4 A. A municipality; or

5 B. Two or more municipalities, so that those
6 districts may economically construct and operate
7 refuse disposal systems to assist in the abate-
8 ment of pollution and to enhance the public
9 health, safety and welfare of the citizens of the
10 State. For purposes of this chapter, a village
11 corporation created by a private and special Act
12 of the Legislature shall be considered a munici-
13 pality.

14 2. Formation. . A refuse disposal district may be
15 formed where:

16 A. There is a need throughout a part or all of
17 the territory embraced within the proposed dis-
18 trict for the accomplishment of the purpose of
19 providing an adequate, efficient system and means
20 of collection, transporting and disposing of do-
21 mestic, commercial and industrial solid wastes
22 within the proposed district;

23 B. These purposes can be effectively accom-
24 plished therein on an equitable basis by a refuse
25 disposal district if created; and

26 C. The creation and maintenance of such a dis-
27 trict will be administratively feasible and in
28 furtherance of the public health, safety and wel-
29 fare.

30 3. Furtherance of Maine Solid Waste Management
31 Act. It is the policy of the State to encourage the
32 development of refuse disposal districts that further
33 the policy of the Maine Solid Waste Management Act as
34 it pertains to nonhazardous solid waste programs.

35 §1703 Purposes

36 The purposes of each district formed under this
37 chapter are to construct, maintain, operate or other-

1 wise provide for a system of solid waste management
2 for domestic, commercial and industrial solid waste
3 and to foster resource conservation and resource re-
4 covery, in conjunction therewith, for public purposes
5 and for the health, welfare, comfort and convenience
6 of the inhabitants of the district. It is antici-
7 ipated that, in the furtherance of the purpose and
8 declaration of policy of this Act, each district may
9 contract and otherwise act in conjunction with a vari-
10 ety of public, private and municipal firms, corpora-
11 tions and persons.

12 §1704 Exemption from taxation

13 The property, both real and personal, rights and
14 franchises owned by any district formed under this
15 chapter are exempt from taxation. Notwithstanding
16 any other provision of law, the exemption provided by
17 this section also applies to users and lessees of
18 property owned by a district. A district may elect,
19 in its discretion, to make payments in lieu of taxes
20 to communities in which its property is located or
21 utilized.

22 §1705 Definitions

23 As used in this chapter, unless the context oth-
24 erwise indicates, the following terms have the fol-
25 lowing meanings.

26 1. Board. "Board" means the Board of Environmen-
27 tal Protection.

28 2. Conveyances. "Conveyances" means any air-
29 craft, watercraft, vehicles or other machines used
30 for transportation on land, water or in the air.

31 3. Demolition and construction waste. "Demoli-
32 tion and construction waste" means all solid waste
33 generated in the demolition and construction of
34 buildings and other structures, including stumps,
35 brush, plaster, sheetrock, boards, bricks, mortar,
36 concrete and roofing materials.

37 4. Department. "Department" means the Depart-
38 ment of Environmental Protection.

1 5. Disposal. "Disposal" means the discharge,
2 deposit, injection, dumping, spilling, leaking or
3 placing of any solid waste into or on any land or
4 water in a manner such that the solid waste, or any
5 constituent thereof, may enter the environment or be
6 emitted into the air or discharged into any water,
7 including ground waters.

8 6. District. "District" and "disposal district"
9 means any district formed under this Act.

10 7. Generation. "Generation" means the act or
11 process of producing solid waste.

12 8. Handle. "Handle" means to store, transfer,
13 collect, separate, salvage, process, reduce, recover,
14 incinerate, treat or dispose of.

15 9. Resource conservation. "Resource conserva-
16 tion" means the reduction of amounts of solid waste
17 which is generated and the reduction of overall re-
18 source consumption.

19 10. Resource recovery. "Resource recovery"
20 means the recovery of materials or substances that
21 still have useful physical or chemical properties af-
22 ter serving a specific purpose, and can be reused or
23 recycled for the same or other purposes and the con-
24 version of waste to energy.

25 11. Site. "Site" means the same or geographi-
26 cally contiguous property which may be divided by a
27 public or private right-of-way, provided that the en-
28 trance and exit between the properties is at a cross-
29 roads intersection and access is by crossing, as op-
30 posed to going along, the right-of-way. Noncontigu-
31 ous properties, owned by the same person but con-
32 nected by a right-of-way which he controls and to
33 which the public does not have access, are also con-
34 sidered site property.

35 12. Solid waste. "Solid waste" means useless,
36 unwanted or discarded, nonhazardous solid materials
37 with insufficient liquid content to be free flowing,
38 including, but not limited to, rubbish, garbage,
39 sludge from a waste water treatment plant, scrap ma-
40 terials, junk, refuse, inert fill material and land-

1 scape refuse. "Solid waste" does not include septic
2 tank sludge or agricultural waste.

3 A. Solid waste from "residential activities" in-
4 cludes any solid waste generated by a household
5 or apartment, including, but not limited to, food
6 waste, packaging, newspaper and other paper
7 products, glass, cans and plastic, and similar
8 types of waste generated by employees of commer-
9 cial and industrial activities.

10 B. Solid waste from "commercial activities" in-
11 cludes any solid waste generated by retail and
12 wholesale establishments, including, but not lim-
13 ited to, food waste, corrugated containerboard,
14 metals and plastics.

15 C. Solid waste from "industrial activities" in-
16 cludes any solid waste generated by an industry
17 as part of the production process. Solid waste
18 generated by employees and similar in composition
19 to that generated by residential or commercial
20 activities are excluded from this definition.

21 13. Transport. "Transport" means the movement
22 of solid waste from the point of generation to any
23 intermediate points and finally to the point of ulti-
24 mate disposition.

25 14. Waste facility. "Waste facility" means any
26 land area, structure, location or equipment, or com-
27 bination of them, including landfills, used for han-
28 dling solid waste and for resource conservation and
29 resource recovery, when utilized.

30 15. Waste management. "Waste management" means
31 purposeful, systematic and unified control of the
32 handling, transportation and disposal of solid waste.

33 16. Yard waste. "Yard waste" means grass clip-
34 pings, leaves and brush.

35 §1706 Provisions supplemental to other law

36 This chapter provides an additional and alterna-
37 tive method for carrying out the purposes of this
38 chapter and is supplemental and additional to powers

1 conferred by other laws, including the provisions of
2 chapter 13 pertaining to solid waste, and is not in
3 derogation of any powers now existing.

4 §1707 Reimbursement of costs to municipalities

5 Any municipality or municipalities which fall
6 within a district formed under this Act shall be en-
7 titled to reimbursement from that district when the
8 district is in a position to reimburse those costs.
9 The term "costs", as used in this section, includes,
10 but is not limited to, the following: Cost of prepara-
11 tion of an engineering study or studies; legal
12 costs with relation to the application and presenta-
13 tion of any application for the formation of the dist-
14 trict; other engineering costs that may not be in-
15 cluded in a study; costs for financial advice; admin-
16 istrative expense; and such other expenses as may be
17 necessary or incident to the action of any municipal-
18 ity under this Act, including funding provided pursu-
19 ant to an agreement entered into pursuant to Title
20 30, chapter 203.

21 SUBCHAPTER II

22 ORGANIZATION

23 §1721 Formation

24 The formation of a disposal district shall be ac-
25 complished as follows.

26 1. Application by municipal officers. The mu-
27 nicipal officers of the municipality or municipali-
28 ties that desire to form a disposal district shall
29 file an application with the Board of Environmental
30 Protection on a form or forms to be prepared by that
31 board, setting forth the name or names of the municip-
32 ality or municipalities, and the municipal officers
33 shall furnish such other data as the board may deter-
34 mine necessary and proper. The application shall
35 contain, but shall not be limited to, a description
36 of the territory of the proposed district, the name
37 proposed for the district, which shall include the
38 words "disposal district," a statement showing the
39 existence in that territory of the conditions requi-

1 site for the creation of a disposal district as pre-
2 scribed in section 1702 and such other documents and
3 materials as may be required by the Board of Environ-
4 mental Protection. The Board of Environmental Pro-
5 tection may make rules under this chapter.

6 2. Public hearing. Upon receipt of the applica-
7 tion, the board shall cause a public hearing to be
8 held on the application, in one of the municipalities
9 within the proposed district, at some convenient
10 place within the boundaries of the proposed district.

11 3. Approval of application. After the public
12 hearing on the evidence received at the hearing, the
13 board shall, in accordance with section 1702, make
14 findings of fact and conclusions and determine of
15 record whether or not the conditions requisite for
16 the creation of a disposal district exist in the ter-
17 ritory described in the application. If the board
18 finds that conditions do exist, it shall issue an or-
19 der approving the proposed district as conforming to
20 the requirements of this chapter and designating the
21 name of the proposed district. The board shall give
22 notice to the municipal officers within the munici-
23 pality or municipalities involved, of a date, time
24 and place of a meeting of the representative of the
25 municipality or municipalities involved. The munici-
26 pal officers shall elect a representative to attend
27 the meeting who may represent the municipality in all
28 matters relating to the formation of the district. A
29 return receipt properly endorsed shall be evidence of
30 the receipt of notice. The notice shall be mailed at
31 least 10 days prior to the date set for the meeting.

32 4. Denial of application. If the board, after a
33 public hearing, determines that the creation of a
34 disposal district in the territory described in the
35 application is not warranted for any reason, it shall
36 make findings of fact and conclusions and enter an
37 order denying its approval. The board shall give no-
38 tice of the denial by mailing certified copies of the
39 decision and order to the municipal officers of the
40 municipality or municipalities involved. No applica-
41 tion for the creation of a disposal district, con-
42 sisting of exactly the same territory, may be enter-
43 tained within one year after the date of the issuance
44 of an order denying approval of the formation of that

1 disposal district, but this provision shall not pre-
2 clude action on an application for the creation of a
3 disposal district embracing all or part of the terri-
4 tory described in the original application, provided
5 that another municipality or fewer municipalities are
6 involved.

7 5. Joint meeting. The persons selected by the
8 municipal officers to whom the notice described in
9 subsection 3 is directed shall meet at the time and
10 place appointed. In the case where more than one mu-
11 nicipality is involved, they shall organize by elect-
12 ing a chairman and a secretary. No action may be
13 taken at any such meeting unless, at the time of con-
14 vening, there are present at least a majority of the
15 total number of municipal representatives eligible to
16 attend and participate at the meeting, other than to
17 report to the Board of Environmental Protection that
18 a quorum was not present and to request the board to
19 issue a new notice for another meeting. A quorum
20 shall be a simple majority of representatives eligi-
21 ble to attend the meeting. The purpose of the meet-
22 ing shall be to determine the number of trustees,
23 subject to section 1724, to be appointed by and to
24 represent each participating municipality and to de-
25 termine the duration of terms to be served by the
26 initial trustees so that, in ensuing years, 1/3 of
27 the trustees and their alternates shall be appointed
28 or reappointed, as the case may be, each year, serve
29 until their respective successors are duly appointed
30 and qualified. Subject to section 1724, the number
31 of trustees to represent each municipality shall be a
32 subject for negotiation among the municipal represen-
33 tatives. When a decision has been reached on the
34 number of trustees and the number to represent each
35 municipality and the initial terms thereof, subject
36 to the limitations provided, this decision shall be
37 reduced to writing by the secretary and must be ap-
38 proved by a 2/3 vote of those present. The vote so
39 reduced to writing and the record of the meeting
40 shall be signed by the chairman, attested by the sec-
41 retary and filed with the board. In cases where a
42 single municipality is involved, a copy of the vote
43 of the municipal officers, duly attested by the clerk
44 of the municipality, shall be filed with the board.

1 6. Submission. When the record of the municipi-
2 ality or the record of the joint meeting, where mu-
3 nicipalities are involved, has been received by the
4 board and found by it to be in order, the board shall
5 order the question of the formation of the proposed
6 disposal district and other questions relating to the
7 formation to be submitted to the legal voters resid-
8 ing within the municipalities. The order shall be
9 directed to the municipal officers of the municipali-
10 ty or municipalities which propose to form the dis-
11 posal district, directing them to call, within 60
12 days of the date of the order, town meetings or city
13 elections, as the case may be, for the purpose of
14 voting in favor of or in opposition to each of the
15 following articles or questions, as they may apply,
16 in substantially the following form:

17 A. To see if the town (or city) of (name of town
18 or city) will vote to incorporate as a disposal
19 district to be called (name) Disposal District;

20 B. To see if the residents of (name of town or
21 city) will vote to join with the residents of the
22 (name of town or city) to incorporate as a dis-
23 posal district to be called (name) Disposal Dis-
24 trict: (legal description of the bounds of the
25 proposed disposal district). At a minimum, the
26 district shall consist of (names of essential mu-
27 nicipalities); and

28 C. To see if the residents of (name of town or
29 city) will vote to approve the total number of
30 trustees and the allocation of representation
31 among the municipalities on the board of trust-
32 ees, as determined by the municipal officers and
33 listed as follows: Total number of trustees
34 shall be _____ and the residents of (town or
35 city) shall be entitled to _____ trustees, etc.

36 Trustees shall be chosen to represent municipalities
37 in the manner provided in section 1725.

38 7. Determination by municipal officers. In the
39 event that the charters of the respective municipali-
40 ties, or any one of them, consistent with such state
41 laws as may otherwise be applicable, permit the mu-
42 nicipal officers of the municipality or municipali-

1 ties which proposes to form the disposal district to
2 vote to join the district, the municipal officers may
3 determine the question of the formation of the pro-
4 posed disposal district and other questions relating
5 to the formation without submission to the legal vot-
6 ers residing within the municipality.

7 8. Delegation of hearing functions. The Board
8 of Environmental Protection may delegate the hearing
9 functions of subsection 2 and the functions provided
10 for in subsections 3 and 4 to the regional planning
11 commissioner which encompasses a major portion of the
12 area of the proposed refuse disposal district.

13 §1722 Approval and organization

14 When the residents of the municipality, or each
15 municipality where more than one is involved, or the
16 municipal officers, as the case may be, have voted
17 upon the formation of a proposed disposal district
18 and all of the other questions submitted, the clerk
19 of each of the municipalities shall make a return to
20 the Board of Environmental Protection in such form as
21 the board may determine. If the board finds from the
22 returns that each of the municipalities involved,
23 and, voting on each of the articles and questions
24 submitted to them, have voted in the affirmative, and
25 that they have appointed the necessary trustees and
26 the names thereof to represent each municipality and
27 that all other steps in the formation of the proposed
28 disposal district are in order and in conformity with
29 law, the board shall make a finding to that effect
30 and record the finding upon its records. Where 3 or
31 more municipalities are concerned in the voting, and
32 at least 2 have voted to approve each of the articles
33 and questions submitted to them and have appointed
34 the necessary trustees and the names thereof to
35 represent each municipality, rejection of the pro-
36 posed disposal district by one or more shall not de-
37 feat the creation of a district composed of the mu-
38 nicipalities voting affirmatively on the question, if
39 the board determines that it is feasible or practical
40 to continue the district as a geographic unit, unless
41 the vote submitted to the municipalities provided
42 that specific participants or a minimum number of
43 participants shall approve the formation of the dis-
44 trict.

1 The board shall, immediately after making its
2 findings, issue a certificate of organization in the
3 name of the disposal district in such form as the
4 board may determine. The original certificate shall
5 be delivered to the trustees on the day that they are
6 directed to organize and a copy of the certificate
7 duly attested by the Commissioner of Environmental
8 Protection shall be filed and recorded in the office
9 of the Secretary of State. The issuance of the cer-
10 tificate by the board shall be conclusive evidence of
11 the lawful organization of the disposal district.
12 The disposal district shall not be operative until
13 the date set by the trustees under section 1726.

14 §1723 Transfer of property and assets

15 When the territory of a municipality falls within
16 a disposal district which has been issued its certifi-
17 cate of organization and has assumed the management
18 and control of the operation of the disposal facili-
19 ties within its territorial limits, the trustees of
20 the disposal district shall determine what disposal
21 property or properties, if any, owned by any municipi-
22 ality within the disposal district shall be neces-
23 sary to carry on the functions of the disposal dist-
24 trict and shall request in writing that the municipal
25 officers of any municipality within the disposal dis-
26 trict convey title to the disposal property to the
27 disposal district and the municipal officers shall
28 make the conveyance. The disposal district shall pay
29 fair compensation for the property or properties.

30 §1724 Trustees

31 1. Authorization. All of the affairs of a dis-
32 posal district shall be managed by an elected board
33 of trustees which shall consist of not less than 3
34 trustees, or not less than 5 trustees in disposal
35 districts involving more than one municipality. The
36 exact number of trustees shall be determined in ac-
37 cordance with section 1721. Each trustee shall be
38 entitled to the number of votes which corresponds to
39 the level of population in his municipality as set
40 forth in the following table.

41 Population

No. of Votes

1	0 - 1,000	1
2	1,000 - 2,500	2
3	2,500 - 5,000	3
4	5,000 - 10,000	4
5	10,000 - 15,000	5
6	15,000 - 25,000	6
7	25,000 - 35,000	7
8	35,000 - 50,000	8
9	50,000 - 65,000	9
10	65,000 and over	10

11 A trustee may not split his votes. In the event a
12 municipality has more than one trustee, trustees from
13 that municipality shall share equally the number of
14 votes indicated for that municipality in the table in
15 this subsection. A determination of population shall
16 be made based upon the latest official Decennial Cen-
17 sus of the United States of America by the United
18 States Bureau of Census. A disposal district may al-
19 ter the number of its trustees by submitting the pro-
20 posed alteration to the voters in the same manner as
21 provided in section 1721, subsection 7. No municipi-
22 ality within any disposal district may have less
23 than one trustee. A quorum of the trustees may con-
24 duct the affairs of the district even if there is a
25 vacancy on the board of trustees. A quorum is de-
26 fined as a simple majority of eligible and appointed
27 trustees.

28 2. Term. Subject to section 1721, subsection 5,
29 as to the duration of terms to be served by initial
30 trustees, all trustees shall hold office for 3 years
31 and until their successors are duly appointed and
32 qualified. Any representative may be appointed to
33 successive terms without limit.

34 3. Vacancy. Any vacancy on the board of trust-
35 ees shall be filled within 30 days after the vacancy
36 occurs by appointment of the municipal officers of
37 the municipality which he is to represent. An ap-
38 pointee to a vacancy shall serve until the expiration
39 of the term of the representative to whose position
40 the appointment was made and may be reappointed.

41 4. Trustees retirement. Trustees shall not be
42 eligible to join the Maine State Retirement System as
43 a result of their selection as trustees.

1 §1725 Election of trustees and organizational meet-
2 ing

3 Trustees shall be appointed by the municipal of-
4 ficers of the municipality which they are to repre-
5 sent. Alternate trustees may be appointed by the mu-
6 nicipal officers to act in the absence of a trustee.
7 Appointments shall be by vote of the municipal offi-
8 cers, attested to by the municipal clerk and pre-
9 sent to the clerk of the district. The municipal
10 officers, by majority vote, may remove their ap-
11 pointed representatives during their term for stated
12 reasons. Upon receipt of the names of all the trust-
13 ees, the Board of Environmental Protection shall set
14 a time, place and date for the first meeting of the
15 trustees, notice thereof, to be given to the trustees
16 by certified or registered mail, return receipt re-
17 quested, mailed at least 10 days prior to the date
18 set for the meeting.

19 They shall organize by election from their own
20 members a chairman, a vice-chairman, a treasurer and
21 a clerk each of whom shall hold office for one year
22 and until his successor is duly elected and quali-
23 fied, and choose and employ and fix the compensation
24 of such other necessary officers and agents who shall
25 serve at their pleasure, and they shall adopt a cor-
26 porate seal. Prior to the election of the officers,
27 each trustee shall be sworn to the faithful perform-
28 ance of his duties by the respective municipal clerk.
29 For the election of chairman, vice-chairman, treasur-
30 er and clerk, each trustee shall cast one vote re-
31 gardless of the population of the municipality which
32 he represents.

33 The power and authority of the district and the
34 administration and the general supervision of all af-
35 airs of the district shall be vested in the trustees
36 of the district.

37 The trustees may from time to time adopt, estab-
38 lish and amend bylaws consistent with the laws of the
39 State, and necessary or reasonable for their own con-
40 venience and the proper management of the affairs of
41 the district and perform any other acts within the
42 powers delegated to them by law.

1 After the original organizational meeting, the
2 trustees shall meet annually at a time determined by
3 their bylaws for the purpose of electing from among
4 the members a chairman, vice-chairman, treasurer and
5 clerk to serve until the next annual election and un-
6 til their successors are appointed and qualified.
7 The treasurer shall furnish bond in such sum and with
8 such sureties as the trustees shall approve, the cost
9 to be paid by the district. The chairman, vice-
10 chairman, treasurer and clerk may receive such com-
11 penetration for serving in these capacities as the
12 trustees shall determine. This compensation shall be
13 in addition to the compensation payable to them as
14 trustees. The trustees shall make and publish an an-
15 annual report, including a report of the treasurer.

16 The trustees shall receive compensation as recom-
17 ended by them and approved by majority vote of the
18 municipal officers in municipalities representing a
19 majority of the population within the district. Cer-
20 tification thereof shall be recorded with the Secre-
21 tary of State and recorded in the bylaws. Their com-
22 penetration for duties as trustees shall be on the ba-
23 sis of such specific amount as may be specified in
24 the bylaws. Compensation schedules in effect in Janu-
25 ary 1, 1982, shall continue in effect until changed.

26 No member of the board of trustees may be em-
27 ployed for compensation as an employee or in any oth-
28 er capacity by the district of which he is a trustee.

29 The board of trustees may establish an executive
30 board and grant authority as it may deem necessary.
31 The board of trustees may establish any and all com-
32 mittees as it may deem necessary.

33 §1726 Responsibility to accept solid waste

34 1. Time of responsibility. The district becomes
35 responsible for providing a system for solid waste
36 disposal when its board of trustees declares the dis-
37 posal system operational.

38 2. Types of waste. The district shall provide a
39 system for disposal of all solid waste generated by
40 residential activities within the member municipali-
41 ties. To the extent requested by member municipali-

1 ties, the district shall also provide for the dispos-
2 al of compatible solid waste from commercial and in-
3 dustrial activities within a member municipality to
4 the same extent the municipality is providing a sys-
5 tem of solid waste disposal at the date of its vote
6 to join the district, provided that the commercial
7 and industrial waste is disposed of at no cost to
8 other member municipalities. Following formation of
9 the district, the board of trustees may allow for the
10 disposal of the waste of any other commercial and in-
11 dustrial activities within a member municipality.
12 The district may provide for the disposal of sludge
13 through contract with a member municipality or quasi-
14 municipal corporation serving the member municipali-
15 ty, provided that the sludge is disposed of at no
16 cost to the other member municipalities. The dist-
17 district may provide for the disposal of any or all dem-
18 olition and construction waste or yard wastes from
19 any member municipality. The district may contract
20 with a nonmember municipality or a private entity for
21 the disposal of solid waste generated within or out-
22 side the boundaries of the district. The district
23 may provide for disposal of any hazardous wastes gen-
24 erated from district operations.

25 3. Collection sites or systems. Each member mu-
26 nicipality shall be responsible for providing a col-
27 lection site or system for the solid waste generated
28 within the member municipality and for the transpor-
29 tation of the solid waste to the waste facility des-
30 ignated by the district, together with all incident
31 costs. In the event that any member municipality
32 does not wish to institute its own collection system
33 for delivery of the solid waste to the facility des-
34 ignated by the district then the board of trustees
35 may provide for collection and transportation.

36 §1727 Admission of new member municipalities

37 The board of trustees may authorize the inclusion
38 of additional member municipalities in the district
39 upon such terms and conditions as the board, in its
40 sole discretion, shall deem to be fair, reasonable
41 and in the best interest of the district. The legis-
42 lative body of any nonmember municipality which de-
43 sires to be admitted to the district shall make ap-
44 plication for admission to the board of trustees of

1 the district. The trustees shall determine the ef-
2 fects and impacts which are likely to occur if the
3 municipality is admitted and shall either grant or
4 deny authority for admission of the petitioning mu-
5 nicipality. If the trustees grant the authority,
6 they shall also specify any terms and conditions, in-
7 cluding, but not limited to, financial obligations
8 upon which the admission is predicated. The peti-
9 tioning municipality shall comply with the voting
10 procedures specified in section 1721. The vote, if
11 in the affirmative, shall be certified by the clerk
12 of that municipality to the board of trustees and to
13 the Board of Environmental Protection. Upon satis-
14 factory performance of the terms and conditions of
15 admission, the municipality shall by resolution of
16 the board of trustees become and thereafter be a mem-
17 ber municipality of the district. The clerk of the
18 district shall promptly certify to the board and the
19 Secretary of State that the municipality has become a
20 member of the district. The certification shall be-
21 come conclusive evidence that the municipality is a
22 lawful member of the district. Upon admission of a
23 municipality to a district, the provisions of section
24 1724 shall determine the number of votes which shall
25 be cast by the trustee or trustees representing that
26 municipality.

27 SUBCHAPTER III

28 POWERS

29 §1731 Powers

30 Each disposal district formed under this chapter
31 shall have the power, within the district and without
32 the district, to provide for the planning, construc-
33 tion, equipping, operation and maintenance of facili-
34 ties for the handling of solid waste, including re-
35 source recovery and resource conservation; to provide
36 for refuse collection services; to provide for con-
37 version of waste to one or more forms of energy and
38 for the transmission thereof; to generate revenues
39 from those activities and to make contracts with per-
40 sons, firms, corporations, partnerships, limited
41 partnerships and other entities, whether private,
42 public or municipal, in relation thereto, all as may

1 be necessary or proper; and, in general, to do any or
2 all other things necessary or incidental for the ex-
3 ercise of its powers or to the accomplishment of the
4 purposes of the district.

5 The power to make contracts includes, but is not
6 limited to, the power:

7 1. Contract with experts. To contract with ar-
8 chitects, engineers, financial and legal consultants
9 and other experts for services;

10 2. Contracts for operation. To contract with
11 persons, firms, corporations, limited partnerships,
12 partnerships, associations, authorities and agencies
13 for the operation of waste facilities and for ser-
14 vices relating to the disposal of solid waste, re-
15 source conservation and resource recovery, including
16 the conversion of waste to energy and the transmis-
17 sion thereof;

18 3. Contracts for handling of wastes. To con-
19 tract for the handling of solid waste on the basis of
20 guaranteed amounts, whether delivered for disposal
21 and accepted for disposal or not, of solid waste,
22 with payments based on the guaranteed amounts, wheth-
23 er actually disposed of or not, which payments may be
24 variable and may be determined by formulae expressed
25 in those contracts;

26 4. Contracts with government. To contract with
27 the State, the United States of America or any subdivi-
28 sion or agency thereof for services;

29 5. Contracts with member municipalities. To
30 contract with any member municipality for the ser-
31 vices of any officers or employees of that municipal-
32 ity useful to it;

33 6. Real and personal property. To purchase,
34 sell, lease, acquire, convey, mortgage, improve and
35 use real and personal property in connection with the
36 purposes of the district; and

37 7. Energy. To make agreements pertaining to the
38 generation, transmission and sale of energy.

1 §1732 Real and personal property and right of emi-
2 nent domain

3 Each disposal district formed under this chapter
4 may acquire and hold within the district real and
5 personal property necessary or convenient for its
6 purposes, and is granted the right of eminent domain,
7 and for those purposes may take and hold, either by
8 exercising its right of eminent domain or by pur-
9 chase, lease or otherwise, as for public uses any
10 land, real estate, easements or interest therein,
11 necessary for constructing, establishing, maintaining
12 and operating refuse disposal, resource recovery and
13 resource conservation facilities and may provide for
14 the conversion of waste to energy and the transmis-
15 sion thereof.

16 In the event that property without the district
17 is to be acquired by the exercise of the right of
18 eminent domain, the district shall petition the Board
19 of Environmental Protection to approve, after hear-
20 ing, the exercise of the right of eminent domain pri-
21 or to proceeding under section 1733. Any affected
22 nonmember municipality shall have standing to partic-
23 ipate with regard to that petition. No party may
24 have standing to appeal or otherwise seek review of
25 the determination of the board on the petition. The
26 determination of the board shall be final. In making
27 the determination, the board shall make findings and
28 shall determine whether the site selected is a proper
29 location, viewed from the standpoint of overall pub-
30 lic interest. In making a determination, the board
31 shall consider the overall economic feasibility of
32 the project, including collection, transportation,
33 generation and transmission costs, and asthetic and
34 ecological impact of the project.

35 §1733 Procedure in exercise of right of eminent do-
36 main

37 The right of eminent domain granted in section
38 1732 may only be exercised after complying with the
39 following procedures.

40 1. Notice to owner. The district shall provide
41 notice to the owner as follows.

1 A. The owner or owners of record shall be noti-
2 fied as follows:

3 (1) The determination of the trustees that
4 they will exercise the right of eminent do-
5 main;

6 (2) A description and scale map of the land
7 or easement to be taken;

8 (3) The final amount offered for the land
9 or easement to be taken, based on the fair
10 value as estimated by the district; and

11 (4) Notice of the time and place of the
12 hearing provided in subsection 3.

13 B. Notice may be made:

14 (1) By personal service in hand by an of-
15 ficer duly qualified to serve civil process
16 in this State; or

17 (2) By certified mail, return receipt re-
18 quested, to last known address of owner or
19 owners.

20 C. Alternate notice. If the owner or owners are
21 not known or if they cannot be notified by per-
22 sonal service or certified mail, notice may be
23 given by publication in the same manner as pro-
24 vided for in subsection 3.

25 2. Notice to tenant. Notice shall be given to
26 any tenants in the same manner as for the owner of
27 the property.

28 3. Notice to the affected municipality. Notice
29 shall be given to the municipality in which the prop-
30 erty to be acquired is located in the same manner as
31 for the owner of the property and shall be addressed
32 to the municipal officers.

33 4. Hearing. The trustees of the district shall
34 hold a public hearing on the advisability of the pro-
35 posed exercise of the right of eminent domain. No-
36 tice of the hearing shall be made by publication in a

1 newspaper of general circulation in the area of the
2 taking and shall be given once a week for 2 succes-
3 sive weeks, the last publication to be at least 2
4 weeks prior to the time appointed in the hearing.
5 The hearing notice shall include:

6 A. The time and place of the hearing;

7 B. A description of the land or easement taken;
8 and

9 C. The name of the owners, if known.

10 §1734 Condemnation proceedings

11 Each disposal district formed under this chapter,
12 in exercising from time to time the right of eminent
13 domain conferred upon it by section 1732, shall file
14 in the office of the county commissioners of the
15 county in which the property to be taken is located
16 and cause to be recorded in the registry of deeds in
17 the county plans of the location of all lands, real
18 estate, easements or interest therein, with an appro-
19 priate description and the names of the owners there-
20 of, if known. When for any reason any such district
21 fails to acquire property which it is authorized to
22 take and which is described in that location, or if
23 the location so recorded is defective and uncertain,
24 it may, at any time, correct and perfect the location
25 and file a new description. In that case, any such
26 district is liable in damages only for property for
27 which the owner had not previously been paid, to be
28 assessed as of the time of the original taking, and
29 any such district is not liable for any acts which
30 would have been justified if the original taking had
31 been lawful. No entry may be made on any private
32 lands, except to make surveys, until the expiration
33 of 10 days from the filing, whereupon, possession may
34 be had of all the lands, real estate, easements or
35 interests therein and other property and rights as
36 aforesaid to be taken, but title shall not vest in
37 the district until payment for the property.

38 §1735 Appeal

39 If any person sustaining damages by any taking by
40 a disposal district under section 1732 does not agree

1 with the district upon the sum to be paid, either
2 party, upon petition to the county commissioners of
3 the county in which the property is located, may have
4 the damages assessed by them. The procedure and all
5 subsequent proceedings and right of appeal shall be
6 had under the same restrictions, conditions and limi-
7 tations as are or may be by law prescribed in the
8 case of damages by the laying out of highways by the
9 county commissioners, except that:

10 1. Vesting of title. Title to the lands, real
11 estate, easements or interests therein and other
12 property and rights to be taken shall not vest in the
13 district until payment to the owner of the amount
14 awarded therefor or, if the payment is refused upon
15 tender, until tender thereof to the treasurer of the
16 county in which lands and interest are located, for
17 escrow at interest for the benefit of the owner pend-
18 ing final determination of the amount to which the
19 owner is entitled; and

20 2. Appeal. In the event of any appeal of the
21 amount awarded as damages for such taking:

22 A. The petition for assessment of damages shall
23 be filed with the clerk of the county commission-
24 ers, by either party, within 30 days following
25 the filing and recording of plans of the location
26 of all the property, facilities and rights taken;
27 and

28 B. If the return of the county commissioners has
29 not been made within 120 days following the fil-
30 ing of the petition for assessment, the county
31 commissioners shall be conclusively presumed to
32 have confirmed the award of damages by the dis-
33 trict and either party may, within 30 days fol-
34 lowing that 120-day period, appeal the amount of
35 the damages awarded by the district to the Supe-
36 rior Court.

37 §1736 Crossing other public utilities

38 If any waste facility or portion of any waste fa-
39 ility of any disposal district formed under this
40 chapter crosses the property or line of any public
41 utility, unless consent is given by the other public

1 utility as to place, manner and conditions of the
2 crossing within 30 days after consent is requested by
3 the district, the Public Utilities Commission shall
4 determine the place, manner and conditions of the
5 crossing. All work on the property of the public
6 utility shall be done under the supervision and to
7 the satisfaction of the public utility, but at the
8 expense of the satisfaction of the public utility,
9 but at the expense of the district. If any facility
10 or portion of any facility of any disposal district
11 crosses the property or line of any railroad corpora-
12 tion, the procedure shall be the same as set out in
13 this section, except that the Department of Transpor-
14 tation shall be substituted for the Public Utilities
15 Commission. Nothing in this section authorizes any
16 disposal district to take by right of eminent domain
17 any of the property or facilities of any public util-
18 ity used, or acquired, for future use by the owner,
19 in the performance of a public duty, unless expressly
20 authorized by special Act of Legislature.

21 §1737 Inspection of premises, facilities and opera-
22 tions of member municipalities and other users

23 The officers and agents of each district formed
24 under this chapter shall have free access of all
25 premises within the district or served by its collec-
26 tion, transportation or disposal facilities, at all
27 reasonable hours, for inspection of the condition and
28 utilization of the premises, to ascertain the quality
29 and quantity of solid waste being generated in order
30 to enhance solid waste management and to enforce this
31 chapter and the rules prescribed by the trustees of
32 the district.

33 §1738 Rules

34 The trustees may from time to time adopt rules to
35 regulate the handling, collection, transportation,
36 resource conservation, resource recovery and disposal
37 of solid waste within the district.

38 §1739 Delivery of solid waste

39 The trustees may from time to time require that
40 all or a portion of the solid wastes generated within
41 the district be disposed of only in and upon facili-

1 ties operated by, on behalf of or under contract with
2 the district. This chapter supersedes any flow con-
3 trol legislation otherwise applicable to member mu-
4 nicipalities.

5 §1740 Setting fees and other charges

6 The trustees may from time to time establish and
7 adjust a structure for fees, including penalty
8 charges, for collection services and transportation
9 and for disposal of solid waste in and upon facili-
10 ties operated by, on behalf of or under contract with
11 the district, subject to section 1752.

12 §1741 Annual audit

13 Each year an audit shall be made of the accounts
14 of the district, and for this purpose authorized
15 agents of a certified public accounting firm ap-
16 pointed by the trustees shall have access to all nec-
17 essary papers, books and records. Upon the comple-
18 tion of each audit, a report shall be made to the
19 chairman of the district board of trustees and a copy
20 shall be sent to the municipal officers of each mem-
21 ber municipality.

22 §1742 Zoning

23 The powers of a district under this chapter shall
24 supersede any and all municipal zoning ordinances.

25 SUBCHAPTER IV

26 BONDS AND NOTES

27 §1751 Bonds and notes

28 1. Authorization of bonds. Subject to the limi-
29 tations in subsection 10, any district formed under
30 this chapter may provide by resolution of its board
31 of trustees, without district vote for the borrowing
32 of money and the issuance from time to time of bonds
33 for any of its corporate purposes, including, but not
34 limited to:

35 A. Paying and refunding its indebtedness;

1 B. Paying any necessary expenses and liabilities
2 incurred under this chapter, including organiza-
3 tional and other necessary expenses and liabili-
4 ties, whether incurred by the district or any mu-
5 nicipality in the district, the district being
6 authorized to reimburse any municipality in the
7 district for any such expenses incurred or paid
8 by it;

9 C. Paying costs directly or indirectly associ-
10 ated with acquiring properties, paying damages,
11 constructing, maintaining and operating waste fa-
12 ilities, and making renewals, additions, exten-
13 sions and improvements to the property or facili-
14 ties, and to cover interest payments during the
15 period of construction and for such period as the
16 trustees may determine;

17 D. Providing such reserves for debt service, re-
18 pairs and replacements or other capital or cur-
19 rent expenses as may be required by a trust
20 agreement or resolution securing bond;

21 E. Financing all or part of a waste facility for
22 a user. The term "user," as used in this sec-
23 tion, means one or more persons or entities, oth-
24 er than a district, acting as lessee, purchaser,
25 mortgagor or borrower; and

26 F. Any combination of these purposes.

27 Bonds may be issued under this chapter as general
28 obligations of the district or as special obligations
29 payable solely from particular funds. The principal
30 of, premium, if any, and interest on all bonds shall
31 be payable solely from the funds provided for that
32 purpose from revenues. For purposes of this chapter,
33 the term "revenues" means and includes the proceeds
34 of bonds, all revenues, rates, tolls, assessments,
35 rents, tipping fees, transportation charges and other
36 charges and receipts derived by the district from the
37 operation of a waste facility and other properties,
38 including, but not limited to, investment earnings
39 and the proceeds of insurance, condemnation, sale or
40 other disposition of properties. All bonds issued by
41 a district under this chapter shall be legal obliga-
42 tions of the district, and all districts formed under

1 this chapter are declared to be quasi-municipal cor-
2 porations within the meaning of Title 30, section
3 5053. Bonds may be issued under this chapter without
4 obtaining the consent of any commission, board, bu-
5 reau or agency of the State or of any municipality
6 encompassed by the district, and without any other
7 proceedings or the happening of other conditions or
8 things other than those proceedings, conditions or
9 things which are specifically required by this chap-
10 ter. Bonds issued under this chapter do not consti-
11 tute a debt or liability of the State or of any mu-
12 nicipality encompassed by the district or a pledge of
13 the faith and credit of the State or any such munici-
14 pality, and a statement to that effect shall be re-
15 cited on the face of the bonds.

16 2. Notes. Any district formed under this chap-
17 ter may also provide by resolution of its board of
18 trustees, without district vote, for the issuance
19 from time to time of notes in anticipation of bonds
20 authorized under this chapter, the issuance from time
21 to time of notes in anticipation of the revenues to
22 be collected or received in any year or the issuance
23 from time to time of notes in anticipation of the recei-
24 pt of federal or state grants or other aid. The
25 issue of these notes shall be governed by the appli-
26 cable provisions of this chapter relating to the is-
27 ssue of bonds, provided that notes in anticipation of
28 revenue shall mature no later than one year from
29 their respective dates and notes issued in anticipa-
30 tion of federal or state grants or other aid and re-
31 newals thereof shall mature no later than the ex-
32 pected date, as determined by the board of trustees,
33 of receipt of those grants or aid. Notes in antici-
34 pation of revenue issued to mature less than one year
35 from their dates may be renewed from time to time by
36 the issue of other notes, provided that the period
37 from the date of an original note to the maturity of
38 any note issued to renew or pay the same or the in-
39 terest thereon may not exceed one year.

40 Any such district may enter into agreements with the
41 State or the United States, or any agency of either,
42 or any municipality, corporation, commission or board
43 authorized to grant or loan money or to otherwise as-
44 ist in the financing of projects of the type which
45 that district is authorized to carry out, and to ac-

1 cept grants and borrow money from any such govern-
2 ment, agency, municipality, corporation, commission
3 or board as may be necessary or desirable to accom-
4 plish the purposes of the district.

5 3. Maturity; interest; form; temporary bonds.
6 The bonds issued under this chapter shall be dated,
7 shall mature at such time or times not exceeding 40
8 years from their date or dates and shall bear inter-
9 est at such rate or rates as may be determined by the
10 board of trustees, and may be made redeemable before
11 maturity, at the option of the district, at such
12 price or prices and under such terms and conditions
13 as may be fixed by the board of trustees prior to the
14 issuance of the bonds. The board of trustees shall
15 determine the form of the bonds, including any inter-
16 est coupons to be attached, and the manner of execu-
17 tion of the bonds, and shall fix the denomination or
18 denominations of the bonds and the place or places of
19 payment of principal and interest, which may be at
20 any financial institution having trust powers within
21 or without the State. Bonds shall be executed in the
22 name of the district by the manual or facsimile sig-
23 nature of such officer or officers as may be autho-
24 rized in the resolution to execute the bonds, but at
25 least one signature on each bond shall be a manual
26 signature. Coupons, if any, attached to the bonds
27 shall be executed with the facsimile signature of the
28 officer or officers of the district designated in the
29 resolution. In case any officer, whose signature or
30 a facsimile of whose signature appears on any bonds
31 or coupons, ceases to be that officer before the de-
32 livery of the bonds, the signature or its facsimile
33 shall nevertheless be valid and sufficient for all
34 purposes, as if he had remained in office until the
35 delivery. Notwithstanding any of the other provi-
36 sions of this chapter or any recitals in any bonds
37 issued under this chapter, all such bonds shall be
38 deemed to be negotiable instruments under the laws of
39 this State. The bonds may be issued in coupon or
40 registered form, or both, as the board of trustees
41 may determine, and provision may be made for the reg-
42 istration of any coupon bonds as to principal alone
43 and as to both principal and interest, and for the
44 reconversion into coupon bonds of any bonds regis-
45 tered as to both principal and interest. The board
46 of trustees may sell the bonds in such manner, either

1 at public or private sale, and for such price as they
2 may determine to be for the best interests of the
3 district. The proceeds of the bonds of each issue
4 shall be used solely for the purpose for which those
5 bonds have been authorized and shall be disbursed in
6 such manner and under such restrictions, if any, as
7 the board of trustees may provide in the resolution
8 authorizing the issuance of the bonds or in the trust
9 agreement securing the bonds. The resolution provid-
10 ing for the issuance of bonds, and any trust agree-
11 ment securing the bonds, may contain such limitations
12 upon the issuance of additional bonds as the board of
13 trustees may deem proper, and these additional bonds
14 shall be issued under such restrictions and limita-
15 tions as may be prescribed by that resolution or
16 trust agreement. Prior to the preparation of definit-
17 ive bonds, the board of trustees may, under like re-
18 strictions, issue interim receipts or temporary
19 bonds, with or without coupons, exchangeable for de-
20 finite bonds when those bonds are executed and are
21 available for delivery. The board of trustees may
22 provide for the replacement of any bond which is mu-
23 tilated, destroyed or lost.

24 4. Pledges and covenants, trust agreement. In
25 the discretion of the board of trustees of any dis-
26 trict, each or any issue of bonds may be secured by a
27 trust agreement by and between the district and a
28 corporate trustee, which may be any financial insti-
29 tution having trust powers within or without the
30 State.

31 The resolution authorizing the issuance of the bonds
32 or the trust agreement may pledge or assign, in whole
33 or in part, the revenues and other moneys held or to
34 be received by the district and any accounts and con-
35 tract or other rights to receive the revenues or mon-
36 eys, whether then existing or thereafter coming into
37 existence and whether then held or thereafter ac-
38 quired by the district and the proceeds thereof, and
39 may convey or mortgage the waste facilities or any
40 other properties of the district. The resolution may
41 also contain provisions for protecting and enforcing
42 the rights and remedies of the bondholders, includ-
43 ing, but not limited to, covenants setting forth the
44 duties of the district and the board of trustees in
45 relation to the acquisition, construction, recon-

1 struction, improvement, repair, maintenance, opera-
2 tion and insurance of its waste facilities or any of
3 its other properties, the fixing and revising of
4 rates, tolls, assessments, rents, tipping fees and
5 transportation charges and other charges, the appli-
6 cation of the proceeds of bonds, the custody, safe-
7 guarding and application of revenues, defining de-
8 faults and providing for remedies in the event there-
9 of, which may include the acceleration of maturities,
10 the establishment of reserves and the making and
11 amending of contracts. The resolution or trust
12 agreement may set forth the rights and remedies of
13 the bondholders and of the trustee, if any, and may
14 restrict the individual right of action by bondhold-
15 ers as is customary in trust agreements or trust in-
16 dentures securing bonds or debentures of corpora-
17 tions. In addition, the resolution or trust agree-
18 ment may contain such other provisions as the board
19 of trustees may deem reasonable and proper for the
20 security of the bondholders, including means by which
21 the resolution or trust agreement may be amended.
22 All expenses incurred in carrying out the resolution
23 or trust agreement may be treated as a part of the
24 cost of operation. The pledge by any such resolution
25 or trust agreement shall be valid and binding and
26 shall be deemed continuously perfected for the pur-
27 poses of the Uniform Commercial Code from the time
28 when the pledge is made. All revenues, moneys,
29 rights and proceeds so pledged and thereafter re-
30 ceived by the district shall immediately be subject
31 to the lien of the pledge without any physical deliv-
32 ery or segregation thereof or further action under
33 the Uniform Commercial Code or otherwise, and the
34 lien of the pledge shall be valid and binding as
35 against all parties having claims of any kind in
36 tort, contract or otherwise against the district ir-
37 respective of whether those parties have notice
38 thereof.

39 The resolution authorizing the issuance of bonds un-
40 der this chapter, or any trust agreement securing
41 those bonds, may provide that all or a sufficient
42 amount of revenues, after providing for the payment
43 of the cost of repair, maintenance and operation and
44 reserves therefor as may be provided in the resolu-
45 tion or trust agreement, shall be set aside at such
46 regular intervals as may be provided in the resolu-

1 tion or trust agreement and deposited in the credit
2 of a fund for the payment of the interest on and the
3 principal of bonds issued under this chapter as the
4 bonds shall become due, and the redemption price or
5 purchase price of bonds retired by call or purchase.
6 The use and disposition of moneys in or to the credit
7 of the fund shall be subject to such regulations as
8 may be provided in the resolution authorizing the is-
9 suance of the bonds or in the trust agreement se-
10 curing the bonds and, except as may otherwise be pro-
11 vided in the resolution or trust agreement, the fund
12 shall be a fund for the benefit of all bonds without
13 distinction or priority of one over another.

14 5. Trust funds. Notwithstanding any other pro-
15 vision of law, all moneys set aside for payment of
16 the bonds, or other purposes pursuant to the provi-
17 sions of any trust agreement securing the bonds,
18 shall be deemed to be trust funds, to be held and ap-
19 plied as provided by the trust agreement. The reso-
20 lution authorizing the issuance of bonds or the trust
21 agreement securing the bonds shall provide that any
22 officer to whom, or bank, trust company or other fi-
23 ancial institution or fiscal agent to which, those
24 moneys shall be paid shall act as trustee of those
25 moneys and shall hold and apply the same for the pur-
26 poses hereof, subject to such regulations as may be
27 provided in the resolution or trust agreement or as
28 may be required by this chapter.

29 6. Remedies. Any holder of bonds issued under
30 this chapter or of any of the coupons appertaining to
31 those bonds, and the trustee under any trust agree-
32 ment, except to the extent the rights given may be
33 restricted by the resolution authorizing the issuance
34 of those bonds or trust agreement, may, either at law
35 or inequity, by suit, action, mandamus or other pro-
36 ceeding, including proceedings for the appointment of
37 a receiver to take possession and control of the
38 properties of the district, protect and enforce any
39 and all rights under the laws of the State or granted
40 under this chapter or under such resolution or trust
41 agreement, and may enforce and compel the performance
42 of all duties required by this chapter or by such
43 resolution or trust agreement to be performed by the
44 district or by any officer thereof, including the
45 fixing, charging and collecting of rates, fees and

1 charges for the use of or for the services and facil-
2 ities furnished by the district.

3 7. Refunding bonds. Any district formed under
4 this chapter by resolution of its board of trustees,
5 without district vote, may issue refunding bonds for
6 the purpose of paying any of its bonds at maturity or
7 upon acceleration or redemption. The refunding bonds
8 may be issued at such time prior to the maturity or
9 redemption of the refunded bonds as the board of
10 trustees deems to be in the public interest. The re-
11 funding bonds may be issued in sufficient amounts to
12 pay or provide the principal of the bonds being re-
13 funded, together with any redemption premium thereon,
14 any interest accrued or to accrue to the date of pay-
15 ment of those bonds, the expenses of issue of the re-
16 funding bonds, the expenses of redeeming the bonds
17 being refunded and such reserves for debt service or
18 other capital or current expenses from the proceeds
19 of such refunding bonds as may be required by a trust
20 agreement or resolution securing bonds. The issue of
21 refunding bonds, the maturities and other details
22 thereof, the security therefor, the rights of the
23 holders thereof, and the rights, duties and obliga-
24 tions of the district in respect of the same shall be
25 governed by the applicable provisions of this chapter
26 relating to the issue of bonds other than refunding
27 bonds.

28 8. Tax exemption. All bonds, notes or other evi-
29 dences of indebtedness issued under this chapter,
30 and their transfer and the income therefrom, includ-
31 ing any profit made on the sale thereof, shall at all
32 times be free from taxation within the State.

33 9. Bonds declared legal investments. Bonds and
34 notes issued by any district under this chapter are
35 made securities in which all public officers and pub-
36 lic bodies of the State and its political subdivi-
37 sions, all insurance companies and associations and
38 other persons carrying on an insurance business,
39 trust companies, banks, bankers, banking associa-
40 tions, savings banks and savings associations, in-
41 cluding savings and loan associations, credit unions,
42 building and loan associations, investment companies,
43 executors, administrators, trustees and other fiduci-
44 aries, pension, profit-sharing, retirement funds and

1 other persons carrying on a banking business, and all
2 other persons who are now or may hereafter be, autho-
3 rized to invest in bonds or other obligations of the
4 State, may properly and legally invest funds, includ-
5 ing capital in their control or belonging to them.
6 The bonds and notes are made securities which may
7 properly and legally be deposited with and received
8 by any state, municipal or public officer, or any
9 agency or political subdivision of the State, for any
10 purpose for which the deposit of bonds or other obli-
11 gations of the State is now or may hereafter be au-
12 thorized by law.

13 10. Certain bond and note issues; notice; special
14 meeting; vote. In the event that the trustees
15 vote to authorize bonds or notes, excluding temporary
16 notes payable within one year or notes issued in an-
17 ticipation of a bond issue previously authorized in
18 accordance with this chapter, or refunding bonds to
19 be issued pursuant to subsection 7, the estimated
20 cost of which, singly or in the aggregate included in
21 any one financing, is \$1,000,000 or more, adjusted,
22 relative to 1981 as the base year according to the
23 annual Consumer Price Index, as defined in the Re-
24 vised Statutes of Title 5, section 1001, subsection
25 6-A, the trustees shall provide notice to the general
26 public of the proposed bond or note issue and the
27 purposes for which the debt is being incurred and
28 call a special district meeting for the purpose of
29 permitting the collection of testimony from the pub-
30 lic concerning the amount of the debt so authorized.
31 Notice of the proposed bond or note issue, the pur-
32 poses for which the debt is being issued and the call
33 of the special meeting shall be published at least
34 once in a newspaper having general circulation in the
35 district.

36 No debt may be incurred under the vote of the trust-
37 ees until the expiration of 7 full days following the
38 date on which the special district meeting was held.
39 If, prior to the expiration of that period, a peti-
40 tion signed by at least 5%, but not less than 50, of
41 the registered voters of the district is filed with
42 the clerk of the district requesting reference of the
43 vote of the trustees to referendum, the clerk of the
44 district shall call and hold a special election of
45 the voters of the district for the purpose of submit-

1 ting to referendum vote a question of approving the
2 vote of the trustees. The vote of the trustees shall
3 be suspended until it has received approval by vote
4 of a majority of the voters of the district voting on
5 the question at the special election.

6 §1752 Charges

7 All persons, firms and corporations, whether pub-
8 lic, private or municipal, shall pay to the treasurer
9 of any district formed under this chapter the rates,
10 tolls, rents, tipping fees, transportation charges
11 and other charges established by the trustees for
12 services provided by the district. In this subchap-
13 ter, the words "other charges" shall include, but not
14 be limited to, interest on delinquent accounts at a
15 rate not to exceed the highest lawful rate set by the
16 Treasurer of State for municipal taxes.

17 A district may establish schedules of charges by
18 any method determined by the trustees.

19 The rates, tolls, assessments, rents, tipping
20 fees and transportation charges and other charges
21 shall be so established as to provide revenue at
22 least sufficient, together with any other moneys
23 available therefor, to:

24 1. Current operating expenses. Pay the current
25 expenses of operating and maintaining the waste fa-
26 ilities of the district;

27 2. Payment of interest and principal. Pay the
28 principal of, premium, if any, and interest on all
29 bonds and notes issued by the district under this
30 chapter when due and payable;

31 3. Payments into reserve funds. Create and
32 maintain such reserves as may be required by any
33 trust agreement or resolution securing bonds and
34 notes;

35 4. Repairs, replacements and renewals. Provide
36 funds for paying the cost of all necessary repairs,
37 replacements and renewals of the waste facilities of
38 the district; and

