

MAINE STATE LEGISLATURE

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(New Draft of S.P. 809, L.D. 2155)

SECOND REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 2452

S.P. 913

In Senate, April 9, 1984

Reported by Senator Kany of Kennebec from the Committee on Energy and Natural Resources and printed under Joint Rule 2.

Original bill presented by Senator Pray of Penobscot. Cosponsored by Representative Kelleher of Bangor, Senator Perkins of Hancock and Representative Hall of Sangerville.

JOY J. O'BRIEN, Secretary of the Senate

STATE OF MAINE

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

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

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA c. 15, as enacted by PL 1973, c. 371, is repealed.

Sec. 2. 38 MRSA c. 17 is enacted to read:

CHAPTER 17

MAINE REFUSE DISPOSAL DISTRICT ENABLING ACT

SUBCHAPTER I

GENERAL PROVISIONS

1 §1701. Short title

2 This chapter may be cited as the "Maine Refuse
3 Disposal District Enabling Act."

4 §1702. Declaration of policy

5 1. Policy. It is the policy of the State to en-
6 courage the development of refuse disposal districts
7 consisting of:

8 A. A municipality; or

9 B. Two or more municipalities, so that those
10 districts may economically construct and operate
11 refuse disposal systems to assist in the abate-
12 ment of pollution and to enhance the public
13 health, safety and welfare of the citizens of the
14 State. For purposes of this chapter, a village
15 corporation created by a private and special Act
16 of the Legislature shall be considered a munici-
17 pality, except that this Act shall not be con-
18 strued as granting authority to any village cor-
19 poration to enact ordinances.

20 2. Formation of district. A refuse disposal
21 district may be formed where:

22 A. There is a need throughout a part or all of
23 the territory embraced within the proposed dis-
24 trict for the accomplishment of the purpose of
25 providing an adequate, efficient system and means
26 of collection, transporting and disposing of do-
27 mestic, commercial and industrial solid wastes
28 within the proposed district;

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

32 C. The creation and maintenance of such a dis-
33 trict will be administratively feasible and in
34 furtherance of the public health, safety and wel-
35 fare.

36 3. Furtherance of Maine Solid Waste Management
37 Act. It is the policy of the State to encourage the

1 development of refuse disposal districts that further
2 the policy of the Maine Solid Waste Management Act as
3 it pertains to nonhazardous solid waste programs.

4 §1703. Purposes

5 The purposes of each district formed under this
6 chapter are to construct, maintain, operate or other-
7 wise provide for a system of solid waste management
8 for domestic, commercial and industrial solid waste
9 and, in conjunction, to foster resource conservation
10 and resource recovery for public purposes and for the
11 health, welfare, comfort and convenience of the in-
12 habitants of the district. It is anticipated that,
13 in the furtherance of the purpose and declaration of
14 policy of this Act, each district may contract and
15 otherwise act in conjunction with a variety of pub-
16 lic, private and municipal firms, corporations and
17 persons.

18 §1704. Exemption from taxation

19 1. Exemption. As formerly provided in section
20 1554, the property, both real and personal, rights
21 and franchises, of any district formed under this
22 chapter shall be exempt from taxation.

23 2. Limitation. Notwithstanding subsection 1,
24 the land of any district formed under this chapter
25 shall be subject to property taxation in the juris-
26 isdiction where the property is located.

27 3. Payments in lieu of taxes. A district may
28 elect to make payments in lieu of taxes to communi-
29 ties in which its property is located or utilized.

30 4. Service charges permitted. A district shall
31 be subject to service charges when these charges are
32 calculated according to the actual cost of providing
33 municipal services to the real property of the dis-
34 trict and to the persons who use that property.
35 These services shall include, but are not limited to:

36 A. Fire protection;

- 1 B. Police protection;
2 C. Road maintenance and construction, traffic
3 control, snow and ice removal;
4 D. Water and sewer service;
5 E. Sanitation services; and
6 F. Any services other than education and wel-
7 fare.

8 §1705. Definitions

9 As used in this chapter, unless the context oth-
10 erwise indicates, the following terms have the fol-
11 lowing meanings.

12 1. Board. "Board" means the Board of Environmen-
13 tal Protection.

14 2. Demolition and construction waste. "Demoli-
15 tion and construction waste" means all solid waste
16 generated in the demolition and construction of
17 buildings and other structures, including stumps,
18 brush, plaster, sheetrock, boards, bricks, mortar,
19 concrete and roofing materials except asbestos.

20 3. Department. "Department" means the Depart-
21 ment of Environmental Protection.

22 4. Disposal. "Disposal" means the discharge,
23 deposit, injection, dumping, spilling, leaking or
24 placing of any solid waste into or on any land or
25 water in a manner such that the solid waste, or any
26 constituent of the solid waste, may enter the envi-
27 ronment or be emitted into the air or discharged into
28 any water, including ground waters.

29 5. Disposal property. "Disposal property" means
30 property used for disposal.

31 6. District. "District" and "disposal district"
32 means any district formed under this chapter.

33 7. Generation. "Generation" means the act or
34 process of producing solid waste.

1 8. Handle. "Handle" means to store, transfer,
2 collect, separate, salvage, process, reduce, recover,
3 incinerate, treat or dispose of.

4 9. Municipal officer. "Municipal officer" means
5 municipal officer as defined in Title 30, section
6 1901.

7 10. Resource conservation. "Resource conserva-
8 tion" means the reduction of amounts of solid waste
9 which is generated and the reduction of overall re-
10 source consumption.

11 11. Resource recovery. "Resource recovery"
12 means the recovery of materials or substances that
13 still have useful physical or chemical properties af-
14 ter serving a specific purpose and can be reused or
15 recycled for the same or other purposes and the con-
16 version of waste to energy.

17 12. Revenues. "Revenues" means the proceeds of
18 bonds, all revenues, rates, tolls, assessments,
19 rents, tipping fees, transportation charges and other
20 charges and receipts derived by the district from the
21 operation of a waste facility and other properties,
22 including, but not limited to, investment earnings
23 and the proceeds of insurance, condemnation, sale or
24 other disposition of properties, and shall include
25 proceeds from assessments where the power of assess-
26 ment has been granted to the district under section
27 1754.

28 13. Solid waste. "Solid waste" means useless,
29 unwanted or discarded, nonhazardous solid materials
30 with insufficient liquid content to be free flowing,
31 including, but not limited to, rubbish, garbage,
32 scrap materials, junk, refuse, inert fill material
33 and landscape refuse. "Solid waste" does not include
34 septic tank sludge or agricultural waste.

35 A. Solid waste from "residential activities" in-
36 cludes any solid waste generated by a household
37 or apartment, including, but not limited to, food
38 waste, packaging, newspaper and other paper
39 products, glass, cans and plastic, and similar
40 types of waste generated by employees of commer-
41 cial and industrial activities.

1 B. Solid waste from "commercial activities" in-
2 cludes any solid waste generated by retail and
3 wholesale establishments, including, but not lim-
4 ited to, food waste, corrugated containerboard,
5 metals and plastics.

6 C. Solid waste from "industrial activities" in-
7 cludes any solid waste generated by an industry
8 as part of the production process. Solid waste
9 generated by employees and similar in composition
10 to that generated by residential or commercial
11 activities is excluded from this definition.

12 14. Transport. "Transport" means the movement
13 of solid waste from the point of generation to any
14 intermediate points and finally to the point of ulti-
15 mate disposition.

16 15. Waste facility. "Waste facility" means any
17 land area, structure, location or equipment, or com-
18 bination of them, including landfills, used for han-
19 dling solid waste and for resource conservation and
20 resource recovery, when utilized.

21 16. Waste management. "Waste management" means
22 purposeful, systematic and unified control of the
23 handling, transportation and disposal of solid waste.

24 17. Yard waste. "Yard waste" means grass clip-
25 pings, leaves and brush.

26 §1706. Provisions supplemental to other law

27 This chapter provides an additional and alterna-
28 tive method for carrying out the purposes of this
29 chapter and is supplemental and additional to powers
30 conferred by other laws, including the provisions of
31 chapter 13, pertaining to solid waste, and is not in
32 derogation of any powers now existing.

33 §1707. Reimbursement of costs to municipalities

34 At the sole discretion of the board of directors
35 of the district, any municipality or municipalities
36 which fall within a district formed under this chap-
37 ter shall be entitled to reimbursement of reasonable
38 incurred costs from that district when the financial

1 position of the district allows. The term "costs,"
2 as used in this section, includes, but is not limited
3 to, the following: Cost of preparation of an engi-
4 neering study or studies; legal costs with relation
5 to the application and presentation of any applica-
6 tion for the formation of the district; other engi-
7 neering costs that may not be included in a study;
8 costs for financial advice; administrative expense;
9 and such other expenses as may be necessary or inci-
10 dental to the action of any municipality under this
11 chapter, including funding provided pursuant to an
12 agreement entered into pursuant to Title 30, chapter
13 203.

14 SUBCHAPTER II

15 ORGANIZATION

16 §1721. Formation

17 The formation of a disposal district shall be ac-
18 complished as follows.

19 1. Application by municipal officers. The mu-
20 nicipal officers of the municipality or municipali-
21 ties that desire to form a disposal district shall
22 file an application with the Board of Environmental
23 Protection, after notice and hearing in each munici-
24 pality, on a form or forms to be prepared by that
25 board, setting forth the name or names of the munici-
26 pality or municipalities, and the municipal officers
27 shall furnish such other data as the board may deter-
28 mine necessary and proper. The application shall
29 contain, but shall not be limited to, a description
30 of the territory of the proposed district, the name
31 proposed for the district, which shall include the
32 words "disposal district," a statement showing the
33 existence in that territory of the conditions requi-
34 site for the creation of a disposal district, as pre-
35 scribed in section 1702, and other documents and ma-
36 terials as may be required by the Board of Environ-
37 mental Protection. The Board of Environmental Pro-
38 tection may make rules under this chapter.

39 2. Public hearing. Upon receipt of the applica-
40 tion, the board shall cause a public hearing to be

1 held on the application within 60 days of the date of
2 receipt of the application, at some convenient place
3 within the boundaries of the proposed district. At
4 least 14 days prior to the date of the hearing, the
5 board shall cause notice of the hearing to be pub-
6 lished at least once in a newspaper of general cir-
7 culation in the area encompassed by the proposed dis-
8 trict.

9 3. Approval of application. After the public
10 hearing, on consideration of the evidence received,
11 the board shall, in accordance with section 1702,
12 make findings of fact and conclusions and a determi-
13 nation of record whether or not the conditions requi-
14 site for the creation of a disposal district exist in
15 the territory described in the application. If the
16 board finds that conditions do exist, it shall issue
17 an order approving the proposed district as conform-
18 ing to the requirements of this chapter and designat-
19 ing the name of the proposed district. The board
20 shall give notice to the municipal officers within
21 the municipality or municipalities involved, of a
22 date, time and place of a meeting of the representa-
23 tive of the municipality or municipalities involved.
24 The municipal officers shall elect a representative
25 to attend the meeting who may represent the munici-
26 pality in all matters relating to the formation of
27 the district. A return receipt properly endorsed
28 shall be evidence of the receipt of notice. The no-
29 tice shall be mailed at least 10 days prior to the
30 date set for the meeting.

31 4. Denial of application. If the board deter-
32 mines that the creation of a disposal district in the
33 territory described in the application is not war-
34 ranted for any reason, it shall make findings of fact
35 and conclusions and enter an order denying its ap-
36 proval. The board shall give notice of the denial by
37 mailing certified copies of the decision and order to
38 the municipal officers of the municipality or munici-
39 palities involved. No application for the creation
40 of a disposal district, consisting of exactly the
41 same territory, may be entertained within one year
42 after the date of the issuance of an order denying
43 approval of the formation of that disposal district,
44 but this provision shall not preclude action on an
45 application for the creation of a disposal district

1 embracing all or part of the territory described in
2 the original application, provided that another mu-
3 nicipality or fewer municipalities are involved.

4 5. Joint meeting. The persons selected by the
5 municipal officers, to whom the notice described in
6 subsection 3 is directed, shall meet at the time and
7 place appointed. Where more than one municipality is
8 involved, they shall organize by electing a chairman
9 and a secretary. No action may be taken at any such
10 meeting unless, at the time of convening, there are
11 present at least a majority of the total number of
12 municipal representatives eligible to attend and par-
13 ticipate at the meeting, other than to report to the
14 Board of Environmental Protection that a quorum was
15 not present and to request the board to issue a new
16 notice for another meeting. A quorum shall be a sim-
17 ple majority of representatives eligible to attend
18 the meeting. The purpose of the meeting shall be to
19 determine the number of directors, subject to section
20 1724, to be appointed by and to represent each par-
21 ticipating municipality and to determine the duration
22 of terms to be served by the initial directors so
23 that, in ensuing years, 1/3 of the directors and
24 their alternates shall be appointed or reappointed
25 each year, to serve until their respective successors
26 are duly appointed and qualified. Subject to section
27 1724, the number of directors to represent each mu-
28 nicipality shall be a subject for negotiation among
29 the municipal representatives. When a decision has
30 been reached on the number of directors and the num-
31 ber to represent each municipality and the initial
32 terms of the directors, subject to the limitations
33 provided, this decision shall be reduced to writing
34 by the secretary and must be approved by a 2/3 vote
35 of those present. The vote so reduced to writing and
36 the record of the meeting shall be signed by the
37 chairman, attested by the secretary and filed with
38 the board. Any agreements among the municipal repre-
39 sentatives which are considered essential prerequi-
40 sites to the formation of the district, whether con-
41 cerning payments in lieu of taxes to a municipality
42 in which a waste facility is to be located, or any
43 other matter, shall be in writing and included in the
44 record filed with the Board of Environmental Protec-
45 tion. Subsequent to district formation, the board of
46 directors of the district shall execute any and all

1 documents necessary to give full effect to the agree-
2 ments reached by the municipal representatives and
3 filed with the Board of Environmental Protection.
4 Where a single municipality is involved, a copy of
5 the vote of the municipal officers, duly attested by
6 the clerk of the municipality, shall be filed with
7 the board.

8 6. Submission. When the record of the munici-
9 pality or the record of the joint meeting, where mu-
10 nicipalities are involved, has been received by the
11 board and found by it to be in order, the board shall
12 order the question of the formation of the proposed
13 disposal district and other questions relating to the
14 formation to be submitted to the legal voters resid-
15 ing within the municipalities, except as provided in
16 subsection 7, in which case the municipal officers
17 may determine the questions. The order shall be di-
18 rected to the municipal officers of the municipality
19 or municipalities which propose to form the disposal
20 district, directing them to call, within 60 days of
21 the date of the order, town meetings or city elec-
22 tions, as the case may be, for the purpose of voting
23 in favor of or in opposition to each of the following
24 articles or questions, as they may apply, in substan-
25 tially the following form:

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

29 B. To see if the residents of (name of town or
30 city) will vote to join with the residents of the
31 (name of town or city) to incorporate as a dis-
32 posal district to be called (name) Disposal Dis-
33 trict: (legal description of the bounds of the
34 proposed disposal district). At a minimum, the
35 district shall consist of (names of essential mu-
36 nicipalities); and

37 C. To see if the residents of (name of town or
38 city) will vote to approve the total number of
39 directors and the allocation of representation
40 among the municipalities on the board of direc-
41 tors, as determined by the municipal officers and
42 listed as follows: Total number of directors
43 shall be _____ and the residents of (town or

1 city) shall be entitled to _____ directors.
2 (The number of directors to which each municipal-
3 ity is entitled shall be listed.)

4 Directors shall be chosen to represent municipalities
5 in the manner provided in section 1725.

6 7. Determination by municipal officers. In the
7 event that the charters of the respective municipali-
8 ties, or any one of them, consistent with such state
9 laws as may otherwise be applicable, permit the mun-
10 icipal officers of the municipality or municipali-
11 ties which propose to form the disposal district to
12 vote to join such a district, the municipal officers
13 may determine the question of the formation of the
14 proposed disposal district and other questions relat-
15 ing to the formation without submission to the legal
16 voters residing within the municipality.

17 §1722. Approval and organization

18 When the residents of the municipality, or each
19 municipality where more than one is involved, or the
20 municipal officers, as the case may be, have voted
21 upon the formation of a proposed disposal district
22 and all of the other questions submitted, the clerk
23 of each of the municipalities shall make a return to
24 the Board of Environmental Protection in such form as
25 the board may determine. If the board finds from the
26 returns that each of the municipalities involved,
27 and, voting on each of the articles and questions
28 submitted to them, have voted in the affirmative, and
29 that they have appointed the necessary directors, and
30 listed the names thereof, to represent each municip-
31 ality and that all other steps in the formation of
32 the proposed disposal district are in order and in
33 conformity with law, the board shall make a finding
34 to that effect and record the finding upon its
35 records. Where 3 or more municipalities are con-
36 cerned in the voting, and at least 2 have voted to
37 approve each of the articles and questions submitted
38 to them and have appointed the necessary directors,
39 and listed the names thereof, to represent each mu-
40 nicipality, rejection of the proposed disposal dis-
41 trict by one or more shall not defeat the creation of
42 a district composed of the municipalities voting af-
43 firmatively on the question, if the board determines

1 that it is feasible or practical to constitute the
2 district as a geographic unit composed of the municipi-
3 palities voting affirmatively, unless the vote sub-
4 mitted to the municipalities provided that specific
5 participants or a minimum number of participants
6 shall approve the formation of the district.

7 The board shall, immediately after making its
8 findings, issue a certificate of organization in the
9 name of the disposal district in such form as the
10 board may determine. The original certificate shall
11 be delivered to the directors on the day that they
12 are directed to organize and a copy of the certifi-
13 cate duly attested by the Commissioner of Environmen-
14 tal Protection shall be filed and recorded in the of-
15 fice of the Secretary of State. The issuance of the
16 certificate by the board shall be conclusive evidence
17 of the lawful organization of the disposal district.
18 The disposal district shall not be operative until
19 the date set by the directors under section 1726.

20 §1723. Transfer of property and assets

21 When the territory of a municipality falls within
22 a disposal district which has been issued its certifi-
23 cate of organization and has assumed the management
24 of and responsibility for disposal services within
25 its territorial limits, the directors of the disposal
26 district shall determine what disposal property or
27 properties, if any, owned by any municipality within
28 the disposal district shall be necessary to carry on
29 the functions of the disposal district and shall re-
30 quest in writing that the municipal officers of any
31 municipality within the disposal district convey ti-
32 tle to the disposal property to the disposal district
33 and the municipal officers shall make the conveyance.
34 The disposal district shall pay fair compensation for
35 the property or properties. Any request by the di-
36 rectors of the district shall be made in writing
37 within 2 years of the date of the certificate of or-
38 ganization or the effective date on which a new mem-
39 ber joins the district, whichever is appropriate, and
40 shall be limited to facilities existing as of the
41 date of the certificate of organization or the effec-
42 tive date on which a new member joins the district,
43 whichever is appropriate.

1 §1724. Directors

2 1. Authorization. All of the affairs of a dis-
3 posal district shall be managed by an appointed board
4 of directors which shall consist of not less than 3
5 directors, or not less than 5 directors in disposal
6 districts involving more than one municipality. The
7 exact number of directors shall be determined in ac-
8 cordance with section 1721. Each director shall be
9 entitled to the number of votes which corresponds to
10 the level of population in his municipality as set
11 forth in the following table, unless an alternative
12 method of apportioning votes is approved by a majori-
13 ty vote of the municipal officers representing each
14 member of the disposal district prior to or at the
15 time of formation.

| 16 | <u>Population</u> | <u>No. of Votes</u> |
|----|-------------------|---------------------|
| 17 | 0 - 1,000 | 1 |
| 18 | 1,001 - 2,500 | 2 |
| 19 | 2,501 - 5,000 | 3 |
| 20 | 5,001 - 10,000 | 4 |
| 21 | 10,001 - 15,000 | 5 |
| 22 | 15,001 - 25,000 | 6 |
| 23 | 25,001 - 35,000 | 7 |
| 24 | 35,001 - 50,000 | 8 |
| 25 | 50,001 - 65,000 | 9 |
| 26 | 65,001 and over | 10 |

27 A director may not split his votes. In the event a
28 municipality has more than one director, directors
29 from that municipality shall share equally the number
30 of votes for that municipality. A determination of
31 population shall be made based upon the latest offi-
32 cial Decennial Census of the United States by the
33 United States Bureau of Census. A disposal district
34 may alter the number of its directors by submitting
35 the proposed alteration to the voters in the same
36 manner as provided in section 1721, subsection 7. No
37 municipality within any disposal district may have
38 less than one director. A quorum of the directors
39 may conduct the affairs of the district even if there
40 is a vacancy on the board of directors. A quorum is
41 defined as a simple majority of eligible and ap-
42 pointed directors, provided that a majority of the
43 member municipalities are represented. A simple ma-

1 majority of directors present and voting may conduct
2 the affairs of the district.

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

9 3. Vacancy. Any vacancy on the board of direc-
10 tors shall be filled within 30 days after the vacancy
11 occurs by appointment of the municipal officers of
12 the municipality which he is to represent. An ap-
13 pointee to a vacancy shall serve until the expiration
14 of the term of the representative to whose position
15 the appointment was made and may be reappointed.

16 4. Directors' retirement. Directors shall not
17 be eligible to join the Maine State Retirement System
18 as a result of their selection as directors.

19 §1725. Appointment of directors and organizational
20 meeting

21 Directors shall be appointed by the municipal of-
22 icers of the municipality which they are to repre-
23 sent. Alternate directors may be appointed by the
24 municipal officers to act in the absence of a direc-
25 tor. To the extent possible, the board of directors
26 shall include a mix of individuals with sufficient
27 managerial, technical, financial or business experi-
28 ence to execute their duties efficiently and effec-
29 tively. Appointments shall be by vote of the municip-
30 al officers, attested to by the municipal clerk and
31 presented to the clerk of the district. The municip-
32 al officers, by majority vote, may remove their ap-
33 pointed representatives during their term for stated
34 reasons, but no directors shall be removed except for
35 neglect of duty, misconduct or other acts which indi-
36 cate an unfitness to serve. Upon receipt of the
37 names of all the directors, the Board of Environmen-
38 tal Protection shall set a time, place and date for
39 the first meeting of the directors, notice thereof to
40 be given to the directors by certified or registered
41 mail, return receipt requested, mailed at least 10
42 days prior to the date set for the meeting.

1 The directors shall organize by election from
2 their own members a chairman, a vice-chairman, a
3 treasurer and a clerk, each of whom shall hold office
4 for one year and until his successor is duly elected
5 and qualified, and choose, employ and fix the compen-
6 sation of any other necessary officers and agents who
7 shall serve at their pleasure, and they shall adopt a
8 corporate seal. Prior to the election of the offi-
9 cers, each director shall be sworn to the faithful
10 performance of his duties by the respective municipal
11 clerk. For the election of chairman, vice-chairman,
12 treasurer and clerk, each director shall cast one
13 vote regardless of the population of the municipality
14 which he represents.

15 The power and authority of the district and the
16 administration and the general supervision of all af-
17 airs of the district shall be vested in the direc-
18 tors of the district.

19 The directors may from time to time adopt, estab-
20 lish and amend bylaws consistent with the laws of the
21 State, and necessary or reasonable for their own con-
22 venience and the proper management of the affairs of
23 the district, and perform any other acts within the
24 powers delegated to them by law.

25 After the original organizational meeting, the
26 directors shall meet annually at a time determined by
27 their bylaws for the purpose of electing from among
28 the members a chairman, vice-chairman, treasurer and
29 clerk to serve until the next annual election and un-
30 til their successors are appointed and qualified.
31 The treasurer shall furnish bond in such sum and with
32 such sureties as the directors shall approve, but not
33 less than 50% of the anticipated annual revenues of
34 the district, the cost to be paid by the district.
35 The chairman, vice-chairman, treasurer and clerk may
36 receive such compensation for serving in these capaci-
37 ties as the directors shall determine. This compen-
38 sation shall be in addition to the compensation pay-
39 able to them as directors. The directors shall make
40 and publish an annual report, including a report of
41 the treasurer.

42 The directors shall receive compensation as rec-
43 ommended by them and approved by majority vote of the

1 municipal officers in municipalities representing a
2 majority of the population within the district. Cer-
3 tification thereof shall be recorded with the Secre-
4 tary of State and recorded in the bylaws. Their com-
5 ensation for duties as directors shall be on the ba-
6 sis of such specific amount as may be specified in
7 the bylaws.

8 No member of the board of directors may be em-
9 ployed for compensation as an employee or in any oth-
10 er capacity by the district of which he is a direc-
11 tor.

12 The board of directors may establish an executive
13 board and grant authority as it may deem necessary.
14 The board of directors may establish any and all com-
15 mittees as it may deem necessary.

16 §1726. Responsibility to accept solid waste

17 1. Time of responsibility. The district becomes
18 responsible for providing a system for solid waste
19 disposal when its board of directors declares the
20 disposal system operational.

21 2. Types of waste. The district shall provide a
22 system for disposal of all solid waste generated by
23 residential and commercial activities within the mem-
24 ber municipalities. To the extent requested by mem-
25 ber municipalities, the district shall also provide
26 for the disposal of compatible solid waste from in-
27 dustrial activities within a member municipality to
28 the same extent the municipality is providing a sys-
29 tem of solid waste disposal at the date of its vote
30 to join the district, provided that the industrial
31 waste is disposed of at no cost to other member mu-
32 nicipalities. Following formation of the district,
33 the board of directors may allow for the disposal of
34 the waste of any other industrial activities within a
35 member municipality. The district may provide for
36 the disposal of sludge through contract with a member
37 municipality or quasi-municipal corporation serving
38 the member municipality, provided that the sludge is
39 disposed of at no cost to the other member municipal-
40 ities. The district may provide for the disposal of
41 any or all demolition and construction waste or yard
42 waste from any member municipality. The district may

1 contract with a nonmember municipality or a private
2 entity for the disposal of solid waste generated
3 within or outside the boundaries of the district.
4 The district may provide for disposal of any hazard-
5 ous waste generated from district operations.

6 3. Collection sites or systems. Each member mu-
7 nicipality shall be responsible for providing a col-
8 lection site or system for the solid waste generated
9 within the member municipality and for the transpor-
10 tation of the solid waste to the waste facility des-
11 ignated by the district, together with all incident
12 costs. Any member municipality may contract with the
13 district to provide collection and transportation
14 services.

15 4. Refusal of material; damages. The district
16 may refuse to accept any material which does not meet
17 the definition of solid waste from residential, com-
18 mercial or industrial activities.

19 5. Disposal. Disposal shall be in accordance
20 with the environmental statutes administered by the
21 department.

22 §1727. Admission of new member municipalities

23 The board of directors may authorize the inclu-
24 sion of additional member municipalities in the dis-
25 trict upon the terms and conditions as the board, in
26 its sole discretion, shall deem to be fair, reason-
27 able and in the best interest of the district, except
28 that on proper application any municipality which is
29 host to a waste facility of the district shall be ad-
30 mitted on equal terms with existing members, provided
31 that the new member municipality assumes or becomes
32 responsible for a proportionate share of liabilities
33 of the district in a manner similar to that of exist-
34 ing municipalities. The legislative body of any non-
35 member municipality which desires to be admitted to
36 the district shall make application for admission to
37 the board of directors of the district. The direc-
38 tors shall determine the effects and impacts which
39 are likely to occur if the municipality is admitted
40 and shall either grant or deny authority for admis-
41 sion of the petitioning municipality. If the direc-
42 tors grant the authority, they shall also specify any

1 terms and conditions, including, but not limited to,
2 financial obligations upon which the admission is
3 predicated. The petitioning municipality shall comply
4 with the voting procedures specified in section
5 1721. The vote, if in the affirmative, shall be certified
6 by the clerk of that municipality to the board
7 of directors and to the Board of Environmental Protection.
8 Upon satisfactory performance of the terms
9 and conditions of admission, the municipality shall
10 by resolution of the board of directors become and
11 thereafter be a member municipality of the district.
12 The clerk of the district shall promptly certify to
13 the board and the Secretary of State that the municipality
14 has become a member of the district. The certification
15 shall become conclusive evidence that the municipality
16 is a lawful member of the district.
17 Upon admission of a municipality to a district, the
18 provisions of section 1724 shall determine the number
19 of votes which shall be cast by the director or directors
20 representing that municipality.

21 §1728. Withdrawal of member municipalities

22 Withdrawal of a member municipality may take
23 place at any time prior to the commitment by the district,
24 or any member municipality on behalf of the district,
25 to issue any instrument of indebtedness,
26 including, but not limited to, bonds and notes with a
27 maturity of one year or more. The date upon which a
28 district or member municipality is committed to issue
29 the debt shall be established by a majority vote of
30 the board of directors, at least 90 days in advance
31 of that date. At the time of withdrawal, the withdrawing
32 municipality shall remain liable for its proportionate
33 share of district debts and operating expenses incurred
34 prior to the date of withdrawal, and shall make provisions
35 satisfactory to the board of directors to pay its share
36 of the debt outstanding at the time of withdrawal.
37

38 After issuance of instruments of indebtedness
39 with a maturity of one year or more, no member municipality
40 may withdraw from the district while the indebtedness
41 remains outstanding without the approval of a simple
42 majority vote of the board of directors of the district.
43 A withdrawing municipality shall make provisions
44 satisfactory to the board of direc-

1 tors to pay its share of debt outstanding at the time
2 of withdrawal.

3 In considering the request of a municipality to
4 withdraw, the board of directors shall consider the
5 effect of the proposed withdrawal on the ability of
6 the district to continue operating its waste facility
7 in a manner and at a cost to the remaining member mu-
8 nicipalities which is reasonable in comparison with
9 costs experienced by the member municipalities over
10 the most recent 3 fiscal years. The board of direc-
11 tors shall consider the effect on tipping fees and
12 other costs, as well as the effect on revenue from
13 the sale of power caused by the loss of the amount of
14 waste contributed by the withdrawing municipality.

15 If the withdrawal causes the costs of the other
16 member municipalities to increase by reducing the ef-
17 iciency of the waste facility, the withdrawing mu-
18 nicipality may be required by the board of directors
19 as a condition of withdrawal either to secure an al-
20 ternate and equivalent source of waste for the dis-
21 trict, both in quality and quantity, or to execute an
22 agreement to make payments to the district for a pe-
23 riod of 5 years following withdrawal, which will
24 cause the cost of the other member municipalities to
25 remain constant over that period, when adjusted annu-
26 ally for the effect of all other factors on such
27 costs.

28 Subject to any required approval by the board of
29 directors of the district, withdrawal by a municipal-
30 ity may be accomplished by a vote of the inhabitants
31 of the municipality, or by determination of the mu-
32 nicipal officers, in the same manner as the decision
33 to join in the formation of the district under sec-
34 tion 1721. The town meeting or city election, as the
35 case may be, to consider withdrawal shall be called
36 by the municipal officers upon receipt of a petition
37 of 10% of the number of voters in the municipality
38 who voted in the last gubernatorial election. The
39 question to be voted upon shall be in substantially
40 the following form:

41 To see if the town (or city) of (name of town or
42 city) will vote to withdraw from (name of dispos-
43 al district).

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

3 §1729. Dissolution

4 1. Method. In the event all member municipali-
5 ties vote to withdraw pursuant to section 1728, the
6 board of directors shall vote to dissolve the dis-
7 trict. The board of directors may, at any time by
8 2/3 vote, recommend to the member municipalities that
9 the district be dissolved. If such a recommendation
10 is made, the municipal officers in each member munic-
11 ipality shall cause the question of dissolving the
12 district to be put to the voters in each municipality
13 in referendum. If the voters in 2/3 of the munici-
14 palities vote to dissolve the district, the district
15 shall be dissolved by the board of directors at a
16 time fixed by the board of directors.

17 2. Assets and liabilities. Upon dissolution,
18 the directors shall wind up the affairs of the dis-
19 trict and shall liquidate the district's assets and
20 liabilities as follows:

21 A. Pay all expenses and debts of the district;
22 and

23 B. Distribute all assets and liabilities propor-
24 tionately among the member municipalities in ac-
25 cordance with the formula contained in section
26 1754 for guarantees and assessments.

27 3. Filing of articles of dissolution. A copy of
28 the articles of dissolution shall be filed with the
29 Secretary of State by the board of directors.

30 SUBCHAPTER III

31 POWERS

32 §1731. Powers

33 Each disposal district formed under this chapter
34 shall have the power, within the district and without
35 the district, to provide for the planning, construc-
36 tion, equipping, operation and maintenance of facili-

1 ties for the handling of solid waste, including re-
2 source recovery and resource conservation; to provide
3 for refuse collection services; to provide for con-
4 version of waste to one or more forms of energy and
5 for the transmission thereof; to generate revenues
6 from those activities and to make contracts with per-
7 sons, firms, corporations, partnerships, limited
8 partnerships and other entities, whether private,
9 public or municipal, in relation thereto, all as may
10 be necessary or proper; and, in general, to do any or
11 all other things necessary or incidental for the ex-
12 ercise of its powers or to the accomplishment of the
13 purposes of the district.

14 The power to make contracts includes, but is not
15 limited to, the power:

16 1. Contract with experts. To contract with ar-
17 chitects, engineers, financial and legal consultants
18 and other experts for services;

19 2. Contracts for operation. To contract with
20 persons, firms, corporations, limited partnerships,
21 partnerships, associations, authorities and agencies
22 for the operation of waste facilities and for ser-
23 vices relating to the disposal of solid waste, re-
24 source conservation and resource recovery, including
25 the conversion of waste to energy and the transmis-
26 sion thereof;

27 3. Contracts for handling of waste. To contract
28 for the handling of solid waste on the basis of guar-
29 anteed amounts, whether delivered for disposal and
30 accepted for disposal or not, of solid waste, with
31 payments based on the guaranteed amounts, whether ac-
32 tually disposed of or not, which payments may be var-
33 iable and may be determined by formulae expressed in
34 those contracts;

35 4. Contracts with government. To contract with
36 the State, the United States or any subdivision or
37 agency thereof for services;

38 5. Contracts with member municipalities. To
39 contract with any member municipality for the ser-
40 vices of any officers or employees of that municipal-
41 ity useful to it;

1 6. Real and personal property. To purchase,
2 sell, lease, acquire, convey, mortgage, improve and
3 use real and personal property in connection with the
4 purposes of the district;

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

7 8. Staff; employment. To employ and establish
8 salaries and qualifications for such professional,
9 clerical and administrative staff personnel as may be
10 necessary or convenient to the operation of the dis-
11 trict; and

12 9. Use of bidding processes. To make contracts,
13 to issue bonds, notes or other debt instruments under
14 subchapter IV, and to deal generally with 3rd parties
15 which shall include the power to use a negotiated or
16 competitive bidding process or any other process
17 which may be advantageous to the district, and deter-
18 mination of the process to be used shall be made by
19 and at the discretion of the directors of the dis-
20 trict.

21 §1732. Real and personal property and right of emi-
22 nent domain

23 Each disposal district formed under this chapter
24 may acquire and hold real and personal property which
25 it deems necessary for its purposes, and is granted
26 the right of eminent domain; and for those purposes
27 may take and hold, either by exercising its right of
28 eminent domain or by purchase, lease or otherwise, as
29 for public uses any land, real estate, easements or
30 interest therein, necessary for constructing, estab-
31 lishing, maintaining and operating refuse disposal,
32 resource disposal, resource recovery and resource
33 conservation facilities and may provide for the con-
34 version of waste to energy and the transmission
35 thereof.

36 No property may be so taken, except as may be
37 necessary for the construction of steam and electric
38 transmission lines, roads and communications equip-
39 ment, unless the property is located within the dis-
40 posal district.

1 §1733. Procedure in exercise of right of eminent do-
2 main

3 The right of eminent domain granted in section
4 1732 may only be exercised after complying with the
5 following procedures.

6 1. Notice to owner. The district shall provide
7 notice to the owner as follows.

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

10 (1) The determination of the directors that
11 they will exercise the right of eminent do-
12 main;

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

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

18 (4) Notice of the time and place of the
19 hearing provided in subsection 4.

20 B. Notice may be made:

21 (1) By personal service in hand by an of-
22 ficer duly qualified to serve civil process
23 in this State; or

24 (2) By certified mail, return receipt re-
25 quested, to last known address of owner or
26 owners.

27 C. If the owner or owners are not known or if
28 they cannot be notified by personal service or
29 certified mail, notice may be given by publica-
30 tion in the same manner as provided for in sub-
31 section 4.

32 2. Notice to tenant. Notice shall be given to
33 any tenants in the same manner as for the owner of
34 the property.

1 3. Notice to the affected municipality. Notice
2 shall be given to the municipality in which the prop-
3 erty to be acquired is located in the same manner as
4 for the owner of the property and shall be addressed
5 to the municipal officers.

6 4. Hearing. The directors of the district shall
7 hold a public hearing on the advisability of the prop-
8 osed exercise of the right of eminent domain. No-
9 tice of the hearing shall be made by publication in a
10 newspaper of general circulation in the area of the
11 taking and shall be given once a week for 2 succes-
12 sive weeks, the last publication to be at least 2
13 weeks prior to the time appointed in the hearing.
14 The hearing notice shall include:

15 A. The time and place of the hearing;

16 B. A description of the land or easement taken;
17 and

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

19 §1734. Condemnation proceedings

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

1 of 10 days from the filing, whereupon, possession may
2 be had of all the lands, real estate, easements or
3 interests therein and other property and rights as
4 aforesaid to be taken, but title shall not vest in
5 the district until payment for the property.

6 §1735. Appeal

7 If any person sustaining damages by any taking by
8 a disposal district under section 1732 does not agree
9 with the district upon the sum to be paid, either
10 party, upon petition to the county commissioners of
11 the county in which the property is located, may have
12 the damages assessed by them. The procedure and all
13 subsequent proceedings and right of appeal shall be
14 had under the same restrictions, conditions and limi-
15 tations as are or may be by law prescribed in the
16 case of damages by the laying out of highways by the
17 county commissioners, except that:

18 1. Vesting of title. Title to the lands, real
19 estate, easements or interests therein and other
20 property and rights to be taken shall not vest in the
21 district until payment to the owner of the amount
22 awarded therefor or, if the payment is refused upon
23 tender, until tender thereof to the treasurer of the
24 county in which lands and interest are located, for
25 escrow at interest for the benefit of the owner,
26 pending final determination of the amount to which
27 the owner is entitled; and

28 2. Appeal. In the event of any appeal of the
29 amount awarded as damages for that taking:

30 A. The petition for assessment of damages shall
31 be filed with the clerk of the county commission-
32 ers, by either party, within 30 days following
33 the filing and recording of plans of the location
34 of all the property, facilities and rights taken;
35 and

36 B. If the return of the county commissioners has
37 not been made within 120 days following the fil-
38 ing of the petition for assessment, the county
39 commissioners shall be conclusively presumed to
40 have confirmed the award of damages by the dis-
41 trict and either party may, within 30 days fol-

1 lowing that 120-day period, appeal the amount of
2 the damages awarded by the district to the Super-
3 rior Court.

4 §1736. Crossing other public utilities

5 If any waste facility or portion of any waste fa-
6 ility of any disposal district formed under this
7 chapter crosses the property or line of any public
8 utility, unless consent is given by the public utili-
9 ty as to place, manner and conditions of the crossing
10 within 30 days after consent is requested by the dis-
11 trict, the Public Utilities Commission shall deter-
12 mine the place, manner and conditions of the cross-
13 ing. All work on the property of the public utility
14 shall be done under the supervision and to the satis-
15 faction of the public utility, but at the expense of
16 the district. If any facility or portion of any fa-
17 ility of any disposal district crosses the property
18 or line of any railroad corporation, the procedure
19 shall be the same as set out in this section, except
20 that the Department of Transportation shall be sub-
21 stituted for the Public Utilities Commission. Noth-
22 ing in this section authorizes any disposal district
23 to take by right of eminent domain any of the proper-
24 ty or facilities of any public utility used, or ac-
25 quired, for future use by the owner, in the perform-
26 ance of a public duty, unless expressly authorized by
27 a special Act of the Legislature.

28 §1737. Rules

29 The directors may from time to time adopt rules
30 to regulate the handling, collection, transportation,
31 resource conservation, resource recovery and disposal
32 of solid waste within the district.

33 §1738. Delivery of solid waste

34 Prior to a municipality becoming a member of a
35 district or contracting with a district for disposal
36 services, where a district waste facility meets the
37 requirements of section 1304-B, at the discretion of
38 the board of directors of the district, a municipali-
39 ty may be required to enact an ordinance controlling
40 solid waste delivery in accordance with section
41 1304-B.

1 §1739. Setting fees and other charges

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

8 §1740. Annual audit

9 Each year an audit shall be made of the accounts
10 of the district, and for this purpose authorized
11 agents of a certified public accounting firm ap-
12 pointed by the directors shall have access to all
13 necessary papers, books and records. Upon the com-
14 pletion of each audit, a report shall be made to the
15 chairman of the district board of directors and a
16 copy shall be sent to the municipal officers of each
17 member municipality.

18 §1741. Surplus revenues

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

32 1. Reduction in charges. Apply the surplus in
33 the next following fiscal year to a reduction in the
34 rates, fees, rents or other charges established by
35 the district for services provided; or

36 2. Reduction of capital debt. Apply the surplus
37 to the reduction or provision for reduction of its
38 outstanding capital debt.

1 Bonds may be issued by a district under this chapter
2 as general obligations of the district or as special
3 obligations payable solely from particular funds.
4 The principal, premium and interest on all bonds
5 shall be payable solely from the funds provided for
6 that purpose from revenues. All bonds issued by a
7 district under this chapter shall be legal obliga-
8 tions of the district, and all districts formed under
9 this chapter are declared to be quasi-municipal cor-
10 porations within the meaning of Title 30, section
11 5053. Bonds may be issued under this chapter without
12 obtaining the consent of any commission, board, bu-
13 reau or agency of the State or of any municipality
14 encompassed by the district and without any other
15 proceedings or the happening of other conditions or
16 things other than those proceedings, conditions or
17 things which are specifically required by this chap-
18 ter. Except as provided in this subchapter, bonds
19 issued by a district under this chapter do not con-
20 stitute a debt or liability of the State or of any
21 municipality encompassed by the district or a pledge
22 of the faith and credit of the State or any such mu-
23 nicipality, and a statement to that effect shall be
24 recited on the face of the bonds.

25 2. Notes. Any district formed under this chap-
26 ter may also provide by resolution of its board of
27 directors, without district vote, for the issuance
28 from time to time of:

29 A. Notes in anticipation of bonds authorized un-
30 der this chapter;

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

33 C. Notes in anticipation of the receipt of fed-
34 eral or state grants or other aid. The issuance
35 of these notes shall be governed by the applica-
36 ble provisions of this chapter relating to the
37 issuance of bonds, provided that notes in antici-
38 pation of revenue must mature no later than one
39 year from their respective dates and notes issued
40 in anticipation of federal or state grants or
41 other aid and renewals thereof must mature no la-
42 ter than the expected date, as determined by the
43 board of directors, of receipt of those grants or

1 aid. The board of directors may adjust the matu-
2 rity date of notes issued in anticipation of fed-
3 eral or state grants or other aid to reflect
4 changes in the expected date of receipt. Notes
5 in anticipation of revenue issued to mature less
6 than one year from their dates may be renewed
7 from time to time by the issuance of other notes,
8 provided that the period from the date of an
9 original note to the maturity of any note issued
10 to renew or pay the note or the interest thereon
11 may not exceed one year.

12 Any such district may enter into agreements with the
13 State or the United States, or any agency of either,
14 or any municipality, corporation, commission or board
15 authorized to grant or loan money or to otherwise as-
16 sist in the financing of projects of the type which
17 that district is authorized to carry out, and to ac-
18 cept grants and borrow money from any such govern-
19 ment, agency, municipality, corporation, commission
20 or board as may be necessary or desirable to accom-
21 plish the purposes of the district.

22 3. Maturity; interest; form; temporary bonds.
23 The bonds issued under this chapter shall be dated,
24 shall mature at such time or times not exceeding 40
25 years from their date or dates and shall bear inter-
26 est at such rate or rates as may be determined by the
27 board of directors, and may be made redeemable before
28 maturity, at the option of the district, at such
29 price or prices and under such terms and conditions
30 as may be fixed by the board of directors prior to
31 the issuance of the bonds. The board of directors
32 shall determine the form of the bonds, including any
33 interest coupons to be attached, and the manner of
34 execution of the bonds, and shall fix the denomina-
35 tion or denominations of the bonds and the place or
36 places of payment of principal and interest, which
37 may be at any financial institution having trust pow-
38 ers within or without the State. Bonds shall be exe-
39 cuted in the name of the district by the manual or
40 facsimile signature of such officer or officers as
41 may be authorized in the resolution to execute the
42 bonds, but at least one signature on each bond shall
43 be a manual signature. Coupons, if any, attached to
44 the bonds shall be executed with the facsimile signa-
45 ture of the officer or officers of the district des-

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

42 4. Pledges and covenants, trust agreement. In
43 the discretion of the board of directors of any dis-
44 trict, each or any issue of bonds may be secured by a
45 trust agreement by and between the district and a
46 corporate trustee, which may be any financial insti-

1 tution having trust powers within or without the
2 State.

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

1 pledged and thereafter received by the district shall
2 immediately be subject to the lien of the pledge
3 without any physical delivery or segregation thereof
4 or further action under the Uniform Commercial Code
5 or otherwise, and the lien of the pledge shall be
6 valid and binding as against all parties having
7 claims of any kind in tort, contract or otherwise
8 against the district irrespective of whether those
9 parties have notice thereof.

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

32 5. Trust funds. Notwithstanding any other pro-
33 vision of law, all moneys set aside for payment of
34 the bonds, or other purposes pursuant to the provi-
35 sions of any trust agreement securing the bonds,
36 shall be deemed to be trust funds, to be held and ap-
37 plied as provided by the trust agreement; provided
38 that investment or deposit of those funds shall be
39 subject to the provisions applicable to municipal
40 funds under Title 30, section 5051-A. The resolution
41 authorizing the issuance of bonds or the trust agree-
42 ment securing the bonds shall provide that any offi-
43 cer to whom, or bank, trust company or other finan-
44 cial institution or fiscal agent to which, those mon-
45 eys shall be paid shall act as trustee of those mon-

1 eyes and shall hold and apply the same for the pur-
2 poses hereof, subject to such regulations as may be
3 provided in the resolution or trust agreement or as
4 may be required by this chapter.

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

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

1 holders thereof, and the rights, duties and obliga-
2 tions of the district in respect of the same shall be
3 governed by the applicable provisions of this chapter
4 relating to the issuance of bonds other than refund-
5 ing bonds.

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

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

35 10. Certain bond issues; notice; special meet-
36 ing; vote. In the event that the directors vote to
37 authorize bonds or notes, for any of the corporate
38 purposes of a refuse disposal district, excluding
39 notes payable within one year, or notes in anticipa-
40 tion of the revenues to be collected or received in
41 any year or notes in anticipation of bonds which have
42 already been authorized in accordance with this chap-
43 ter, or notes in anticipation of the receipt of ap-
44 proved federal or state grants, the authorized amount

1 of which, singly or in the aggregate included in any
2 one financing, is \$1,000,000 or more, the directors
3 shall provide notice to the general public:

4 A. Of the proposed bond or note issue and the
5 purposes for which the debt is being incurred;
6 and

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

15 No debt may be incurred under the vote of the direc-
16 tors until the expiration of 7 full days following
17 the date on which the special district meeting was
18 held. If, prior to the expiration of that period, a
19 petition signed by at least 5%, but not less than 50,
20 of the registered voters of the district is filed
21 with the clerk of the district requesting reference
22 of the vote of the directors to referendum, the clerk
23 of the district shall call and hold a special elec-
24 tion of the voters of the district for the purpose of
25 submitting to referendum vote the question of ap-
26 proving the vote of the directors. The vote of the
27 directors shall be suspended until it has received
28 approval by vote of a majority of the voters of the
29 district voting on the question at the special elec-
30 tion.

31 11. Negotiated or competitive bidding process.
32 Any notes, bonds or other instruments of indebtedness
33 may be the subject of a negotiated or competitive
34 bidding process, or any other process which may be
35 advantageous to the district, and determination of
36 the process to be used shall be made by and at the
37 discretion of the directors of the district.

38 §1752. Charges

39 All persons, firms and corporations, whether pub-
40 lic, private or municipal, shall pay to the treasurer
41 of any district formed under this chapter the rates,

1 tolls, assessments, rents, tipping fees, transporta-
2 tion charges and other charges established by the di-
3 rectors for services provided by the district. In
4 this subchapter, the words "other charges" shall in-
5 clude, but not be limited to, interest on delinquent
6 accounts at a rate not to exceed the highest lawful
7 rate set by the Treasurer of State for municipal
8 taxes. The district may submit periodic bills di-
9 rectly to individual users or to member municipali-
10 ties, as determined by the directors.

11 A district may establish schedules of charges by
12 any method determined by the directors.

13 The rates, tolls, assessments, rents, tipping
14 fees and transportation charges and other charges
15 shall be so established as to provide revenue at
16 least sufficient, together with any other moneys
17 available therefor, to:

18 1. Current operating expenses. Pay the current
19 expenses of operating and maintaining the waste fa-
20 ilities of the district;

21 2. Payment of interest and principal. Pay the
22 principal, premium and interest on all bonds and
23 notes issued by the district under this chapter when
24 due and payable;

25 3. Payments into reserve funds. Create and
26 maintain such reserves as may be required by any
27 trust agreement or resolution securing bonds and
28 notes;

29 4. Repairs, replacements and renewals. Provide
30 funds for paying the cost of all necessary repairs,
31 replacements and renewals of the waste facilities of
32 the district; and

33 5. Payment of obligations. Pay or provide for
34 any and all amounts which the district may be obli-
35 gated to pay or provide for by law or contract, in-
36 cluding any resolution or contract with or for the
37 benefit of the holders of its bonds and notes.

38 §1753. Collection of unpaid charges

1 The treasurer of the district may collect the
2 rates, tolls, assessments, rents, tipping fees,
3 transportation charges and other charges established
4 by the district and those charges shall be committed
5 to him. The treasurer may, after demand for payment,
6 sue in the name of the district in a civil action for
7 any rate, toll, rent, assessment, tipping fee, trans-
8 portation charge or other charges remaining unpaid in
9 any court of competent jurisdiction. In addition,
10 the treasurer may order the termination of service
11 for nonpayment of any amount owed to the district.

12 §1754. Guarantee by municipalities of district bonds
13 and notes

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

39 2. Application of guarantee. The guarantee pro-
40 vided for under this section shall apply to notes and
41 bonds of the district designated by the district
42 board of directors under subsection 1, if, at the
43 time of district formation under section 1721, the
44 inhabitants of the proposed member municipalities of

1 the district confer that authority upon the board of
2 directors and establish a ceiling or limit on the ag-
3 gregate amount of notes and bonds guaranteed by mem-
4 ber municipalities which may be issued by the dis-
5 trict under this section. The referendum ballot to
6 form the district shall include a statement listing
7 each member municipality's fractional share of lia-
8 bility for guaranteed notes and bonds which may be
9 issued under this section.

10 The articles to be voted upon shall be in substan-
11 tially the following form:

12 A. To see if the residents of the town (or city)
13 of (name of town or city) will authorize the
14 board of directors of (name of district or pro-
15 posed district) to issue notes (or bonds) of the
16 district which will be guaranteed in part by
17 (name of municipality) and to which guarantee
18 will be pledged the full faith and credit of
19 (name of municipality).

20 B. To see if the residents of the town (or city)
21 of (name of town or city) will establish a ceil-
22 ing in the aggregate amount of \$ on guar-
23 anteed notes (or bonds) which may be issued by
24 (name of district or proposed district).

25 3. Authority to issue guaranteed notes and
26 bonds; referendum. If the referendum vote establish-
27 ing the district does not confer authority upon the
28 board of directors to issue guaranteed notes and
29 bonds, a subsequent referendum may be held in which
30 these questions are submitted to the inhabitants of
31 each municipality comprising the district for a vote.
32 Where a vote is taken under this subsection after
33 formation of the district, the votes shall be counted
34 in each municipality and the affirmative vote of a
35 simple majority of votes cast shall be required in
36 each municipality in order for the article to pass.
37 The referendum vote to form the district shall in-
38 clude a statement listing each member municipality's
39 fractional share of liability for guaranteed notes
40 and bonds which may be issued under this section.

41 The articles to be voted upon shall be in substan-
42 tially the same form as the articles under subsection
43 2.

1 §1755. Power of assessment for expenses and costs
2 not covered by other district revenues

3 1. Power of assessment; question. At such time
4 as the question of the formation of the proposed dis-
5 trict and other questions relating thereto are sub-
6 mitted to the legal voters of the various municipali-
7 ties comprising the proposed district, an additional
8 question may be submitted with regard to granting the
9 district assessment power, which question shall be in
10 substantially the following form:

11 To see if the residents of the town (or city) of
12 (name of town or city) will grant assessment au-
13 thority to the directors of (name of district)
14 over the member municipalities which are to com-
15 prise the district for the purpose of paying ex-
16 penses and costs of the district which are not
17 covered by other district revenues.

18 The assessments so authorized shall be shared by mem-
19 ber municipalities of the district under the same
20 formula as guarantees are shared pursuant to section
21 1754, and the referendum ballot shall include a
22 statement listing the fractional share of the assess-
23 ment to be borne by the member municipality.

24 2. Subsequent question. Subsequent to the for-
25 mation of the district, if assessment authority was
26 not conferred upon the district at the time of forma-
27 tion, the question may be addressed to the legal vot-
28 ers of the district in substantially the same form as
29 prescribed pursuant to subsection 1.

30 Where a vote is taken under this subsection after
31 formation of the district, the votes shall be counted
32 in each municipality and the affirmative vote of a
33 simple majority of votes cast shall be required in
34 each municipality in order for the question to pass.
35 The assessments so authorized shall be shared by mem-
36 ber municipalities of the district under the same
37 formula as guarantees are shared pursuant to section
38 1754, and the referendum ballot shall include a
39 statement listing the fractional share of the assess-
40 ment to be borne by the member municipality.

1 §1756. District assessments

2 Where assessment authority is granted to a dis-
3 trict pursuant to section 1755, the district shall
4 have that assessment power with respect to the member
5 municipalities and any assessments made shall follow
6 these procedures.

7 1. Warrant. In substantially the same form as a
8 warrant of the Treasurer of State for taxes, the
9 board of directors shall issue its warrants to the
10 assessors of each member municipality requiring them
11 to assess upon the taxable estates within the munici-
12 pality an amount which is that municipality's share
13 of the district's expenses and costs which are not
14 covered by other revenues of the district, as deter-
15 mined by the board of directors after preparation of
16 the district budget.

17 2. Commitment. The municipal assessors shall
18 commit the assessment to the municipal constable or
19 collector. Constables and collectors shall have the
20 authority and power to collect the district's taxes
21 as is vested in them by law to collect state, county
22 and municipal taxes.

23 3. Installments. The board of directors shall
24 notify the member municipalities of the monthly
25 installments and the assessments that will become
26 payable during the fiscal year.

27 4. Payment. Each member municipality shall pay
28 the amount of the tax assessed in the fiscal year
29 against the municipality to the treasurer of the dis-
30 trict. The payments shall be paid in monthly
31 installments on or before the 20th of each month.

32 5. Enforcement. If a member municipality fails
33 to pay the installment due, or any part, on the dates
34 required, the treasurer of the district may issue a
35 warrant for the amount of the unpaid tax to the coun-
36 ty sheriff requiring the sheriff to levy by distress
37 and sale on the real and personal property of any of
38 the inhabitants of the municipality where that de-
39 fault takes place. The sheriff or sheriff's deputies
40 shall execute the warrant. In collecting taxes with-
41 in member municipalities, the board of directors

1 shall have the same power as county officials for the
2 collection of county taxes under Title 36, chapter
3 105, subchapter IX.

4 §1757. Bonds issued by municipalities

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

36 STATEMENT OF FACT

37 The existing enabling legislation governing the
38 establishment of regional refuse disposal districts,
39 Title 38 of the Revised Statutes, chapter 15, has
40 proven inadequate for municipalities seeking regional
41 solutions to the problem of solid waste disposal
42 through establishment of resource recovery and other

1 disposal facilities. The existing statutes have not
2 been utilized, therefor a district concept which has
3 proven very useful in other areas, such as school and
4 sanitary districts, has not been brought to bear in
5 solving the problems of solid waste disposal in the
6 State. The major goal of this new draft is to provide
7 enabling legislation which will give municipalities
8 the necessary authority to form districts which can
9 finance, construct, own and operate resource recovery
10 and other solid waste disposal facilities. Under
11 this new draft, districts also may finance privately-
12 owned waste facilities.

13 The Revised Statutes, Title 38, section 1704,
14 continues and further limits the property tax exemp-
15 tion formerly provided in the Revised Statutes, Title
16 38, sections 1554, which is repealed as part of this
17 recodification of the Revised Statutes, Title 38,
18 chapter 15. It is the intention of the Legislature
19 that this recodification not be considered a new
20 property tax exemption requiring reimbursement under
21 the Constitution of Maine, Article IV, Part Third,
22 Section 23. In addition, service charges are permit-
23 ted to cover the actual cost of providing municipal
24 services to the district.

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