

MAINE STATE LEGISLATURE

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1 (EMERGENCY)
2 (After Deadline)

3 SECOND REGULAR SESSION
4

5 ONE HUNDRED AND ELEVENTH LEGISLATURE
6

7 Legislative Document

No. 2155

8
9 S.P. 809

In Senate, February 29, 1984

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

12 Approved for introduction by a majority of the Legislative Council
pursuant to Joint Rule 27.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Pray of Penobscot.

13 Cosponsors: Representative Kelleher of Bangor, Senator Perkins of
Hancock and Representative Hall of Sangerville.

14 STATE OF MAINE
15

16 IN THE YEAR OF OUR LORD
17 NINETEEN HUNDRED AND EIGHTY-FOUR
18

19 AN ACT to Replace the Regional
20 Refuse Disposal District Enabling Act.
21

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

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

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

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

1 1. Policy. It is the policy of the State to en-
2 courage the development of refuse disposal districts
3 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 of district. A refuse disposal
15 district may be 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, in conjunction, to foster resource conservation
4 and resource recovery for public purposes and for the
5 health, welfare, comfort and convenience of the in-
6 habitants of the district. It is anticipated that,
7 in the furtherance of the purpose and declaration of
8 policy of this Act, each district may contract and
9 otherwise act in conjunction with a variety of pub-
10 lic, private and municipal firms, corporations and
11 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 to make payments in lieu of taxes to communities in
20 which its property is located or utilized.

21 §1705. Definitions

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

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

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

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

36 4. Department. "Department" means the Depart-
37 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 of the solid waste, may enter the envi-
6 ronment or be emitted into the air or discharged into
7 any water, including ground waters.

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

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. Municipal officer. "Municipal officer" means
16 municipal officer as defined in Title 30, section
17 1901.

18 10. Resource conservation. "Resource conserva-
19 tion" means the reduction of amounts of solid waste
20 which is generated and the reduction of overall re-
21 source consumption.

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

28 12. Revenues. "Revenues" means the proceeds of
29 bonds, all revenues, rates, tolls, assessments,
30 rents, tipping fees, transportation charges and other
31 charges and receipts derived by the district from the
32 operation of a waste facility and other properties,
33 including, but not limited to, investment earnings
34 and the proceeds of insurance, condemnation, sale or
35 other disposition of properties, and shall include
36 proceeds from assessments where the power of assess-
37 ment has been granted to the district under section
38 1754.

1 13. Site. "Site" means the same or geographi-
2 cally contiguous property which may be divided by a
3 public or private right-of-way, provided that the en-
4 trance and exit between the properties are at a
5 crossroads intersection and access is by crossing, as
6 opposed to going along, the right-of-way. Noncontig-
7 uous properties, owned by the same person but con-
8 ected by a right-of-way which he controls and to
9 which the public does not have access, are also con-
10 sidered site property.

11 14. Solid waste. "Solid waste" means useless,
12 unwanted or discarded, nonhazardous solid materials
13 with insufficient liquid content to be free flowing,
14 including, but not limited to, rubbish, garbage,
15 sludge from a waste water treatment plant, scrap ma-
16 terials, junk, refuse, inert fill material and land-
17 scape refuse. "Solid waste" does not include septic
18 tank sludge or agricultural waste.

19 A. Solid waste from "residential activities" in-
20 cludes any solid waste generated by a household
21 or apartment, including, but not limited to, food
22 waste, packaging, newspaper and other paper
23 products, glass, cans and plastic, and similar
24 types of waste generated by employees of commer-
25 cial and industrial activities.

26 B. Solid waste from "commercial activities" in-
27 cludes any solid waste generated by retail and
28 wholesale establishments, including, but not lim-
29 ited to, food waste, corrugated containerboard,
30 metals and plastics.

31 C. Solid waste from "industrial activities" in-
32 cludes any solid waste generated by an industry
33 as part of the production process. Solid waste
34 generated by employees and similar in composition
35 to that generated by residential or commercial
36 activities are excluded from this definition.

37 15. Transport. "Transport" means the movement
38 of solid waste from the point of generation to any
39 intermediate points and finally to the point of ulti-
40 mate disposition.

1 16. Waste facility. "Waste facility" means any
2 land area, structure, location or equipment, or com-
3 bination of them, including landfills, used for han-
4 dling solid waste and for resource conservation and
5 resource recovery, when utilized.

6 17. Waste management. "Waste management" means
7 purposeful, systematic and unified control of the
8 handling, transportation and disposal of solid waste.

9 18. Yard waste. "Yard waste" means grass clip-
10 pings, leaves and brush.

11 §1706. Provisions supplemental to other law

12 This chapter provides an additional and alterna-
13 tive method for carrying out the purposes of this
14 chapter and is supplemental and additional to powers
15 conferred by other laws, including the provisions of
16 chapter 13, pertaining to solid waste, and is not in
17 derogation of any powers now existing.

18 §1707. Reimbursement of costs to municipalities

19 At the sole discretion of the board of directors
20 of the district, any municipality or municipalities
21 which fall within a district formed under this chap-
22 ter shall be entitled to reimbursement from that dis-
23 trict when the district is in a position to reimburse
24 those costs. The term "costs," as used in this sec-
25 tion, includes, but is not limited to, the following:
26 Cost of preparation of an engineering study or
27 studies; legal costs with relation to the application
28 and presentation of any application for the formation
29 of the district; other engineering costs that may not
30 be included in a study; costs for financial advice;
31 administrative expense; and such other expenses as
32 may be necessary or incidental to the action of any
33 municipality under this chapter, including funding
34 provided pursuant to an agreement entered into pursu-
35 ant to Title 30, chapter 203.

36 SUBCHAPTER II

37 ORGANIZATION

1 §1721. Formation

2 The formation of a disposal district shall be ac-
3 complished as follows.

4 1. Application by municipal officers. The mu-
5 nicipal officers of the municipality or municipali-
6 ties that desire to form a disposal district shall
7 file an application with the Board of Environmental
8 Protection on a form or forms to be prepared by that
9 board, setting forth the name or names of the munici-
10 pality or municipalities, and the municipal officers
11 shall furnish such other data as the board may deter-
12 mine necessary and proper. The application shall
13 contain, but shall not be limited to, a description
14 of the territory of the proposed district, the name
15 proposed for the district, which shall include the
16 words "disposal district," a statement showing the
17 existence in that territory of the conditions requi-
18 site for the creation of a disposal district, as pre-
19 scribed in section 1702, and other documents and ma-
20 terials as may be required by the Board of Environ-
21 mental Protection. The Board of Environmental Pro-
22 tection may make rules under this chapter.

23 2. Public hearing. Upon receipt of the applica-
24 tion, the board shall cause a public hearing to be
25 held on the application, in one of the municipalities
26 within the proposed district, at some convenient
27 place within the boundaries of the proposed district.
28 The circumstances under which a public hearing is to
29 be held shall be the subject of regulations issued by
30 the Board of Environmental Protection. In any case
31 where a public hearing is to be held, at least 14
32 days prior to the date of the hearing the board shall
33 cause notice of the hearing to be published at least
34 once in a newspaper of general circulation in the ar-
35 ea encompassed by the proposed district.

36 3. Approval of application. After the public
37 hearing on the evidence received at the hearing, the
38 board shall, in accordance with section 1702, make
39 findings of fact and conclusions and determine of
40 record whether or not the conditions requisite for
41 the creation of a disposal district exist in the ter-
42 ritory described in the application. If the board
43 finds that conditions do exist, it shall issue an or-

1 der approving the proposed district as conforming to
2 the requirements of this chapter and designating the
3 name of the proposed district. The board shall give
4 notice to the municipal officers within the municipi-
5 ality or municipalities involved, of a date, time
6 and place of a meeting of the representative of the
7 municipality or municipalities involved. The municipi-
8 pal officers shall elect a representative to attend
9 the meeting who may represent the municipality in all
10 matters relating to the formation of the district. A
11 return receipt properly endorsed shall be evidence of
12 the receipt of notice. The notice shall be mailed at
13 least 10 days prior to the date set for the meeting.

14 4. Denial of application. If the board, after a
15 public hearing, determines that the creation of a
16 disposal district in the territory described in the
17 application is not warranted for any reason, it shall
18 make findings of fact and conclusions and enter an
19 order denying its approval. The board shall give notice
20 of the denial by mailing certified copies of the
21 decision and order to the municipal officers of the
22 municipality or municipalities involved. No applica-
23 tion for the creation of a disposal district, consist-
24 ing of exactly the same territory, may be enter-
25 tained within one year after the date of the issuance
26 of an order denying approval of the formation of that
27 disposal district, but this provision shall not pre-
28 clude action on an application for the creation of a
29 disposal district embracing all or part of the terri-
30 tory described in the original application, provided
31 that another municipality or fewer municipalities are
32 involved.

33 5. Joint meeting. The persons selected by the
34 municipal officers, to whom the notice described in
35 subsection 3 is directed, shall meet at the time and
36 place appointed. Where more than one municipality is
37 involved, they shall organize by electing a chairman
38 and a secretary. No action may be taken at any such
39 meeting unless, at the time of convening, there are
40 present at least a majority of the total number of
41 municipal representatives eligible to attend and partici-
42 partate at the meeting, other than to report to the
43 Board of Environmental Protection that a quorum was
44 not present and to request the board to issue a new
45 notice for another meeting. A quorum shall be a sim-

1 ple majority of representatives eligible to attend
2 the meeting. The purpose of the meeting shall be to
3 determine the number of directors, subject to section
4 1724, to be appointed by and to represent each partici-
5 participating municipality and to determine the duration
6 of terms to be served by the initial directors so
7 that, in ensuing years, 1/3 of the directors and
8 their alternates shall be appointed or reappointed
9 each year, to serve until their respective successors
10 are duly appointed and qualified. Subject to section
11 1724, the number of directors to represent each mu-
12 nicipality shall be a subject for negotiation among
13 the municipal representatives. When a decision has
14 been reached on the number of directors and the num-
15 ber to represent each municipality and the initial
16 terms of the directors, subject to the limitations
17 provided, this decision shall be reduced to writing
18 by the secretary and must be approved by a 2/3 vote
19 of those present. The vote so reduced to writing and
20 the record of the meeting shall be signed by the
21 chairman, attested by the secretary and filed with
22 the board. Where a single municipality is involved,
23 a copy of the vote of the municipal officers, duly
24 attested by the clerk of the municipality, shall be
25 filed with the board.

26 6. Submission. When the record of the munici-
27 pality or the record of the joint meeting, where mu-
28 nicipalities are involved, has been received by the
29 board and found by it to be in order, the board shall
30 order the question of the formation of the proposed
31 disposal district and other questions relating to the
32 formation to be submitted to the legal voters resid-
33 ing within the municipalities. The order shall be
34 directed to the municipal officers of the municipali-
35 ty or municipalities which propose to form the dis-
36 posal district, directing them to call, within 60
37 days of the date of the order, town meetings or city
38 elections, as the case may be, for the purpose of
39 voting in favor of or in opposition to each of the
40 following articles or questions, as they may apply,
41 in substantially the following form:

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

1 B. To see if the residents of (name of town or
2 city) will vote to join with the residents of the
3 (name of town or city) to incorporate as a dis-
4 posal district to be called (name) Disposal Dis-
5 trict: (legal description of the bounds of the
6 proposed disposal district). At a minimum, the
7 district shall consist of (names of essential mu-
8 nicipalities); and

9 C. To see if the residents of (name of town or
10 city) will vote to approve the total number of
11 directors and the allocation of representation
12 among the municipalities on the board of direc-
13 tors, as determined by the municipal officers and
14 listed as follows: Total number of directors
15 shall be _____ and the residents of (town or
16 city) shall be entitled to _____ directors.
17 (The number of directors to which each municipal-
18 ity is entitled shall be listed.)

19 Directors shall be chosen to represent municipalities
20 in the manner provided in section 1725.

21 7. Determination by municipal officers. In the
22 event that the charters of the respective municipali-
23 ties, or any one of them, consistent with such state
24 laws as may otherwise be applicable, permit the mu-
25 nicipal officers of the municipality or municipali-
26 ties which propose to form the disposal district to
27 vote to join the district, the municipal officers may
28 determine the question of the formation of the pro-
29 posed disposal district and other questions relating
30 to the formation without submission to the legal vot-
31 ers residing within the municipality.

32 §1722. Approval and organization

33 When the residents of the municipality, or each
34 municipality where more than one is involved, or the
35 municipal officers, as the case may be, have voted
36 upon the formation of a proposed disposal district
37 and all of the other questions submitted, the clerk
38 of each of the municipalities shall make a return to
39 the Board of Environmental Protection in such form as
40 the board may determine. If the board finds from the
41 returns that each of the municipalities involved,
42 and, voting on each of the articles and questions

1 submitted to them, have voted in the affirmative, and
2 that they have appointed the necessary directors and
3 the names thereof to represent each municipality and
4 that all other steps in the formation of the proposed
5 disposal district are in order and in conformity with
6 law, the board shall make a finding to that effect
7 and record the finding upon its records. Where 3 or
8 more municipalities are concerned in the voting, and
9 at least 2 have voted to approve each of the articles
10 and questions submitted to them and have appointed
11 the necessary directors and the names thereof to
12 represent each municipality, rejection of the pro-
13 posed disposal district by one or more shall not de-
14 feat the creation of a district composed of the mu-
15 nicipalities voting affirmatively on the question, if
16 the board determines that it is feasible or practical
17 to continue the district as a geographic unit, unless
18 the vote submitted to the municipalities provided
19 that specific participants or a minimum number of
20 participants shall approve the formation of the dis-
21 trict.

22 The board shall, immediately after making its
23 findings, issue a certificate of organization in the
24 name of the disposal district in such form as the
25 board may determine. The original certificate shall
26 be delivered to the directors on the day that they
27 are directed to organize and a copy of the certifi-
28 cate duly attested by the Commissioner of Environmen-
29 tal Protection shall be filed and recorded in the of-
30 fice of the Secretary of State. The issuance of the
31 certificate by the board shall be conclusive evidence
32 of the lawful organization of the disposal district.
33 The disposal district shall not be operative until
34 the date set by the directors under section 1726.

35 §1723. Transfer of property and assets

36 When the territory of a municipality falls within
37 a disposal district which has been issued its certifi-
38 cate of organization and has assumed the management
39 and control of the operation of the disposal facili-
40 ties within its territorial limits, the directors of
41 the disposal district shall determine what disposal
42 property or properties, if any, owned by any munici-
43 pality within the disposal district shall be neces-
44 sary to carry on the functions of the disposal dis-

1 trict and shall request in writing that the municipal
2 officers of any municipality within the disposal dis-
3 trict convey title to the disposal property to the
4 disposal district and the municipal officers shall
5 make the conveyance. The disposal district shall pay
6 fair compensation for the property or properties.
7 Any request by the directors of the district shall be
8 made in writing within 2 years of the date of the
9 certificate of organization or the effective date on
10 which a new member joins the district, whichever is
11 appropriate, and shall be limited to facilities ex-
12 isting as of the date of the certificate of organiza-
13 tion or the effective date on which a new member
14 joins the district, whichever is appropriate.

15 §1724. Directors

16 1. Authorization. All of the affairs of a dis-
17 posal district shall be managed by an elected board
18 of directors which shall consist of not less than 3
19 directors, or not less than 5 directors in disposal
20 districts involving more than one municipality. The
21 exact number of directors shall be determined in ac-
22 cordance with section 1721. Each director shall be
23 entitled to the number of votes which corresponds to
24 the level of population in his municipality as set
25 forth in the following table.

26	<u>Population</u>	<u>No. of Votes</u>
27	0 - 1,000	1
28	1,001 - 2,500	2
29	2,501 - 5,000	3
30	5,001 - 10,000	4
31	10,001 - 15,000	5
32	15,001 - 25,000	6
33	25,001 - 35,000	7
34	35,001 - 50,000	8
35	50,001 - 65,000	9
36	65,001 and over	10

37 A director may not split his votes. In the event a
38 municipality has more than one director, directors
39 from that municipality shall share equally the number
40 of votes indicated for that municipality in the table
41 in this subsection. A determination of population
42 shall be made based upon the latest official Decenni-

1 al Census of the United States by the United States
2 Bureau of Census. A disposal district may alter the
3 number of its directors by submitting the proposed
4 alteration to the voters in the same manner as pro-
5 vided in section 1721, subsection 7. No municipality
6 within any disposal district may have less than one
7 director. A quorum of the directors may conduct the
8 affairs of the district even if there is a vacancy on
9 the board of directors. A quorum is defined as a
10 simple majority of eligible and appointed directors.
11 A simple majority of directors present and voting may
12 conduct the affairs of the district.

13 2. Term. Subject to section 1721, subsection 5,
14 as to the duration of terms to be served by initial
15 directors, all directors shall hold office for 3
16 years and until their successors are duly appointed
17 and qualified. Any representative may be appointed
18 to successive terms without limit.

19 3. Vacancy. Any vacancy on the board of direc-
20 tors shall be filled within 30 days after the vacancy
21 occurs by appointment of the municipal officers of
22 the municipality which he is to represent. An ap-
23 pointee to a vacancy shall serve until the expiration
24 of the term of the representative to whose position
25 the appointment was made and may be reappointed.

26 4. Directors' retirement. Directors shall not
27 be eligible to join the Maine State Retirement System
28 as a result of their selection as directors.

29 §1725. Election of directors and organizational
30 meeting

31 Directors shall be appointed by the municipal of-
32 ficers of the municipality which they are to repre-
33 sent. Alternate directors may be appointed by the
34 municipal officers to act in the absence of a direc-
35 tor. To the extent possible, the board of directors
36 shall include a mix of individuals with sufficient
37 managerial, technical, financial or business experi-
38 ence to execute their duties efficiently and effec-
39 tively. Appointments shall be by vote of the munici-
40 pal officers, attested to by the municipal clerk and
41 presented to the clerk of the district. The munici-
42 pal officers, by majority vote, may remove their ap-

1 pointed representatives during their term for stated
2 reasons, but no directors shall be removed except for
3 neglect of duty, misconduct or other acts which indi-
4 cate an unfitness to serve. Upon receipt of the
5 names of all the directors, the Board of Environmen-
6 tal Protection shall set a time, place and date for
7 the first meeting of the directors, notice thereof to
8 be given to the directors by certified or registered
9 mail, return receipt requested, mailed at least 10
10 days prior to the date set for the meeting.

11 The directors shall organize by election from
12 their own members a chairman, a vice-chairman, a
13 treasurer and a clerk, each of whom shall hold office
14 for one year and until his successor is duly elected
15 and qualified, and choose and employ and fix the com-
16 penensation of any other necessary officers and agents
17 who shall serve at their pleasure, and they shall
18 adopt a corporate seal. Prior to the election of the
19 officers, each director shall be sworn to the faith-
20 ful performance of his duties by the respective mu-
21 nicipal clerk. For the election of chairman, vice-
22 chairman, treasurer and clerk, each director shall
23 cast one vote regardless of the population of the mu-
24 nicipality which he represents.

25 The power and authority of the district and the
26 administration and the general supervision of all af-
27 airs of the district shall be vested in the direc-
28 tors of the district.

29 The directors may from time to time adopt, estab-
30 lish and amend bylaws consistent with the laws of the
31 State, and necessary or reasonable for their own con-
32 venience and the proper management of the affairs of
33 the district, and perform any other acts within the
34 powers delegated to them by law.

35 After the original organizational meeting, the
36 directors shall meet annually at a time determined by
37 their bylaws for the purpose of electing from among
38 the members a chairman, vice-chairman, treasurer and
39 clerk to serve until the next annual election and un-
40 til their successors are appointed and qualified.
41 The treasurer shall furnish bond in such sum and with
42 such sureties as the directors shall approve, the
43 cost to be paid by the district. The chairman, vice-

1 chairman, treasurer and clerk may receive such com-
2 ensation for serving in these capacities as the di-
3 rectors shall determine. This compensation shall be
4 in addition to the compensation payable to them as
5 directors. The directors shall make and publish an
6 annual report, including a report of the treasurer.

7 The directors shall receive compensation as rec-
8 ommended by them and approved by majority vote of the
9 municipal officers in municipalities representing a
10 majority of the population within the district. Cer-
11 tification thereof shall be recorded with the Secre-
12 tary of State and recorded in the bylaws. Their com-
13 ensation for duties as directors shall be on the ba-
14 sis of such specific amount as may be specified in
15 the bylaws. Compensation schedules in effect on Jan-
16 uary 1, 1982, shall continue in effect until changed.

17 No member of the board of directors may be em-
18 ployed for compensation as an employee or in any oth-
19 er capacity by the district of which he is a direc-
20 tor.

21 The board of directors may establish an executive
22 board and grant authority as it may deem necessary.
23 The board of directors may establish any and all com-
24 mittees as it may deem necessary.

25 §1726. Responsibility to accept solid waste

26 1. Time of responsibility. The district becomes
27 responsible for providing a system for solid waste
28 disposal when its board of directors declares the
29 disposal system operational.

30 2. Types of waste. The district shall provide a
31 system for disposal of all solid waste generated by
32 residential activities within the member municipali-
33 ties. To the extent requested by member municipali-
34 ties, the district shall also provide for the dispos-
35 al of compatible solid waste from commercial and in-
36 dustrial activities within a member municipality to
37 the same extent the municipality is providing a sys-
38 tem of solid waste disposal at the date of its vote
39 to join the district, provided that the commercial
40 and industrial waste is disposed of at no cost to
41 other member municipalities. Following formation of

1 the district, the board of directors may allow for
2 the disposal of the waste of any other commercial and
3 industrial activities within a member municipality.
4 The district may provide for the disposal of sludge
5 through contract with a member municipality or quasi-
6 municipal corporation serving the member municipali-
7 ty, provided that the sludge is disposed of at no
8 cost to the other member municipalities. The dis-
9 trict may provide for the disposal of any or all dem-
10 olition and construction waste or yard waste from any
11 member municipality. The district may contract with
12 a nonmember municipality or a private entity for the
13 disposal of solid waste generated within or outside
14 the boundaries of the district. The district may
15 provide for disposal of any hazardous waste generated
16 from district operations.

17 3. Collection sites or systems. Each member mu-
18 nicipality shall be responsible for providing a col-
19 lection site or system for the solid waste generated
20 within the member municipality and for the transpor-
21 tation of the solid waste to the waste facility des-
22 ignated by the district, together with all incident
23 costs. In the event that any member municipality
24 does not wish to institute its own collection system
25 for delivery of the solid waste to the facility des-
26 ignated by the district then the board of directors
27 may provide for collection and transportation.

28 4. Refusal of material; damages. The district
29 may refuse to accept any material which does not meet
30 the definition of solid waste from residential, com-
31 mercial or industrial activities and, further, may
32 recover damages at law or equity, including conse-
33 quential damages, against any member municipality,
34 person or firm causing waste to be introduced into
35 the district's system.

36 §1727. Admission of new member municipalities

37 The board of directors may authorize the inclu-
38 sion of additional member municipalities in the dis-
39 trict upon the terms and conditions as the board, in
40 its sole discretion, shall deem to be fair, reason-
41 able and in the best interest of the district. The
42 legislative body of any nonmember municipality which
43 desires to be admitted to the district shall make ap-

1 plication for admission to the board of directors of
2 the district. The directors determine the effects
3 and impacts which are likely to occur if the municipi-
4 pality is admitted and shall either grant or deny au-
5 thority for admission of the petitioning municipali-
6 ty. If the directors grant the authority, they shall
7 also specify any terms and conditions, including, but
8 not limited to, financial obligations upon which the
9 admission is predicated. The petitioning municipali-
10 ty shall comply with the voting procedures specified
11 in section 1721. The vote, if in the affirmative,
12 shall be certified by the clerk of that municipality
13 to the board of directors and to the Board of Envi-
14 ronmental Protection. Upon satisfactory performance
15 of the terms and conditions of admission, the municipi-
16 pality shall by resolution of the board of directors
17 become and thereafter be a member municipality of the
18 district. The clerk of the district shall promptly
19 certify to the board and the Secretary of State that
20 the municipality has become a member of the district.
21 The certification shall become conclusive evidence
22 that the municipality is a lawful member of the dis-
23 trict. Upon admission of a municipality to a dist-
24 rict, the provisions of section 1724 shall determine
25 the number of votes which shall be cast by the direc-
26 tor or directors representing that municipality.

27 §1728. Withdrawal of member municipalities

28 Withdrawal of a member municipality may take
29 place at any time prior to the commitment by the dis-
30 trict, or any member municipality on behalf of the
31 district, to issue any instrument of indebtedness,
32 including, but not limited to, bonds and notes with a
33 maturity of one year or more. The date upon which a
34 district or member municipality is committed to issue
35 the debt shall be established by a majority vote of
36 the board of directors, at least 90 days in advance
37 of the date. At the time of withdrawal, the with-
38 drawing municipality shall remain liable for its pro-
39 portionate share of district debts and operating ex-
40 penses incurred prior to the date of withdrawal. Af-
41 ter issuance of instruments of indebtedness with a
42 maturity of one year or more, no member municipality
43 may withdraw from the district while the indebtedness
44 remains outstanding without the approval of a 2/3
45 vote of the board of directors of the district and

1 the trustee under any indenture of trust securing in-
2 debtedness of the district.

3 Subject to any required approval by the board of
4 directors of the district, or a trustee under an in-
5 denture of trust securing indebtedness of the dis-
6 trict, withdrawal by a municipality may be accom-
7 plished by a vote of the inhabitants of the munici-
8 pality in the same manner as the decision to join in
9 the formation of the district under section 1721.
10 The town meeting or city election, as the case may
11 be, to consider withdrawal shall be called by the mu-
12 nicipal officers upon receipt of a petition of 10% of
13 the number of voters in the municipality who voted in
14 the last gubernatorial election. The question to be
15 voted upon shall be in substantially the following
16 form:

17 To see if the town (or city) of (name of town or
18 city) will vote to withdraw from (name of dispos-
19 al district).

20 The number of votes required for passage shall be
21 2/3 of those voting.

22 SUBCHAPTER III

23 POWERS

24 §1731. Powers

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

1 ercise of its powers or to the accomplishment of the
2 purposes of the district.

3 The power to make contracts includes, but is not
4 limited to, the power:

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

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

16 3. Contracts for handling of waste. To contract
17 for the handling of solid waste on the basis of guar-
18 anteed amounts, whether delivered for disposal and
19 accepted for disposal or not, of solid waste, with
20 payments based on the guaranteed amounts, whether ac-
21 tually disposed of or not, which payments may be var-
22 iable and may be determined by formulae expressed in
23 those contracts;

24 4. Contracts with government. To contract with
25 the State, the United States or any subdivision or
26 agency thereof for services;

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

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

35 7. Energy. To make agreements pertaining to the
36 generation, transmission and sale of energy;

37 8. Staff; employment. To employ and establish
38 salaries and qualifications for such professional,

1 clerical and administrative staff personnel as may be
2 necessary or convenient to the operation of the dis-
3 trict; and

4 9. Use of bidding processes. To make contracts,
5 to issue bonds, notes or other debt instruments under
6 subchapter IV, and to deal generally with 3rd parties
7 which shall include the power to use a negotiated or
8 competitive bidding process or any other process
9 which may be advantageous to the district, and deter-
10 mination of the process to be used shall be made by
11 and at the discretion of the directors of the dis-
12 trict.

13 §1732. Real and personal property and right of emi-
14 nent domain

15 Each disposal district formed under this chapter
16 may acquire and hold within the district real and
17 personal property necessary or convenient for its
18 purposes and is granted the right of eminent domain;
19 and for those purposes may take and hold, either by
20 exercising its right of eminent domain or by pur-
21 chase, lease or otherwise, as for public uses any
22 land, real estate, easements or interest therein,
23 necessary for constructing, establishing, maintaining
24 and operating refuse disposal, resource recovery and
25 resource conservation facilities and may provide for
26 the conversion of waste to energy and the transmis-
27 sion thereof.

28 The purposes for which property without the dis-
29 trict may be acquired by the exercise of the right of
30 eminent domain shall be limited to the construction
31 of steam and electric transmission lines, roads and
32 communications equipment.

33 §1733. Procedure in exercise of right of eminent do-
34 main

35 The right of eminent domain granted in section
36 1732 may only be exercised after complying with the
37 following procedures.

38 1. Notice to owner. The district shall provide
39 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 directors 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. If the owner or owners are not known or if
21 they cannot be notified by personal service or
22 certified mail, notice may be given by publica-
23 tion in the same manner as provided for in sub-
24 section 4.

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 directors 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 aforsaid 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,
18 pending final determination of the amount to which
19 the owner is entitled; and

20 2. Appeal. In the event of any appeal of the
21 amount awarded as damages for that 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 district. If any facility or portion
9 of any facility of any disposal district crosses the
10 property or line of any railroad corporation, the
11 procedure shall be the same as set out in this sec-
12 tion, except that the Department of Transportation
13 shall be substituted for the Public Utilities Commis-
14 sion. Nothing in this section authorizes any dispos-
15 al district to take by right of eminent domain any of
16 the property or facilities of any public utility
17 used, or acquired, for future use by the owner, in
18 the performance of a public duty, unless expressly
19 authorized by a special Act of the Legislature.

20 §1737. Inspection of premises, facilities and opera-
21 tions of member municipalities and other us-
22 ers

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 directors of
32 the district.

33 §1738. Rules

34 The directors may from time to time adopt rules
35 to 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 directors may from time to time require that
40 all or a portion of the solid waste generated within
41 the district be disposed of only in and upon facili-

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

5 §1740. Setting fees and other charges

6 The directors 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 directors shall have access to all
17 necessary papers, books and records. Upon the com-
18 pletion of each audit, a report shall be made to the
19 chairman of the district board of directors and a
20 copy shall be sent to the municipal officers of each
21 member municipality.

22 §1742. Zoning

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

25 §1743. Surplus revenues

26 If, at the end of any fiscal year, the district
27 has realized a surplus from operations for the fiscal
28 year, after payment of or provision for all current
29 expenses, current maintenance, repairs and replace-
30 ments, current debt service on all outstanding bonds
31 and notes of the district, all reserves for debt ser-
32 vice, repairs and replacements, costs or current ex-
33 penditures as may be required by a trust agreement or
34 resolution securing bonds or notes or as may other-
35 wise be maintained by the district, and any other
36 amounts which the district may be obligated by law or
37 contract to pay or provide for, the district shall
38 either:

1 E. Financing all or part of a waste facility for
2 a user. The term "user," as used in this sec-
3 tion, means one or more persons or entities, oth-
4 er than a district, acting as lessee, purchaser,
5 mortgagor or borrower; and

6 F. Any combination of these purposes.

7 Bonds may be issued under this chapter as general
8 obligations of the district or as special obligations
9 payable solely from particular funds. The principal,
10 premium and interest on all bonds shall be payable
11 solely from the funds provided for that purpose from
12 revenues. All bonds issued by a district under this
13 chapter shall be legal obligations of the district,
14 and all districts formed under this chapter are de-
15 clared to be quasi-municipal corporations within the
16 meaning of Title 30, section 5053. Bonds may be is-
17 ssued under this chapter without obtaining the consent
18 of any commission, board, bureau or agency of the
19 State or of any municipality encompassed by the dis-
20 trict and without any other proceedings or the hap-
21 pening of other conditions or things other than those
22 proceedings, conditions or things which are specifi-
23 cally required by this chapter. Bonds issued under
24 this chapter do not constitute a debt or liability of
25 the State or of any municipality encompassed by the
26 district or a pledge of the faith and credit of the
27 State or any such municipality, and a statement to
28 that effect shall be recited on the face of the
29 bonds.

30 2. Notes. Any district formed under this chap-
31 ter may also provide by resolution of its board of
32 directors, without district vote, for the issuance
33 from time to time of:

34 A. Notes in anticipation of bonds authorized un-
35 der this chapter;

36 B. Notes in anticipation of the revenues to be
37 collected or received in any year; or

38 C. Notes in anticipation of the receipt of fed-
39 eral or state grants or other aid.

1 The issuance of these notes shall be governed by the
2 applicable provisions of this chapter relating to the
3 issuance of bonds, provided that notes in anticipa-
4 tion of revenue must mature no later than one year
5 from their respective dates and notes issued in an-
6 anticipation of federal or state grants or other aid
7 and renewals thereof must mature no later than the
8 expected date, as determined by the board of direc-
9 tors, of receipt of those grants or aid. The board
10 of directors may adjust the maturity date of notes
11 issued in anticipation of federal or state grants or
12 other aid to reflect changes in the expected date of
13 receipt. Notes in anticipation of revenue issued to
14 mature less than one year from their dates may be re-
15 newed from time to time by the issuance of other
16 notes, provided that the period from the date of an
17 original note to the maturity of any note issued to
18 renew or pay the note or the interest thereon may not
19 exceed one year.

20 Any such district may enter into agreements with the
21 State or the United States, or any agency of either,
22 or any municipality, corporation, commission or board
23 authorized to grant or loan money or to otherwise as-
24 assist in the financing of projects of the type which
25 that district is authorized to carry out, and to ac-
26 cept grants and borrow money from any such govern-
27 ment, agency, municipality, corporation, commission
28 or board as may be necessary or desirable to accom-
29 plish the purposes of the district.

30 3. Maturity; interest; form; temporary bonds.
31 The bonds issued under this chapter shall be dated,
32 shall mature at such time or times not exceeding 40
33 years from their date or dates and shall bear inter-
34 est at such rate or rates as may be determined by the
35 board of directors, and may be made redeemable before
36 maturity, at the option of the district, at such
37 price or prices and under such terms and conditions
38 as may be fixed by the board of directors prior to
39 the issuance of the bonds. The board of directors
40 shall determine the form of the bonds, including any
41 interest coupons to be attached, and the manner of
42 execution of the bonds, and shall fix the denomina-
43 tion or denominations of the bonds and the place or
44 places of payment of principal and interest, which
45 may be at any financial institution having trust pow-

1 ers within or without the State. Bonds shall be exe-
2 cuted in the name of the district by the manual or
3 facsimile signature of such officer or officers as
4 may be authorized in the resolution to execute the
5 bonds, but at least one signature on each bond shall
6 be a manual signature. Coupons, if any, attached to
7 the bonds shall be executed with the facsimile signa-
8 ture of the officer or officers of the district des-
9 igned in the resolution. In case any officer,
10 whose signature or facsimile signature appears on any
11 bonds or coupons, ceases to hold that office before
12 the delivery of the bonds, the signature or its fac-
13 simile shall nevertheless be valid and sufficient for
14 all purposes, as if he had remained in office until
15 the delivery. Notwithstanding any of the other pro-
16 visions of this chapter or any recitals in any bonds
17 issued under this chapter, all such bonds shall be
18 deemed to be negotiable instruments under the laws of
19 this State. The bonds may be issued in coupon or
20 registered form, or both, as the board of directors
21 may determine, and provision may be made for the reg-
22 istration of any coupon bonds as to principal alone
23 and as to both principal and interest, and for the
24 reconversion into coupon bonds of any bonds regis-
25 tered as to both principal and interest. The board
26 of directors may sell the bonds in the manner, either
27 at public or private sale, and for such price as they
28 may determine to be for the best interests of the
29 district. The proceeds of the bonds of each issue
30 shall be used solely for the purpose for which those
31 bonds have been authorized and shall be disbursed in
32 such manner and under such restrictions as the board
33 of directors may provide in the resolution authoriz-
34 ing the issuance of the bonds or in the trust agree-
35 ment securing the bonds. The resolution providing
36 for the issuance of bonds, and any trust agreement
37 securing the bonds, may contain such limitations upon
38 the issuance of additional bonds as the board of di-
39 rectors may deem proper, and these additional bonds
40 shall be issued under such restrictions and limita-
41 tions as may be prescribed by that resolution or
42 trust agreement. Prior to the preparation of defini-
43 tive bonds, the board of directors may, under like
44 restrictions, issue interim receipts or temporary
45 bonds, with or without coupons, exchangeable for de-
46 finitive bonds when those bonds are executed and are
47 available for delivery. The board of directors may

1 provide for the replacement of any bond which is mu-
2 tilated, destroyed or lost.

3 4. Pledges and covenants, trust agreement. In
4 the discretion of the board of directors of any dis-
5 trict, each or any issue of bonds may be secured by a
6 trust agreement by and between the district and a
7 corporate trustee, which may be any financial insti-
8 tution having trust powers within or without the
9 State.

10 The resolution of the directors authorizing the issu-
11 ance of the bonds or the trust agreement may pledge
12 or assign, in whole or in part, the revenues and oth-
13 er moneys held or to be received by the district and
14 any accounts and contract or other rights to receive
15 the revenues or moneys, whether then existing or
16 thereafter coming into existence and whether then
17 held or thereafter acquired by the district and the
18 proceeds thereof, and may convey or mortgage the
19 waste facilities or any other properties of the dis-
20 trict. The resolution may also contain provisions
21 for protecting and enforcing the rights and remedies
22 of the bondholders, including, but not limited to,
23 covenants setting forth the duties of the district
24 and the board of directors in relation to the acqui-
25 sition, construction, reconstruction, improvement,
26 repair, maintenance, operation and insurance of its
27 waste facilities or any of its other properties; the
28 fixing and revising of rates, tolls, assessments,
29 rents, tipping fees and transportation charges and
30 other charges; the application of the proceeds of
31 bonds; the custody, safeguarding and application of
32 revenues; the defining of defaults and providing for
33 remedies in the event thereof, which may include the
34 acceleration of maturities, the establishment of re-
35 serves and the making and amending of contracts. The
36 resolution or trust agreement may set forth the
37 rights and remedies of the bondholders and of the
38 trustee, if any, and may restrict the individual
39 right of action by bondholders as is customary in
40 trust agreements or trust indentures securing bonds
41 or debentures of corporations. In addition, the res-
42 olution or trust agreement may contain such other
43 provisions as the board of directors may deem reason-
44 able and proper for the security of the bondholders,
45 including means by which the resolution or trust

1 agreement may be amended. All expenses incurred in
2 carrying out the resolution or trust agreement may be
3 treated as a part of the cost of operation. The
4 pledge by any such resolution or trust agreement
5 shall be valid and binding and shall be deemed con-
6 tinuously perfected for the purposes of the Uniform
7 Commercial Code from the time when the pledge is
8 made. All revenues, moneys, rights and proceeds so
9 pledged and thereafter received by the district shall
10 immediately be subject to the lien of the pledge
11 without any physical delivery or segregation thereof
12 or further action under the Uniform Commercial Code
13 or otherwise, and the lien of the pledge shall be
14 valid and binding as against all parties having
15 claims of any kind in tort, contract or otherwise
16 against the district irrespective of whether those
17 parties have notice thereof.

18 The resolution authorizing the issuance of bonds un-
19 der this chapter, or any trust agreement securing
20 those bonds, may provide that all or a sufficient
21 amount of revenues and assessments, after providing
22 for the payment of the cost of repair, maintenance
23 and operation and reserves therefor as may be pro-
24 vided in the resolution or trust agreement, shall be
25 set aside at such regular intervals as may be pro-
26 vided in the resolution or trust agreement and depos-
27 ited in the credit of a fund for the payment of the
28 interest on and the principal of bonds issued under
29 this chapter as the bonds shall become due, and the
30 redemption price or purchase price of bonds retired
31 by call or purchase. The use and disposition of mon-
32 eys in or to the credit of the fund shall be subject
33 to such regulations as may be provided in the resolu-
34 tion authorizing the issuance of the bonds or in the
35 trust agreement securing the bonds and, except as may
36 otherwise be provided in the resolution or trust
37 agreement, the fund shall be a fund for the benefit
38 of all bonds without distinction or priority of one
39 over another.

40 5. Trust funds. Notwithstanding any other pro-
41 vision of law, all moneys set aside for payment of
42 the bonds, or other purposes pursuant to the provi-
43 sions of any trust agreement securing the bonds,
44 shall be deemed to be trust funds, to be held and ap-
45 plied as provided by the trust agreement. The reso-

1 lution authorizing the issuance of bonds or the trust
2 agreement securing the bonds shall provide that any
3 officer to whom, or bank, trust company or other fi-
4 ancial institution or fiscal agent to which, those
5 moneys shall be paid shall act as trustee of those
6 moneys and shall hold and apply the same for the pur-
7 poses hereof, subject to such regulations as may be
8 provided in the resolution or trust agreement or as
9 may be required by this chapter.

10 6. Remedies. Any holder of bonds issued under
11 this chapter or of any of the coupons appertaining to
12 those bonds, and the trustee under any trust agree-
13 ment, except to the extent the rights given may be
14 restricted by the resolution authorizing the issuance
15 of those bonds or trust agreement, may, either at law
16 or inequity, by suit, action, mandamus or other pro-
17 ceeding, including proceedings for the appointment of
18 a receiver to take possession and control of the
19 properties of the district, protect and enforce any
20 and all rights under the laws of the State or granted
21 under this chapter or under the resolution or trust
22 agreement, and may enforce and compel the performance
23 of all duties required by this chapter or by the res-
24 olution or trust agreement to be performed by the
25 district or by any officer of the district, including
26 the fixing, charging and collecting of rates, fees
27 and charges for the use of or for the services and
28 facilities furnished by the district, or if applica-
29 ble, the making of any assessments against member mu-
30 nicipalities under section 1756.

31 7. Refunding bonds. Any district formed under
32 this chapter by resolution of its board of directors,
33 without district vote, may issue refunding bonds for
34 the purpose of paying any of its bonds at maturity or
35 upon acceleration or redemption. The refunding bonds
36 may be issued at such time prior to the maturity or
37 redemption of the refunded bonds as the board of di-
38 rectors deems to be in the public interest. The re-
39 funding bonds may be issued in sufficient amounts to
40 pay or provide the principal of the bonds being re-
41 funded, together with any redemption premium thereon,
42 any interest accrued or to accrue to the date of pay-
43 ment of those bonds, the expenses of issuance of the
44 refunding bonds, the expenses of redeeming the bonds
45 being refunded and such reserves for debt service or

1 other capital or current expenses from the proceeds
2 of the refunding bonds as may be required by a trust
3 agreement or resolution securing bonds. The issuance
4 of refunding bonds, the maturities and other details
5 thereof, the security therefor, the rights of the
6 holders thereof, and the rights, duties and obliga-
7 tions of the district in respect of the same shall be
8 governed by the applicable provisions of this chapter
9 relating to the issuance of bonds other than refund-
10 ing bonds.

11 8. Tax exemption. All bonds, notes or other ev-
12 idences of indebtedness issued under this chapter,
13 and their transfer and the income therefrom, includ-
14 ing any profit made on the sale thereof, shall at all
15 times be free from taxation within the State.

16 9. Bonds declared legal investments. Bonds and
17 notes issued by any district under this chapter are
18 made securities in which all public officers and pub-
19 lic bodies of the State and its political subdivi-
20 sions, all insurance companies and associations and
21 other persons carrying on an insurance business,
22 trust companies, banks, bankers, banking associa-
23 tions, savings banks and savings associations, in-
24 cluding savings and loan associations, credit unions,
25 building and loan associations, investment companies,
26 executors, administrators, trustees and other fiduci-
27 aries, pension, profit-sharing, retirement funds and
28 other persons carrying on a banking business, and all
29 other persons who are now, or may hereafter be, au-
30 thorized to invest in bonds or other obligations of
31 the State, may properly and legally invest funds, in-
32 cluding capital in their control or belonging to
33 them. The bonds and notes are made securities which
34 may properly and legally be deposited with and re-
35 ceived by any state, municipal or public officer, or
36 any agency or political subdivision of the State, for
37 any purpose for which the deposit of bonds or other
38 obligations of the State is now or may hereafter be
39 authorized by law.

40 10. Certain bond and note issues; notice; spe-
41 cial meeting; vote. In the event that the directors
42 vote to authorize bonds or notes, excluding temporary
43 notes payable within one year or notes issued in an-
44 ticipation of a bond issue previously authorized in

1 accordance with this chapter, or refunding bonds to
2 be issued pursuant to subsection 7, the estimated
3 cost of which, singly or in the aggregate included in
4 any one financing, is \$1,000,000 or more, adjusted,
5 relative to 1981 as the base year according to the
6 annual Consumer Price Index, as defined in Title 5,
7 section 1001, subsection 6-A, the directors shall
8 provide notice to the general public:

9 A. Of the proposed bond or note issue and the
10 purposes for which the debt is being incurred;
11 and

12 B. Call a special district meeting for the pur-
13 pose of permitting the collection of testimony
14 from the public concerning the amount of the debt
15 so authorized. Notice of the proposed bond or
16 note issue, the purposes for which the debt is
17 being issued and the call of the special meeting
18 shall be published at least once in a newspaper
19 having general circulation in the district.

20 11. Negotiated or competitive bidding process.
21 Any notes, bonds or other instruments of indebtedness
22 may be the subject of a negotiated or competitive
23 building process, or any other process which may be
24 advantageous to the district, and determination of
25 the process to be used shall be made by and at the
26 discretion of the directors of the district.

27 §1752. Charges

28 All persons, firms and corporations, whether pub-
29 lic, private or municipal, shall pay to the treasurer
30 of any district formed under this chapter the rates,
31 tolls, assessments, rents, tipping fees, transporta-
32 tion charges and other charges established by the di-
33 rectors for services provided by the district. In
34 this subchapter, the words "other charges" shall in-
35 clude, but not be limited to, interest on delinquent
36 accounts at a rate not to exceed the highest lawful
37 rate set by the Treasurer of State for municipal
38 taxes. The district may submit periodic bills di-
39 rectly to individual users or to member municipali-
40 ties, as determined by the directors.

41 A district may establish schedules of charges by
42 any method determined by the directors.

1 The rates, tolls, assessments, rents, tipping
2 fees and transportation charges and other charges
3 shall be so established as to provide revenue at
4 least sufficient, together with any other moneys
5 available therefor, to:

6 1. Current operating expenses. Pay the current
7 expenses of operating and maintaining the waste fa-
8 ilities of the district;

9 2. Payment of interest and principal. Pay the
10 principal, premium and interest on all bonds and
11 notes issued by the district under this chapter when
12 due and payable;

13 3. Payments into reserve funds. Create and
14 maintain such reserves as may be required by any
15 trust agreement or resolution securing bonds and
16 notes;

17 4. Repairs, replacements and renewals. Provide
18 funds for paying the cost of all necessary repairs,
19 replacements and renewals of the waste facilities of
20 the district; and

21 5. Payment of obligations. Pay or provide for
22 any and all amounts which the district may be obli-
23 gated to pay or provide for by law or contract, in-
24 cluding any resolution or contract with or for the
25 benefit of the holders of its bonds and notes.

26 §1753. Collection of unpaid charges

27 The treasurer of the district may collect the
28 rates, tolls, assessments, rents, tipping fees,
29 transportation charges and other charges established
30 by the district and those charges shall be committed
31 to him. The treasurer may, after demand for payment,
32 sue in the name of the district in a civil action for
33 any rate, toll, rent, assessment, tipping fee, trans-
34 portation charge or other charges remaining unpaid in
35 any court of competent jurisdiction. In addition,
36 the treasurer may order the termination of service
37 for nonpayment of any amount owed to the district.

38 §1754. Guarantee by municipalities of district bonds
39 and notes

1 1. Guarantee of bonds and notes. Subject to ap-
2 proval by a vote of the inhabitants of the district,
3 as provided in subsection 2 or 3, the district board
4 of directors may provide by resolution for the issu-
5 ance, at one time or from time to time, of guaranteed
6 notes and bonds of the district for any purpose for
7 which the district may issue debt. Except as other-
8 wise provided, notes and bonds issued by the dis-
9 trict, in accordance with this section, shall be au-
10 thorized, issued and sold in the same manner as, and
11 shall be subject to the other provisions of, this
12 subchapter relating to notes and bonds. The princi-
13 pal, premiums, if any, and interest on notes and
14 bonds issued under this section shall be guaranteed
15 by the member municipalities of the district, and the
16 full faith and credit of the member municipalities
17 shall be pledged for the guarantee provided in this
18 section. The share of liability of each member mu-
19 nicipality for the guaranteed notes and bonds shall
20 be established in accordance with a fraction, the nu-
21 merator of which is the most recent valuation for
22 state property tax purposes of all property within
23 the member municipality, and the denominator of which
24 is the most recent total valuation for state property
25 tax purposes of all property located within the mem-
26 ber municipalities of the district.

27 2. Application of guarantee. The guarantee pro-
28 vided for under this section shall apply to notes and
29 bonds of the district designated by the district
30 board of directors under subsection 1, if, at the
31 time of district formation under section 1721, the
32 inhabitants of the proposed member municipalities of
33 the district confer that authority upon the board of
34 directors and establish a ceiling or limit on the ag-
35 gregate amount of notes and bonds guaranteed by mem-
36 ber municipalities which may be issued by the dis-
37 trict under this section. The referendum ballot to
38 form the district shall include a statement listing
39 each member municipality's fractional share of lia-
40 bility for guaranteed notes and bonds which may be
41 issued under this section.

42 The articles to be voted upon shall be in substan-
43 tially the following form:

1 A. To see if the residents of the town (or city)
2 of (name of town or city) will authorize the
3 board of directors of (name of district or pro-
4 posed district) to issue notes (or bonds) of the
5 district which will be guaranteed in part by
6 (name of municipality) and to which guarantee
7 will be pledged the full faith and credit of
8 (name of municipality).

9 B. To see if the residents of the town (or city)
10 of (name of town or city) will establish a ceil-
11 ing in the aggregate amount of \$ on guar-
12 anteed notes (or bonds) which may be issued by
13 (name of district or proposed district).

14 3. Authority to issue guaranteed notes and
15 bonds; referendum. If the referendum vote establish-
16 ing the district does not confer authority upon the
17 board of directors to issue guaranteed notes and
18 bonds, a subsequent referendum may be held in which
19 these questions are submitted to the inhabitants of
20 each municipality comprising the district for a vote.
21 Where a vote is taken under this subsection after
22 formation of the district, the votes shall be counted
23 in each municipality and the affirmative vote of a
24 simple majority of votes cast shall be required in
25 each municipality in order for the article to pass.
26 The referendum vote to form the district shall in-
27 clude a statement listing each member municipality's
28 fractional share of liability for guaranteed notes
29 and bonds which may be issued under this section.

30 The articles to be voted upon shall be in substan-
31 tially the same form as the articles under subsection
32 2.

33 §1755. Power of assessment for expenses and costs
34 not covered by other district revenues

35 1. Limited power of assessment; question. At
36 such time as the question of the formation of the
37 proposed district and other questions relating there-
38 to are submitted to the legal voters at the various
39 municipalities comprising the proposed district, an
40 additional question may be submitted with regard to
41 granting the district limited assessment power, which
42 question shall be in substantially the following
43 form:

1 To see if the residents of the town (or municipi-
2 ality) of (name of town or municipality) will
3 grant limited assessment authority to the direc-
4 tors of (name of district) over the member munic-
5 ipalities which are to comprise the district for
6 the purpose of paying expenses and costs of the
7 district which are not covered by other district
8 revenues.

9 The assessments so authorized shall be shared by mem-
10 ber municipalities of the district under the same
11 formula as guarantees are shared pursuant to section
12 1754, and the referendum ballot shall include a
13 statement listing the fractional share of the assess-
14 ment to be borne by the member municipality.

15 2. Subsequent question. Subsequent to the for-
16 mation of the district, if assessment authority was
17 not conferred upon the district at the time of forma-
18 tion, the question may be addressed to the legal vot-
19 ers of the district in substantially the same form as
20 prescribed pursuant to subsection 1.

21 Where a vote is taken under this subsection after
22 formation of the district, the votes shall be counted
23 in each municipality and the affirmative vote of a
24 simple majority of votes cast shall be required in
25 each municipality in order for the question to pass.
26 The assessments so authorized shall be shared by mem-
27 ber municipalities of the district under the same
28 formula as guarantees are shared pursuant to section
29 1754, and the referendum ballot shall include a
30 statement listing the fractional share of the assess-
31 ment to be borne by the member municipality.

32 §1756. District assessments

33 Where assessment authority is granted to a dis-
34 trict pursuant to section 1755, the district shall
35 have that assessment power with respect to the member
36 municipalities and any assessments made shall follow
37 these procedures.

38 1. Warrant. In substantially the same form as a
39 warrant of the Treasurer of State for taxes, the
40 board of directors shall issue its warrants to the

1 assessors of each member municipality requiring it to
2 assess upon the taxable estates within the municipal-
3 ity an amount which is that municipality's share of
4 the district's expenses and costs which are not cover-
5 ed by other revenues of the district, as determined
6 by the board of directors after preparation of the
7 district budget.

8 2. Commitment. The municipal assessors shall
9 commit the assessment to the municipal constable or
10 collector. Constables and collectors shall have the
11 authority and power to collect the district's taxes
12 as is vested in them by law to collect state, county
13 and municipal taxes.

14 3. Installments. The board of directors shall
15 notify the member municipalities of the monthly
16 installments and the assessments that will become
17 payable during the fiscal year.

18 4. Payment. A municipal treasurer shall pay the
19 amount of the tax assessed in the fiscal year against
20 the municipality to the treasurer of the district.
21 The payments shall be paid in monthly installments on
22 or before the 20th of each month.

23 5. Enforcement. If a municipal treasurer fails
24 to pay the installment due, or any part, on the dates
25 required, the treasurer of the district may issue a
26 warrant for the amount of the unpaid tax to the coun-
27 ty sheriff requiring the sheriff to levy by distress
28 and sale on the real and personal property of any of
29 the inhabitants of the municipality where that de-
30 fault takes place. The sheriff or sheriff's deputies
31 shall execute the warrant. In collecting taxes with-
32 in member municipalities, the board of directors
33 shall have the same power as county officials for the
34 collection of county taxes under Title 36, chapter
35 105, subchapter IX.

36 §1757. Bonds issued by municipalities

37 For the purpose of assisting a district in fi-
38 nanancing any solid waste facility authorized by this
39 chapter, and notwithstanding any other provision of
40 law, any individual municipality may issue general
41 obligation bonds backed by the full faith and credit

1 of the municipality. Proceeds of the bonds or any
2 part thereof may be either loaned or contributed to a
3 district of which a municipality is a member. The
4 issuance of the bonds and the loaning or contributing
5 of funds to a district formed under this chapter
6 shall constitute a valid purpose for which a munic-
7 ipality may raise or appropriate money under Title 30,
8 sections 5101 to 5108. General obligation bonds is-
9 ssued by a municipality under this section shall be a
10 municipal security as defined in Title 30, section
11 5163 and shall be eligible for purchase by the Maine
12 Municipal Bond Bank. Nothing in this section may be
13 read or construed to prohibit a municipality acting
14 under this section from levying user fees and charges
15 and discharging its debt out of the funds generated
16 by the fees and charges. A municipality issuing
17 bonds under this section and a district receiving the
18 proceeds of the bonds may enter into such contracts
19 and agreements as they may agree upon, both with each
20 other and 3rd parties, establish trust or enterprise
21 funds to provide for timely payment of the bonds, em-
22 ploy a trustee and do all things which may be neces-
23 sary or convenient to the district or the municipali-
24 ty to make use of the bonds, as may be determined by
25 the board of directors of the district and the munic-
26 ipal officers of the municipality.

27 **Emergency clause.** In view of the emergency cited
28 in the preamble, this Act shall take effect when ap-
29 proved.

30 STATEMENT OF FACT

31 The existing enabling legislation governing the
32 establishment of regional refuse disposal districts,
33 Title 38 of the Revised Statutes, chapter 15, has
34 proven inadequate for municipalities seeking regional
35 solutions to the problem of solid waste disposal
36 through establishment of resource recovery and other
37 disposal facilities. The existing statutes have not
38 been utilized, therefore a district concept which has
39 proven very useful in other areas, such as school and
40 sanitary districts, has not been brought to bear in
41 solving the problems of solid waste disposal in the
42 State. The major goal of this bill is to provide en-
43 abling legislation which will give municipalities the

1 necessary authority to form districts which can fi-
2 nance, construct, own and operate resource recovery
3 and other solid waste disposal facilities. Under
4 this bill, districts also may finance privately-owned
5 waste facilities.

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