

Title 38: WATERS AND NAVIGATION

Chapter 17: MAINE REFUSE DISPOSAL DISTRICT ENABLING ACT

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Maine Revised Statutes
Title 38: WATERS AND NAVIGATION
Chapter 17: MAINE REFUSE DISPOSAL DISTRICT ENABLING ACT

Subchapter 1: GENERAL PROVISIONS

§1701. SHORT TITLE

This chapter may be cited as the "Maine Refuse Disposal District Enabling Act." [1983, c. 820, §2 (NEW).]

SECTION HISTORY

1983, c. 820, §2 (NEW).

§1702. DECLARATION OF POLICY

1. Policy. It is the policy of the State to encourage the development of refuse disposal districts consisting of:

A. A municipality; or [1983, c. 820, §2 (NEW).]

B. Two or more municipalities, so that those districts may economically construct and operate refuse disposal systems to assist in the abatement of pollution and to enhance the public health, safety and welfare of the citizens of the State. For purposes of this chapter, a village corporation created by a private and special Act of the Legislature shall be considered a municipality, except that this Act shall not be construed as granting authority to any village corporation to enact ordinances. [1983, c. 820, §2 (NEW).]

[1983, c. 820, §2 (NEW) .]

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

A. There is a need throughout a part or all of the territory embraced within the proposed district for the accomplishment of the purpose of providing an adequate, efficient system and means of collection, transporting and disposing of domestic, commercial and industrial solid wastes within the proposed district; [1983, c. 820, §2 (NEW).]

B. These purposes can be effectively accomplished therein on an equitable basis by a refuse disposal district if created; and [1983, c. 820, §2 (NEW).]

C. The creation and maintenance of such a district will be administratively feasible and in furtherance of the public health, safety and welfare. [1983, c. 820, §2 (NEW).]

[1983, c. 820, §2 (NEW) .]

3. Furtherance of Maine Hazardous Waste, Septage and Solid Waste Management Act. It is the policy of the State to encourage the development of refuse disposal districts that further the policy of the Maine Hazardous Waste, Septage and Solid Waste Management Act as it pertains to nonhazardous solid waste programs.

[1993, c. 1, §134 (COR) .]

SECTION HISTORY

1983, c. 820, §2 (NEW). RR 1993, c. 1, §134 (COR).

§1703. PURPOSES

The purposes of each district formed under this chapter are to construct, maintain, operate or otherwise provide for a system of solid waste management for domestic, commercial and industrial solid waste and, in conjunction, to foster resource conservation and resource recovery for public purposes and for the health, welfare, comfort and convenience of the inhabitants of the district. It is anticipated that, in the furtherance of the purpose and declaration of policy of this Act, each district may contract and otherwise act in conjunction with a variety of public, private and municipal firms, corporations and persons. [1983, c. 820, §2 (NEW) .]

SECTION HISTORY

1983, c. 820, §2 (NEW) .

§1704. EXEMPTION FROM TAXATION

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

[1983, c. 820, §2 (NEW) .]

2. Limitation. Notwithstanding subsection 1, the land of any district formed under this chapter shall be subject to property taxation in the jurisdiction where the property is located.

[1983, c. 820, §2 (NEW) .]

3. Payments in lieu of taxes. A district may elect to make payments in lieu of taxes to communities in which its property is located or utilized.

[1983, c. 820, §2 (NEW) .]

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

- A. Fire protection; [1983, c. 820, §2 (NEW) .]
- B. Police protection; [1983, c. 820, §2 (NEW) .]
- C. Road maintenance and construction, traffic control, snow and ice removal; [1983, c. 820, §2 (NEW) .]
- D. Water and sewer service; [1983, c. 820, §2 (NEW) .]
- E. Sanitation services; and [1983, c. 820, §2 (NEW) .]
- F. Any services other than education and welfare. [1983, c. 820, §2 (NEW) .]

[1983, c. 820, §2 (NEW) .]

SECTION HISTORY

1983, c. 820, §2 (NEW) .

§1705. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1983, c. 820, §2 (NEW) .]

1. Board.

[1989, c. 890, Pt. A, §40 (AFF); 1989, c. 890, Pt. B, §275 (RP) .]

1-A. Agency.

[1995, c. 656, Pt. A, §27 (RP) .]

2. Demolition and construction waste. "Demolition and construction waste" means all solid waste generated in the demolition and construction of buildings and other structures, including stumps, brush, plaster, sheetrock, boards, bricks, mortar, concrete and roofing materials except asbestos.

[1983, c. 820, §2 (NEW) .]

3. Department.

[1989, c. 890, Pt. A, §40 (AFF); 1989, c. 890, Pt. B, §275 (RP) .]

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

[1983, c. 820, §2 (NEW) .]

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

[1983, c. 820, §2 (NEW) .]

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

[1983, c. 820, §2 (NEW) .]

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

[1983, c. 820, §2 (NEW) .]

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

[1983, c. 820, §2 (NEW) .]

9. Municipal officer. "Municipal officer" means municipal officer as defined in Title 30-A, section 2001, and includes the assessors of a plantation and county commissioners acting on behalf of the residents of any unorganized territory within their county under Title 30-A, chapter 305.

[1991, c. 517, Pt. B, §3 (AMD) .]

9-A. Municipality. "Municipality" means municipality as defined in Title 30-A, section 2001, and includes plantations and unorganized territories.

[1991, c. 517, Pt. B, §4 (NEW) .]

9-B. Office.

[2011, c. 655, Pt. GG, §70 (AFF); 2011, c. 655, Pt. GG, §21 (RP) .]

10. Resource conservation. "Resource conservation" means the reduction of amounts of solid waste which is generated and the reduction of overall resource consumption.

[1983, c. 820, §2 (NEW) .]

11. Resource recovery. "Resource recovery" means the recovery of materials or substances that still have useful physical or chemical properties after serving a specific purpose and can be reused or recycled for the same or other purposes and the conversion of waste to energy.

[1983, c. 820, §2 (NEW) .]

12. Revenues. "Revenues" means the proceeds of bonds, all revenues, rates, tolls, assessments, rents, tipping fees, transportation charges and other charges and receipts derived by the district from the operation of a waste facility and other properties, including, but not limited to, investment earnings and the proceeds of insurance, condemnation, sale or other disposition of properties, and must include proceeds from assessments where the power of assessment has been granted to the district under section 1755.

[1993, c. 310, Pt. C, §1 (AMD) .]

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

A. Solid waste from "residential activities" includes any solid waste generated by a household or apartment, including, but not limited to, food waste, packaging, newspaper and other paper products, glass, cans and plastic, and similar types of waste generated by employees of commercial and industrial activities. [1983, c. 820, §2 (NEW) .]

B. Solid waste from "commercial activities" includes any solid waste generated by retail and wholesale establishments, including, but not limited to, food waste, corrugated containerboard, metals and plastics. [1983, c. 820, §2 (NEW) .]

C. Solid waste from "industrial activities" includes any solid waste generated by an industry as part of the production process. Solid waste generated by employees and similar in composition to that generated by residential or commercial activities is excluded from this definition. [1983, c. 820, §2 (NEW) .]

[1983, c. 820, §2 (NEW) .]

14. Transport. "Transport" means the movement of solid waste from the point of generation to any intermediate points and finally to the point of ultimate disposition.

[1983, c. 820, §2 (NEW) .]

15. Waste facility. "Waste facility" means any land area, structure, location or equipment, or combination of them, including landfills, used for handling solid waste and for resource conservation and resource recovery, when utilized.

[1983, c. 820, §2 (NEW) .]

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

[1983, c. 820, §2 (NEW) .]

17. Yard waste. "Yard waste" means grass clippings, leaves and brush.

[1983, c. 820, §2 (NEW) .]

SECTION HISTORY

1983, c. 820, §2 (NEW). 1987, c. 737, §§C98,C106 (AMD). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,C10 (AMD). 1989, c. 869, §B1 (AMD). 1989, c. 890, §§A40,B275 (AMD). 1991, c. 517, §§B3,4 (AMD). 1993, c. 310, §C1 (AMD). 1995, c. 656, §§A27,28 (AMD). 2011, c. 655, Pt. GG, §21 (AMD). 2011, c. 655, Pt. GG, §70 (AFF).

§1706. RELATIONSHIP TO OTHER LAW

This chapter provides an additional and alternative method for carrying out the purposes of this chapter and is supplemental and additional to powers conferred by other laws, including the provisions of chapter 13, pertaining to solid waste, and is not in derogation of any powers now existing. The exercise of authority under this chapter is subject to any restriction imposed under chapter 24. [1989, c. 585, Pt. E, §36 (AMD) .]

SECTION HISTORY

1983, c. 820, §2 (NEW). 1989, c. 585, §E36 (AMD).

§1707. REIMBURSEMENT OF COSTS TO MUNICIPALITIES

At the sole discretion of the board of directors of the district, any municipality or municipalities which fall within a district formed under this chapter shall be entitled to reimbursement of reasonable incurred costs from that district when the financial position of the district allows. The term "costs," as used in this section, includes, but is not limited to, the following: Cost of preparation of an engineering study or studies; legal costs with relation to the application and presentation of any application for the formation of the district; other engineering costs that may not be included in a study; costs for financial advice; administrative expense; and such other expenses as may be necessary or incidental to the action of any municipality under this chapter, including funding provided pursuant to an agreement entered into pursuant to Title 30, chapter 203. [1983, c. 820, §2 (NEW) .]

SECTION HISTORY

1983, c. 820, §2 (NEW).

Subchapter 2: ORGANIZATION

§1721. FORMATION

The formation of a disposal district is accomplished as follows. [1995, c. 656, Pt. A, §29 (AMD) .]

1. Application by municipal officers. The municipal officers of the municipality or municipalities that desire to form a disposal district shall file an application with the department, after notice and hearing in each municipality, on a form or forms prepared by the department, setting forth the name or names of the municipality or municipalities and furnishing such other data as the department determines necessary and proper. The application must contain, but is not limited to, a description of the territory of the proposed district, the name proposed for the district that includes the words "disposal district," a statement showing the existence in that territory of the conditions requisite for the creation of a disposal district as prescribed in section 1702 and other documents and materials required by the department. The department may adopt rules under this chapter.

[2011, c. 655, Pt. GG, §22 (AMD); 2011, c. 655, Pt. GG, §70 (AFF) .]

2. Public hearing. Upon receipt of the application, the department shall hold a public hearing on the application within 60 days of the date of receipt of the application, at some convenient place within the boundaries of the proposed district. At least 14 days prior to the date of the hearing, the department shall publish notice of the hearing at least once in a newspaper of general circulation in the area encompassed by the proposed district.

[2011, c. 655, Pt. GG, §22 (AMD); 2011, c. 655, Pt. GG, §70 (AFF) .]

3. Approval of application. After the public hearing, on consideration of the evidence received, the department shall, in accordance with section 1702 and rules adopted by the department, make findings of fact and a determination of record whether or not the conditions requisite for the creation of a disposal district exist in the territory described in the application. If the department finds that the conditions do exist, it shall issue an order approving the proposed district as conforming to the requirements of this chapter and designating the name of the proposed district. The department shall give notice to the municipal officers within the municipality or municipalities involved of a date, time and place of a meeting of the representative of the municipality or municipalities involved. The municipal officers shall elect a representative to attend the meeting who may represent the municipality in all matters relating to the formation of the district. A return receipt properly endorsed is evidence of the receipt of notice. The notice must be mailed at least 10 days prior to the date set for the meeting.

[2011, c. 655, Pt. GG, §22 (AMD); 2011, c. 655, Pt. GG, §70 (AFF) .]

4. Denial of application. If the department determines that the creation of a disposal district in the territory described in the application is not warranted for any reason, it shall make findings of fact and enter an order denying its approval. The department shall give notice of the denial by mailing certified copies of the decision and order to the municipal officers of the municipality or municipalities involved. An application for the creation of a disposal district, consisting of exactly the same territory, may not be entertained within one year after the date of the issuance of an order denying approval of the formation of that disposal district, but this provision does not preclude action on an application for the creation of a disposal district embracing all or part of the territory described in the original application, as long as another municipality or fewer municipalities are involved.

[2011, c. 655, Pt. GG, §22 (AMD); 2011, c. 655, Pt. GG, §70 (AFF) .]

5. Joint meeting. The persons selected by the municipal officers, to whom the notice described in subsection 3 is directed, shall meet at the time and place appointed. When more than one municipality is involved, they shall organize by electing a chair and a secretary. An action may not be taken at any such meeting unless, at the time of convening, there are present at least a majority of the total number of municipal representatives eligible to attend and participate at the meeting, other than to report to the department that a quorum was not present and to request the department to issue a new notice for another meeting. A quorum is a simple majority of representatives eligible to attend the meeting. The purpose of the meeting is to determine the number of directors, subject to section 1724, to be appointed by and to represent each participating municipality and to determine the duration of terms to be served by the initial directors so that, in ensuing years, 1/3 of the directors and their alternates are appointed or reappointed each year, to serve until their respective successors are duly appointed and qualified. Subject to section 1724, the number of directors to represent each municipality is subject for negotiation among the municipal representatives. When a decision has been reached on the number of directors and the number to represent each municipality and the initial terms of the directors, subject to the limitations provided, this decision must be reduced to writing by the secretary and must be approved by a 2/3 vote of those present. The vote so reduced to writing and the record of the meeting must be signed by the chair, attested by the secretary and filed with the department. Any agreements among the municipal representatives that are considered essential prerequisites to the formation of the district, whether concerning payments in lieu of taxes to a municipality in which a waste facility is to be located, or any other matter, must be in writing and included in the record filed with the department. Subsequent to district formation, the board of directors of the district shall execute all documents necessary

to give full effect to the agreements reached by the municipal representatives and filed with the department. When a single municipality is involved, a copy of the vote of the municipal officers, duly attested by the clerk of the municipality, must be filed with the department.

[2011, c. 655, Pt. GG, §22 (AMD); 2011, c. 655, Pt. GG, §70 (AFF) .]

6. Submission. When the record of the municipality, or the record of the joint meeting, when municipalities are involved, is received by the department and found to be in order, the department shall order the question of the formation of the proposed disposal district and other questions relating to the formation to be submitted to the legal voters residing within the municipalities, except as provided in subsection 7, in which case the municipal officers may determine the questions. The order must be directed to the municipal officers of the municipality or municipalities that propose to form the disposal district, directing them to call, within 60 days of the date of the order, town meetings or city elections for the purpose of voting in favor of or in opposition to each of the following articles or questions, as applicable, in substantially the following form:

A. Whether the town (or city) of (name of town or city) will vote to incorporate as a disposal district to be called (name) Disposal District; [1991, c. 66, Pt. B, §8 (RPR) .]

B. Whether the residents of (name of town or city) will vote to join with the residents of the (name of town or city) to incorporate as a disposal district to be called (name) Disposal District: (legal description of the bounds of the proposed disposal district). At a minimum, the district must consist of (names of essential municipalities); and [1991, c. 66, Pt. B, §8 (RPR) .]

C. Whether the residents of (name of town or city) will vote to approve the total number of directors and the allocation of representation among the municipalities on the board of directors, as determined by the municipal officers and listed as follows: Total number of directors is (number of directors) and the residents of (town or city) are entitled to () directors. (The number of directors to which each municipality is entitled must be listed.) [1991, c. 66, Pt. B, §8 (RPR) .]

Directors must be chosen to represent municipalities in the manner provided in section 1725.

[2011, c. 655, Pt. GG, §22 (AMD); 2011, c. 655, Pt. GG, §70 (AFF) .]

7. Determination by municipal officers. In the event that the charters of the respective municipalities, or any one of them, consistent with such state laws as may otherwise be applicable, permit the municipal officers of the municipality or municipalities that propose to form the disposal district to vote to join such a district, the municipal officers may determine the question of the formation of the proposed disposal district and other questions relating to the formation without submission to the legal voters residing within the municipality.

[1995, c. 656, Pt. A, §29 (AMD) .]

SECTION HISTORY

1983, c. 820, §2 (NEW). 1989, c. 869, §B2 (AMD). 1989, c. 890, §§A40,B276 (AMD). 1991, c. 66, §B8 (AMD). 1995, c. 656, §A29 (AMD). 2011, c. 655, Pt. GG, §22 (AMD). 2011, c. 655, Pt. GG, §70 (AFF).

§1722. APPROVAL AND ORGANIZATION

When the residents of the municipality, or each municipality when more than one is involved, or the municipal officers, as the case may be, have voted upon the formation of a proposed disposal district and all of the other questions submitted, the clerk of each of the municipalities shall make a return to the department in such form as the department may determine. If the department finds from the returns that each of the municipalities involved, voting on each of the articles and questions submitted to them, has voted in the affirmative, and that the municipalities have appointed the necessary directors and listed the names of the directors to represent each municipality, and that all other steps in the formation of the proposed disposal district are in order and in conformity with law, the department shall make a finding to that effect and record

the finding upon its records. When 3 or more municipalities are concerned in the voting, and at least 2 have voted to approve each of the articles and questions submitted, appointed the necessary directors and listed the names of the directors to represent each municipality, rejection of the proposed disposal district by one or more does not defeat the creation of a district composed of the municipalities voting affirmatively on the question, if the department determines and issues an order stating that it is feasible or practical to constitute the district as a geographic unit composed of the municipalities voting affirmatively, unless the vote submitted to the municipalities provided that specific participants or a minimum number of participants must approve the formation of the district. [2011, c. 655, Pt. GG, §23 (AMD); 2011, c. 655, Pt. GG, §70 (AFF).]

The department, immediately after making its findings, shall issue a certificate of organization in the name of the disposal district in such form as the department determines. The original certificate must be delivered to the directors on the day that they are directed to organize and a copy of the certificate duly attested by the commissioner must be filed and recorded in the office of the Secretary of State. The issuance of the certificate by the department is conclusive evidence of the lawful organization of the disposal district. The disposal district is not operative until the date set by the directors under section 1726. [2011, c. 655, Pt. GG, §23 (AMD); 2011, c. 655, Pt. GG, §70 (AFF).]

SECTION HISTORY

1983, c. 820, §2 (NEW). 1989, c. 869, §B3 (AMD). 1989, c. 890, §§A40,B277 (AMD). 1991, c. 66, §B9 (RPR). 1995, c. 656, §A30 (AMD). 2011, c. 655, Pt. GG, §23 (AMD). 2011, c. 655, Pt. GG, §70 (AFF).

§1723. TRANSFER OF PROPERTY AND ASSETS

When the territory of a municipality falls within a disposal district which has been issued its certificate of organization and has assumed the management of and responsibility for disposal services within its territorial limits, the directors of the disposal district shall determine what disposal property or properties, if any, owned by any municipality within the disposal district shall be necessary to carry on the functions of the disposal district and shall request in writing that the municipal officers of any municipality within the disposal district convey title to the disposal property to the disposal district and the municipal officers shall make the conveyance. The disposal district shall pay fair compensation for the property or properties. Any request by the directors of the district shall be made in writing within 2 years of the date of the certificate of organization or the effective date on which a new member joins the district, whichever is appropriate, and shall be limited to facilities existing as of the date of the certificate of organization or the effective date on which a new member joins the district, whichever is appropriate. [1983, c. 820, §2 (NEW).]

SECTION HISTORY

1983, c. 820, §2 (NEW).

§1724. DIRECTORS

1. Authorization. All of the affairs of a disposal district must be managed by an appointed board of directors that consists of not less than 3 directors. The exact number of directors must be determined in accordance with section 1721. Each director is entitled to the number of votes that corresponds to the level of population in that director's municipality as set forth in the following table, unless an alternative method of apportioning votes is approved by a majority vote of the municipal officers representing each member of the disposal district prior to or at the time of formation.

Population	No. of Votes
0 - 1,000	1
1,001 - 2,500	2
2,501 - 5,000	3
5,001 - 10,000	4
10,001 - 15,000	5

15,001 - 25,000	6
25,001 - 35,000	7
35,001 - 50,000	8
50,001 - 65,000	9
65,001 and over	10

A director may not split votes. In the event a municipality has more than one director, directors from that municipality shall share equally the number of votes for that municipality but may vote independently of each other. A determination of population must be made based upon the latest official Decennial Census of the United States by the United States Bureau of Census. A disposal district may alter the number of its directors by submitting the proposed alteration to the voters in the same manner as provided in section 1721, subsection 7. No municipality within any disposal district may have less than one director. A quorum of the directors may conduct the affairs of the district even if there is a vacancy on the board of directors. A quorum is defined as a simple majority of eligible and appointed directors, provided that a majority of the member municipalities are represented. A simple majority of directors voting, either in person or by written consent, may conduct the affairs of the district.

[1999, c. 557, §1 (AMD) .]

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

[1983, c. 820, §2 (NEW) .]

3. Vacancy. Any vacancy on the board of directors shall be filled within 30 days after the vacancy occurs by appointment of the municipal officers of the municipality which he is to represent. An appointee to a vacancy shall serve until the expiration of the term of the representative to whose position the appointment was made and may be reappointed.

[1983, c. 820, §2 (NEW) .]

4. Directors' retirement. Directors shall not be eligible to join the Maine Public Employees Retirement System as a result of their selection as directors.

[1983, c. 820, §2 (NEW); 2007, c. 58, §3 (REV) .]

SECTION HISTORY

1983, c. 820, §2 (NEW). 1993, c. 11, §1 (AMD). 1993, c. 597, §1 (AMD).
1999, c. 557, §1 (AMD). 1999, c. 557, §1 (AMD). 2007, c. 58, §3 (REV).

§1725. APPOINTMENT OF DIRECTORS AND ORGANIZATIONAL MEETING

Directors are appointed by the municipal officers of the municipality they represent. Alternate directors may be appointed by the municipal officers to act in the absence of a director. To the extent possible, the board of directors must include a mix of individuals with sufficient managerial, technical, financial or business experience to execute their duties efficiently and effectively. Appointments must be by vote of the municipal officers, attested to by the municipal clerk and presented to the clerk of the district. The municipal officers, by majority vote, may remove their appointed representatives during their term for stated reasons, but directors may not be removed except for neglect of duty, misconduct or other acts that indicate an unfitness to serve. Upon receipt of the names of all the directors, the department shall set a time, place and date for the first meeting of the directors, notice of the meeting to be given to the directors by certified or registered mail, return receipt requested and mailed at least 10 days prior to the date set for the meeting. [2011, c. 655, Pt. GG, §24 (AMD); 2011, c. 655, Pt. GG, §70 (AFF).]

The directors shall organize by election from their own members a chairman, a vice-chairman, a treasurer and a clerk, each of whom shall hold office for one year and until his successor is duly elected and qualified, and choose, employ and fix the compensation of any other necessary officers and agents who shall serve at their pleasure, and they shall adopt a corporate seal. Prior to the election of the officers, each director shall be sworn to the faithful performance of his duties by the respective municipal clerk. For the election of chairman, vice-chairman, treasurer and clerk, each director shall cast one vote regardless of the population of the municipality which he represents. [1983, c. 820, §2 (NEW).]

The power and authority of the district and the administration and the general supervision of all affairs of the district shall be vested in the directors of the district. [1983, c. 820, §2 (NEW).]

The directors may from time to time adopt, establish and amend bylaws consistent with the laws of the State, and necessary or reasonable for their own convenience and the proper management of the affairs of the district, and perform any other acts within the powers delegated to them by law. [1983, c. 820, §2 (NEW).]

After the original organizational meeting, the directors shall meet annually at a time determined by their bylaws for the purpose of electing from among the members a chairman, vice-chairman, treasurer and clerk to serve until the next annual election and until their successors are appointed and qualified. The treasurer shall furnish bond in such sum and with such sureties as the directors shall approve, but not less than 50% of the anticipated annual revenues of the district, the cost to be paid by the district. The chairman, vice-chairman, treasurer and clerk may receive such compensation for serving in these capacities as the directors shall determine. This compensation shall be in addition to the compensation payable to them as directors. The directors shall make and publish an annual report, including a report of the treasurer. [1983, c. 820, §2 (NEW).]

The directors shall receive compensation as recommended by them and approved by majority vote of the municipal officers in municipalities representing a majority of the population within the district. Certification thereof shall be recorded with the Secretary of State and recorded in the bylaws. Their compensation for duties as directors shall be on the basis of such specific amount as may be specified in the bylaws. [1983, c. 820, §2 (NEW).]

No member of the board of directors may be employed for compensation as an employee or in any other capacity by the district of which he is a director. [1983, c. 820, §2 (NEW).]

The board of directors may establish an executive board and grant authority as it may deem necessary. The board of directors may establish any and all committees as it may deem necessary. [1983, c. 820, §2 (NEW).]

SECTION HISTORY

1983, c. 820, §2 (NEW). 1989, c. 869, §B4 (AMD). 1989, c. 890, §§A40,B278 (AMD). 1991, c. 66, §B10 (AMD). 1995, c. 656, §A31 (AMD). 2011, c. 655, Pt. GG, §24 (AMD). 2011, c. 655, Pt. GG, §70 (AFF).

§1726. RESPONSIBILITY TO ACCEPT SOLID WASTE

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

[1983, c. 820, §2 (NEW) .]

2. Types of waste. The district shall provide a system for disposal of all solid waste generated by residential and commercial activities within the member municipalities. To the extent requested by member municipalities, the district shall also provide for the disposal of compatible solid waste from industrial activities within a member municipality to the same extent the municipality is providing a system of solid waste disposal at the date of its vote to join the district, provided that the industrial waste is disposed of at no cost to other member municipalities. Following formation of the district, the board of directors may

allow for the disposal of the waste of any other industrial activities within a member municipality. The district may provide for the disposal of sludge through contract with a member municipality or quasi-municipal corporation serving the member municipality, provided that the sludge is disposed of at no cost to the other member municipalities. The district may provide for the disposal of any or all demolition and construction waste or yard waste from any member municipality. The district may contract with a nonmember municipality or a private entity for the disposal of solid waste generated within or outside the boundaries of the district. The district may provide for disposal of any hazardous waste generated from district operations.

[1983, c. 820, §2 (NEW) .]

3. Collection sites or systems. Each member municipality shall be responsible for providing a collection site or system for the solid waste generated within the member municipality and for the transportation of the solid waste to the waste facility designated by the district, together with all incident costs. Any member municipality may contract with the district to provide collection and transportation services.

[1983, c. 820, §2 (NEW) .]

4. Refusal of material; damages. The district may refuse to accept any material which does not meet the definition of solid waste from residential, commercial or industrial activities.

[1983, c. 820, §2 (NEW) .]

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

[1983, c. 820, §2 (NEW) .]

SECTION HISTORY

1983, c. 820, §2 (NEW) .

§1726-A. AGREEMENT TO PROVIDE LIMITED SERVICES

1. Provision of limited waste disposal services. If for any reason the board of directors of a district organized under this chapter has not declared a disposal system operational for the disposal of all solid waste generated by the residential and commercial activities within the member municipalities, the district may contract with all or any of the member municipalities of the district, and any member municipality may contract with the district to provide a system for the disposal of any portion or type of residential, commercial or industrial waste generated within a member municipality on such terms and conditions as the district and the member municipality may agree. Notwithstanding any law, charter or ordinance provisions to the contrary, the powers to contract with a refuse disposal district conferred upon a municipality pursuant to this section may be exercised by the municipal officers as defined in Title 30-A, section 2001, including the assessors of a plantation, only when authorized, in the case of a municipality with a city or town council, by action of the council or, in the case of a municipality without such a council, by action of the town meeting. This subsection applies and the action of the city council, town council or town meeting is effective whether it was taken before or after the effective date of this subsection.

[1989, c. 861, (NEW) .]

2. Powers. Except as provided in this section, all of the provisions of this chapter apply to a district providing limited waste disposal services pursuant to this section, including, but not limited to, the authority to issue bonds and notes in accordance with subchapter IV. The provisions of this section apply to all refuse disposal districts organized under this chapter, including refuse disposal districts organized prior to the effective date of this section.

[1989, c. 861, (NEW) .]

3. Collection sites or systems. Each member municipality that enters into a contract with a district pursuant to this section is responsible for providing a collection site or system for the portion or type of solid waste generated within that member municipality and, subject to the contract with the district, for the transportation of that solid waste to a waste facility designated by the district, together with all incidental costs. The member municipality may contract with the district to provide collection and transportation services.

[1989, c. 861, (NEW) .]

4. Municipal assessments. A district that proposes to provide limited waste disposal services may submit to the legal voters of the district a question with regard to granting the district assessment powers in substantially the form provided under section 1755. Authorized assessments must be shared by the member municipalities of the district under the same formula as guarantees are shared pursuant to section 1754.

A. When the question is submitted prior to the issuance of any indebtedness by the district, the directors may decide that approval of such an assessment article by the voters of a municipality is a condition of each municipality's continuance as a member of the district, in which case the ballots must include a statement that municipalities that fail to vote in favor of the proposed assessment article are no longer members of the district if the board determines that it is feasible or practical to constitute a district as a geographic unit made up of the municipalities voting in favor of the proposed assessment article. The ballots must also state the method to be used to allocate assessments among the member municipalities if the article is approved. The ballot may not contain a specific fractional share of the assessment to be borne by each member municipality. The votes must be counted in each municipality and the affirmative vote of a simple majority of votes cast in each municipality is required to grant the district assessment powers over all of the municipalities in the district. When 3 or more municipalities are involved in the voting and at least 2 have voted to approve the assessment article submitted to them, rejection of the proposed assessment article by one or more municipalities does not defeat the assessment power with respect to the municipalities voting in favor of it if the board determines that it is feasible or practical to constitute a district made up of the municipalities voting in favor of the article as a geographic unit. In that event, the board, immediately after making its findings, shall issue an amended certificate of organization in the name of the district for a district composed only of the municipalities voting in favor of the assessment article. Upon the issuance of a certificate the municipalities not approving the assessment article are no longer members of the district. The original of the amended certificate must be delivered to the directors of the district and a copy of the certificate attested by the commissioner must be filed and recorded in the office of the Secretary of State. The issuance of the certificate by the board is conclusive evidence of the lawful reorganization of the district. If the board determines that it is not feasible or practical to constitute the district as a geographic unit composed of the municipalities voting affirmatively on the article, the district continues to exist with no assessment power and the municipalities that did not approve the assessment article remain members of the district. [2011, c. 655, Pt. GG, §25 (AMD); 2011, c. 655, Pt. GG, §70 (AFF).]

B. When the question is submitted after the issuance of any indebtedness by the district, the provisions of section 1755, subsection 2 apply. [1989, c. 861, (NEW) .]

[2011, c. 655, Pt. GG, §25 (AMD); 2011, c. 655, Pt. GG, §70 (AFF) .]

5. Guaranteed bonds. If the district has been authorized to issue guaranteed notes and bonds pursuant to section 1754, a contract between the district and a member municipality pursuant to this section may authorize the district to issue notes and bonds that are guaranteed pro rata by that member municipality. If the district established the share of liability of each member municipality for guaranteed notes and bonds using the valuation method set forth in section 1754, subsection 4, paragraph A, the pro rata share of liability of each member municipality authorizing the district to issue guaranteed notes and bonds must be established in accordance with a fraction, the numerator of which is the most recent state valuation of all property of the member municipality authorizing the district to issue the guaranteed notes and bonds and the denominator of which is the most recent state valuation of all property located within all the member municipalities authorizing the district to issue the guaranteed notes and bonds. If the district established the share of liability of each member municipality for guaranteed notes and bonds using the per capita method set forth in section 1754, subsection 4, paragraph B, the pro rata share of liability of each member municipality authorizing the district to issue guaranteed notes and bonds must be established in accordance with a fraction, the numerator of which is the most recent census of all residents of the member municipality authorizing the district to issue the guaranteed notes and bonds and the denominator of which is the most recent census of all residents of all the member municipalities authorizing the district to issue the guaranteed notes and bonds. A member municipality's fractional share of liability for guaranteed notes and bonds authorized pursuant to these contracts may be different from that member municipality's fractional share of liability for guaranteed notes and bonds calculated pursuant to section 1754. The guarantee provisions of this section apply to districts providing limited waste disposal services under this section that have authority to issue bonds and notes guaranteed by member municipalities. A member municipality may not be required to guarantee any portion of the indebtedness issued by a district providing limited waste disposal services under this section unless the municipality has entered into a contract providing for such a guarantee pursuant to this section.

[1993, c. 11, §3 (AMD) .]

6. General municipal powers. In addition to the powers granted to municipalities under this chapter, the provisions of section 1304-B apply to the member municipalities of a district providing limited waste disposal services pursuant to this section and nothing contained in this section limits the powers of a municipality under section 1304-B.

[1989, c. 861, (NEW) .]

7. Relationship to other laws. The obligation of a municipality to pay any fees, assessments, contract costs or expenses, guaranteed amounts or any other payments in accordance with any agreement or contract entered into pursuant to this section does not constitute a debt or indebtedness of the municipality within the meaning of any statutory, charter, ordinance or other provision limiting the incurrence or the amount of municipal indebtedness. The authorization or incurrence of the obligation or any municipal action to raise funds to meet the obligation does not require or is not subject to any voter referendum or approval under any statutory, charter, ordinance or other provision. No contract entered into in accordance with this section may be deemed to be a contract in restraint of trade or otherwise unlawful under Title 10, chapter 201.

[1989, c. 861, (NEW) .]

SECTION HISTORY

1989, c. 861, (NEW). 1993, c. 11, §§2,3 (AMD). 1995, c. 656, §A32 (AMD). 2011, c. 655, Pt. GG, §25 (AMD). 2011, c. 655, Pt. GG, §70 (AFF) .

§1727. ADMISSION OF NEW MEMBER MUNICIPALITIES

The board of directors may authorize the inclusion of additional member municipalities in the district upon the terms and conditions as the board, in its sole discretion, determines to be fair, reasonable and in the best interest of the district, except that on proper application any municipality that is host to a waste facility of

the district must be admitted on equal terms with existing members if the new member municipality assumes or becomes responsible for a proportionate share of liabilities of the district in a manner similar to that of existing municipalities. The legislative body of any nonmember municipality that desires to be admitted to the district shall make application for admission to the board of directors of the district. The directors shall determine the effects and impacts that are likely to occur if the municipality is admitted and shall either grant or deny authority for admission of the petitioning municipality. If the directors grant the authority, they shall also specify any terms and conditions, including, but not limited to, financial obligations upon which the admission is predicated. The petitioning municipality shall comply with the voting procedures specified in section 1721. The vote, if in the affirmative, must be certified by the clerk of that municipality to the board of directors and to the department. Upon satisfactory performance of the terms and conditions of admission, the municipality by resolution of the board of directors becomes and thereafter is a member municipality of the district. The clerk of the district shall promptly certify to the agency and the Secretary of State that the municipality has become a member of the district. The certification is conclusive evidence that the municipality is a lawful member of the district. Upon admission of a municipality to a district, the provisions of section 1724 determine the number of votes to be cast by the director or directors representing that municipality. [2011, c. 655, Pt. GG, §26 (AMD); 2011, c. 655, Pt. GG, §70 (AFF).]

SECTION HISTORY

1983, c. 820, §2 (NEW). 1989, c. 869, §B5 (AMD). 1989, c. 890, §§A40,B279 (AMD). 1991, c. 66, §B11 (RPR). 1995, c. 656, §A33 (AMD). 2011, c. 655, Pt. GG, §26 (AMD). 2011, c. 655, Pt. GG, §70 (AFF).

§1728. WITHDRAWAL OF MEMBER MUNICIPALITIES

Withdrawal of a member municipality may take place at any time prior to the commitment by the district, or any member municipality on behalf of the district, to issue any instrument of indebtedness, including, but not limited to, bonds and notes with a maturity of one year or more. The date upon which a district or member municipality is committed to issue the debt shall be established by a majority vote of the board of directors, at least 90 days in advance of that date. At the time of withdrawal, the withdrawing municipality shall remain liable for its proportionate share of district debts and operating expenses incurred prior to the date of withdrawal, and shall make provisions satisfactory to the board of directors to pay its share of the debt outstanding at the time of withdrawal. [1983, c. 820, §2 (NEW).]

After issuance of instruments of indebtedness with a maturity of one year or more, no member municipality may withdraw from the district while the indebtedness remains outstanding without the approval of a simple majority vote of the board of directors of the district. A withdrawing municipality shall make provisions satisfactory to the board of directors to pay its share of debt outstanding at the time of withdrawal. [1983, c. 820, §2 (NEW).]

In considering the request of a municipality to withdraw, the board of directors shall consider the effect of the proposed withdrawal on the ability of the district to continue operating its waste facility in a manner and at a cost to the remaining member municipalities which is reasonable in comparison with costs experienced by the member municipalities over the most recent 3 fiscal years. The board of directors shall consider the effect on tipping fees and other costs, as well as the effect on revenue from the sale of power caused by the loss of the amount of waste contributed by the withdrawing municipality. [1983, c. 820, §2 (NEW).]

If the withdrawal causes the costs of the other member municipalities to increase by reducing the efficiency of the waste facility, the withdrawing municipality may be required by the board of directors as a condition of withdrawal either to secure an alternate and equivalent source of waste for the district, both in quality and quantity, or to execute an agreement to make payments to the district for a period of 5 years following withdrawal, which will cause the cost of the other member municipalities to remain constant over that period, when adjusted annually for the effect of all other factors on such costs. [1983, c. 820, §2 (NEW).]

Subject to any required approval by the board of directors of the district, withdrawal by a municipality may be accomplished by a vote of the inhabitants of the municipality, or by determination of the municipal officers, in the same manner as the decision to join in the formation of the district under section 1721. The town meeting or city election, as the case may be, to consider withdrawal shall be called by the municipal officers upon receipt of a petition of 10% of the number of voters in the municipality who voted in the last gubernatorial election. The question to be voted upon shall be in substantially the following form:

To see if the town (or city) of (name of town or city) will vote to withdraw from (name of disposal district).

[1983, c. 820, §2 (NEW).]

The number of votes required for passage shall be 2/3 of those voting. [1983, c. 820, §2 (NEW).]

SECTION HISTORY

1983, c. 820, §2 (NEW).

§1729. DISSOLUTION

1. Method. In the event all member municipalities vote to withdraw pursuant to section 1728, the board of directors shall vote to dissolve the district. The board of directors may, at any time by 2/3 vote, recommend to the member municipalities that the district be dissolved. If such a recommendation is made, the municipal officers in each member municipality shall cause the question of dissolving the district to be put to the voters in each municipality in referendum. If the voters in 2/3 of the municipalities vote to dissolve the district, the district shall be dissolved by the board of directors at a time fixed by the board of directors.

[1983, c. 820, §2 (NEW) .]

2. Assets and liabilities. Upon dissolution, the directors shall wind up the affairs of the district and shall liquidate the district's assets and liabilities as follows:

A. Pay all expenses and debts of the district; and [1983, c. 820, §2 (NEW).]

B. Distribute all assets and liabilities proportionately among the member municipalities in accordance with the formula contained in section 1754 for guarantees and assessments. [1983, c. 820, §2 (NEW).]

[1983, c. 820, §2 (NEW) .]

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

[1983, c. 820, §2 (NEW) .]

SECTION HISTORY

1983, c. 820, §2 (NEW).

Subchapter 3: POWERS

§1731. POWERS

Each disposal district formed under this chapter shall have the power, within the district and without the district, to provide for the planning, construction, equipping, operation and maintenance of facilities for the handling of solid waste, including resource recovery and resource conservation; to provide for refuse collection services; to provide for conversion of waste to one or more forms of energy and for the transmission thereof; to generate revenues from those activities and to make contracts with persons, firms,

corporations, partnerships, limited partnerships and other entities, whether private, public or municipal, in relation thereto, all as may be necessary or proper; and, in general, to do any or all other things necessary or incidental for the exercise of its powers or to the accomplishment of the purposes of the district. [1983, c. 820, §2 (NEW).]

The power to make contracts includes, but is not limited to, the power: [1983, c. 820, §2 (NEW).]

1. Contract with experts. To contract with architects, engineers, financial and legal consultants and other experts for services;

[1983, c. 820, §2 (NEW) .]

2. Contracts for operation. To contract with persons, firms, corporations, limited partnerships, partnerships, associations, authorities and agencies for the operation of waste facilities and for services relating to the disposal of solid waste, resource conservation and resource recovery, including the conversion of waste to energy and the transmission thereof;

[1983, c. 820, §2 (NEW) .]

3. Contracts for handling of waste. To contract for the handling of solid waste on the basis of guaranteed amounts, whether delivered for disposal and accepted for disposal or not, of solid waste, with payments based on the guaranteed amounts, whether actually disposed of or not, which payments may be variable and may be determined by formulas expressed in those contracts;

[1983, c. 820, §2 (NEW) .]

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

[1983, c. 820, §2 (NEW) .]

5. Contracts with member municipalities. To contract with any member municipality for the services of any officers or employees of that municipality useful to it;

[1983, c. 820, §2 (NEW) .]

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

[1983, c. 820, §2 (NEW) .]

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

[1983, c. 820, §2 (NEW) .]

8. Staff; employment. To employ and establish salaries and qualifications for such professional, clerical and administrative staff personnel as may be necessary or convenient to the operation of the district; and

[1983, c. 820, §2 (NEW) .]

9. Use of bidding processes. To make contracts, to issue bonds, notes or other debt instruments under subchapter IV, and to deal generally with 3rd parties which shall include the power to use a negotiated or competitive bidding process or any other process which may be advantageous to the district, and determination of the process to be used shall be made by and at the discretion of the directors of the district.

[1983, c. 820, §2 (NEW) .]

SECTION HISTORY

1983, c. 820, §2 (NEW).

§1732. REAL AND PERSONAL PROPERTY AND RIGHT OF EMINENT DOMAIN

Each disposal district formed under this chapter may acquire and hold real and personal property which it deems necessary for its purposes, and is granted the right of eminent domain; and for those purposes may take and hold, either by exercising its right of eminent domain or by purchase, lease or otherwise, as for public uses any land, real estate, easements or interest therein, necessary for constructing, establishing, maintaining and operating refuse disposal, resource disposal, resource recovery and resource conservation facilities and may provide for the conversion of waste to energy and the transmission thereof. [1983, c. 820, §2 (NEW).]

No property may be so taken, except as may be necessary for the construction of steam and electric transmission lines, roads and communications equipment, unless the property is located within the disposal district. [1983, c. 820, §2 (NEW).]

SECTION HISTORY

1983, c. 820, §2 (NEW).

§1733. PROCEDURE IN EXERCISE OF RIGHT OF EMINENT DOMAIN

The right of eminent domain granted in section 1732 may only be exercised after complying with the following procedures. [1983, c. 820, §2 (NEW).]

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

A. The owner or owners of record shall be notified as follows:

- (1) The determination of the directors that they will exercise the right of eminent domain;
- (2) A description and scale map of the land or easement to be taken;
- (3) The final amount offered for the land or easement to be taken, based on the fair value as estimated by the district; and
- (4) Notice of the time and place of the hearing provided in subsection 4. [1983, c. 820, §2 (NEW) .]

B. Notice may be made:

- (1) By personal service in hand by an officer duly qualified to serve civil process in this State; or
- (2) By certified mail, return receipt requested, to last known address of owner or owners. [1983, c. 820, §2 (NEW) .]

C. If the owner or owners are not known or if they cannot be notified by personal service or certified mail, notice may be given by publication in the same manner as provided for in subsection 4. [1983, c. 820, §2 (NEW) .]

[1983, c. 820, §2 (NEW) .]

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

[1983, c. 820, §2 (NEW) .]

3. Notice to the affected municipality. Notice shall be given to the municipality in which the property to be acquired is located in the same manner as for the owner of the property and shall be addressed to the municipal officers.

[1983, c. 820, §2 (NEW) .]

4. Hearing. The directors of the district shall hold a public hearing on the advisability of the proposed exercise of the right of eminent domain. Notice of the hearing shall be made by publication in a newspaper of general circulation in the area of the taking and shall be given once a week for 2 successive weeks, the last publication to be at least 2 weeks prior to the time appointed in the hearing. The hearing notice shall include:

- A. The time and place of the hearing; [1983, c. 820, §2 (NEW) .]
- B. A description of the land or easement taken; and [1983, c. 820, §2 (NEW) .]
- C. The name of the owners, if known. [1983, c. 820, §2 (NEW) .]

[1983, c. 820, §2 (NEW) .]

SECTION HISTORY

1983, c. 820, §2 (NEW) .

§1734. CONDEMNATION PROCEEDINGS

Each disposal district formed under this chapter, in exercising from time to time the right of eminent domain conferred upon it by section 1732, shall file in the office of the county commissioners of the county in which the property to be taken is located and cause to be recorded in the registry of deeds in the county plans of the location of all lands, real estate, easements or interest therein, with an appropriate description and the names of the owners thereof, if known. When for any reason any such district fails to acquire property which it is authorized to take and which is described in that location, or if the location so recorded is defective and uncertain, it may, at any time, correct and perfect the location and file a new description. In that case, any such district is liable in damages only for property for which the owner had not previously been paid, to be assessed as of the time of the original taking, and any such district is not liable for any acts which would have been justified if the original taking had been lawful. No entry may be made on any private lands, except to make surveys, until the expiration of 10 days from the filing, whereupon, possession may be had of all the lands, real estate, easements or interests therein and other property and rights as aforesaid to be taken, but title shall not vest in the district until payment for the property. [1983, c. 820, §2 (NEW) .]

SECTION HISTORY

1983, c. 820, §2 (NEW) .

§1735. APPEAL

If any person sustaining damages by any taking by a disposal district under section 1732 does not agree with the district upon the sum to be paid, either party, upon petition to the county commissioners of the county in which the property is located, may have the damages assessed by them. The procedure and all subsequent proceedings and right of appeal shall be had under the same restrictions, conditions and limitations as are or may be by law prescribed in the case of damages by the laying out of highways by the county commissioners, except that: [1983, c. 820, §2 (NEW) .]

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

[1983, c. 820, §2 (NEW) .]

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

A. The petition for assessment of damages shall be filed with the clerk of the county commissioners, by either party, within 30 days following the filing and recording of plans of the location of all the property, facilities and rights taken; and [1983, c. 820, §2 (NEW) .]

B. If the return of the county commissioners has not been made within 120 days following the filing of the petition for assessment, the county commissioners shall be conclusively presumed to have confirmed the award of damages by the district and either party may, within 30 days following that 120-day period, appeal the amount of the damages awarded by the district to the Superior Court. [1983, c. 820, §2 (NEW) .]

[1983, c. 820, §2 (NEW) .]

SECTION HISTORY

1983, c. 820, §2 (NEW) .

§1736. CROSSING OTHER PUBLIC UTILITIES

If any waste facility or portion of any waste facility of any disposal district formed under this chapter crosses the property or line of any public utility, unless consent is given by the public utility as to place, manner and conditions of the crossing within 30 days after consent is requested by the district, the Public Utilities Commission shall determine the place, manner and conditions of the crossing. All work on the property of the public utility shall be done under the supervision and to the satisfaction of the public utility, but at the expense of the district. If any facility or portion of any facility of any disposal district crosses the property or line of any railroad corporation, the procedure shall be the same as set out in this section, except that the Department of Transportation shall be substituted for the Public Utilities Commission. Nothing in this section authorizes any disposal district to take by right of eminent domain any of the property or facilities of any public utility used, or acquired, for future use by the owner, in the performance of a public duty, unless expressly authorized by a special Act of the Legislature. [1983, c. 820, §2 (NEW) .]

SECTION HISTORY

1983, c. 820, §2 (NEW) .

§1737. RULES

The directors may from time to time adopt rules to regulate the handling, collection, transportation, resource conservation, resource recovery and disposal of solid waste within the district. [1983, c. 820, §2 (NEW) .]

SECTION HISTORY

1983, c. 820, §2 (NEW) .

§1738. DELIVERY OF SOLID WASTE

Prior to a municipality becoming a member of a district or contracting with a district for disposal services, where a district waste facility meets the requirements of section 1304-B, at the discretion of the board of directors of the district, a municipality may be required to enact an ordinance controlling solid waste delivery in accordance with section 1304-B. [1983, c. 820, §2 (NEW).]

SECTION HISTORY

1983, c. 820, §2 (NEW).

§1739. SETTING FEES AND OTHER CHARGES

The directors may from time to time establish and adjust a structure for fees, including penalty charges, for collection services and transportation and for disposal of solid waste in and upon facilities operated by, on behalf of or under contract with, the district, subject to section 1752. [1983, c. 820, §2 (NEW).]

SECTION HISTORY

1983, c. 820, §2 (NEW).

§1740. ANNUAL AUDIT

Each year an audit shall be made of the accounts of the district, and for this purpose authorized agents of a certified public accounting firm appointed by the directors shall have access to all necessary papers, books and records. Upon the completion of each audit, a report shall be made to the chairman of the district board of directors and a copy shall be sent to the municipal officers of each member municipality. [1983, c. 820, §2 (NEW).]

SECTION HISTORY

1983, c. 820, §2 (NEW).

§1741. SURPLUS REVENUES

If, at the end of any fiscal year, the district has realized a surplus from operations for the fiscal year, after payment of or provision for all current expenses, current maintenance, repairs and replacements, current debt service on all outstanding bonds and notes of the district, all reserves for debt service, repairs and replacements, costs or current expenses as may be required by a trust agreement or resolution securing bonds or notes or as may otherwise be maintained by the district, and any other amounts which the district may be obligated by law or contract to pay or provide for, the district shall either: [1983, c. 820, §2 (NEW).]

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

[1983, c. 820, §2 (NEW) .]

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

[1983, c. 820, §2 (NEW) .]

SECTION HISTORY

1983, c. 820, §2 (NEW).

Subchapter 4: BONDS AND NOTES

§1751. DISTRICT BONDS AND NOTES IN GENERAL

1. Authorization of bonds. Subject to the limitations in subsection 10 and sections 1754 and 1755, any district formed under this chapter may provide by resolution of its board of directors, without district vote, for the borrowing of money and the issuance from time to time of bonds and notes for any of its corporate purposes, including, but not limited to:

A. Paying and refunding its indebtedness; [1987, c. 737, Pt. C, §§99, 106 (AMD); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Paying any necessary expenses and liabilities incurred under this chapter, including organizational and other necessary expenses and liabilities, whether incurred by the district or any municipality in the district. The district may reimburse any municipality in the district for any such expenses incurred or paid by it; [1987, c. 737, Pt. C, §§99, 106 (AMD); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Paying costs directly or indirectly associated with acquiring properties, paying damages, constructing, maintaining and operating waste facilities, and making renewals, additions, extensions and improvements to the property or facilities, and covering interest payments during the period of construction and for such period as the directors may determine; [1987, c. 737, Pt. C, §§99, 106 (AMD); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Providing such reserves for debt service, repairs and replacements or other capital or current expenses as may be required by a trust agreement or resolution securing bonds or notes; [1987, c. 737, Pt. C, §§99, 106 (AMD); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Financing all or part of a waste facility for a user. The term "user," as used in this section, means one or more persons or entities, other than a district, acting as lessee, purchaser, mortgagor or borrower or contracting party; and [1987, c. 737, Pt. C, §§99, 106 (AMD); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. Any combination of these purposes. [1987, c. 737, Pt. C, §§99, 106 (AMD); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

Bonds may be issued by a district under this chapter as general obligations of the district or as special obligations payable solely from particular funds. The principal, premium and interest on all bonds shall be payable solely from the funds provided for that purpose from revenues. All bonds issued by a district under this chapter shall be legal obligations of the district, and all districts formed under this chapter are declared to be quasi-municipal corporations within the meaning of Title 30-A, section 5701. Bonds may be issued under this chapter without obtaining the consent of any commission, board, bureau or agency of the State or of any municipality encompassed by the district and without any other proceedings or the happening of other conditions or things other than those proceedings, conditions or things which are specifically required by this chapter. Except as provided in this subchapter, bonds issued by a district under this chapter do not constitute a debt or liability of the State or of any municipality encompassed by the district or a pledge of the faith and credit of the State or any such municipality, and a statement to that effect shall be recited on the face of the bonds.

[1987, c. 737, Pt. C, §§99, 106 (AMD); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

2. Notes. Any district formed under this chapter may also provide by resolution of its board of directors, without district vote, for the issuance from time to time of:

A. Notes in anticipation of bonds authorized under this chapter; [1983, c. 820, §2 (NEW).]

B. Notes in anticipation of the revenues to be collected or received in any year; or [1983 , c. 820 , §2 (NEW) .]

C. Notes in anticipation of the receipt of federal or state grants or other aid. The issuance of these notes shall be governed by the applicable provisions of this chapter relating to the issuance of bonds, provided that notes in anticipation of revenue must mature no later than one year from their respective dates and notes issued in anticipation of federal or state grants or other aid and renewals thereof must mature no later than the expected date, as determined by the board of directors, of receipt of those grants or aid. The board of directors may adjust the maturity date of notes issued in anticipation of federal or state grants or other aid to reflect changes in the expected date of receipt. Notes in anticipation of revenue issued to mature less than one year from their dates may be renewed from time to time by the issuance of other notes, provided that the period from the date of an original note to the maturity of any note issued to renew or pay the note or the interest thereon may not exceed one year. [1983 , c. 820 , §2 (NEW) .]

Any such district may enter into agreements with the State or the United States, or any agency of either, or any municipality, corporation, commission or board authorized to grant or loan money or to otherwise assist in the financing of projects of the type which that district is authorized to carry out, and to accept grants and borrow money from any such government, agency, municipality, corporation, commission or board as may be necessary or desirable to accomplish the purposes of the district.

[1983 , c. 820 , §2 (NEW) .]

3. Maturity; interest; form; temporary bonds. The bonds issued under this chapter shall be dated, shall mature at such time or times not exceeding 40 years from their date or dates and shall bear interest at such rate or rates as may be determined by the board of directors or determined pursuant to a formula approved by the board of directors or by a 3rd party rate-setting agent selected by the board of directors, and may be made redeemable before maturity, at the option of the district, at such price or prices and under such terms and conditions as may be fixed by the board of directors prior to the issuance of the bonds. The board of directors shall determine the form of the bonds, including any interest coupons to be attached, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any financial institution having trust powers within or without the State. Bonds shall be executed in the name of the district by the manual or facsimile signature of such officer or officers as may be authorized in the resolution to execute the bonds, but at least one signature on each bond shall be a manual signature. Coupons, if any, attached to the bonds shall be executed with the facsimile signature of the officer or officers of the district designated in the resolution. In case any officer, whose signature or facsimile signature appears on any bonds or coupons, ceases to hold that office before the delivery of the bonds, the signature or its facsimile shall nevertheless be valid and sufficient for all purposes, as if he had remained in office until the delivery. Notwithstanding any of the other provisions of this chapter or any recitals in any bonds issued under this chapter, all such bonds shall be deemed to be negotiable instruments under the laws of this State. The bonds may be issued in coupon or registered form, or both, as the board of directors may determine, and provision may be made for the registration of any coupon bonds as to principal alone and as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The board of directors may sell the bonds in the manner, either at public or private sale, and for such price as they may determine to be for the best interests of the district. The proceeds of the bonds of each issue shall be used solely for the purpose for which those bonds have been authorized and shall be disbursed in such manner and under such restrictions as the board of directors may provide in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds. The resolution providing for the issuance of bonds, and any trust agreement securing the bonds, may contain such limitations upon the issuance of additional bonds as the board of directors may deem proper, and these additional bonds shall be issued under such restrictions and limitations as may be prescribed by that resolution or trust agreement. Prior to the preparation of definitive bonds, the board of directors may,

under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when those bonds are executed and are available for delivery. The board of directors may provide for the replacement of any bond which is mutilated, destroyed or lost.

[1985, c. 337, §5 (AMD) .]

4. Pledges and covenants, trust agreement. In the discretion of the board of directors of any district, each or any issue of bonds may be secured by a trust agreement by and between the district and a corporate trustee, which may be any financial institution having trust powers within or without the State.

The resolution of the directors authorizing the issuance of the bonds or the trust agreement may pledge or assign, in whole or in part, the revenues and other moneys held or to be received by the district and any accounts and contract or other rights to receive the revenues or moneys, whether then existing or thereafter coming into existence and whether then held or thereafter acquired by the district and the proceeds thereof, and may convey or mortgage the waste facilities or any other properties of the district. The resolution may also contain provisions for protecting and enforcing the rights and remedies of the bondholders, including, but not limited to, covenants setting forth the duties of the district and the board of directors in relation to the acquisition, construction, reconstruction, improvement, repair, maintenance, operation and insurance of its waste facilities or any of its other properties; the fixing and revising of rates, tolls, assessments, rents, tipping fees and transportation charges and other charges; the application of the proceeds of bonds; the custody, safeguarding and application of revenues; the defining of defaults and providing for remedies in the event thereof, which may include the acceleration of maturities, the establishment of reserves and the making and amending of contracts. The resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of corporations. In addition, the resolution or trust agreement may contain such other provisions as the board of directors may deem reasonable and proper for the security of the bondholders, including means by which the resolution or trust agreement may be amended. All expenses incurred in carrying out the resolution or trust agreement may be treated as a part of the cost of operation. The pledge by any such resolution or trust agreement shall be valid and binding and shall be deemed continuously perfected for the purposes of the Uniform Commercial Code from the time when the pledge is made. All revenues, moneys, rights and proceeds so pledged and thereafter received by the district shall immediately be subject to the lien of the pledge without any physical delivery or segregation thereof or further action under the Uniform Commercial Code or otherwise, and the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the district irrespective of whether those parties have notice thereof.

The resolution authorizing the issuance of bonds under this chapter, or any trust agreement securing those bonds, may provide that all or a sufficient amount of revenues and assessments, after providing for the payment of the cost of repair, maintenance and operation and reserves therefor as may be provided in the resolution or trust agreement, shall be set aside at such regular intervals as may be provided in the resolution or trust agreement and deposited in the credit of a fund for the payment of the interest on and the principal of bonds issued under this chapter as the bonds shall become due, and the redemption price or purchase price of bonds retired by call or purchase. The use and disposition of moneys in or to the credit of the fund shall be subject to such regulations as may be provided in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds and, except as may otherwise be provided in the resolution or trust agreement, the fund shall be a fund for the benefit of all bonds without distinction or priority of one over another.

[1983, c. 820, §2 (NEW) .]

5. Trust funds. Notwithstanding any other provision of law, all money set aside for payment of the bonds, or other purposes pursuant to the provisions of any trust agreement securing the bonds, shall be deemed to be trust funds, to be held and applied as provided by the trust agreement; provided that investment or deposit of those funds shall be subject to the provisions applicable to municipal funds under Title 30-A, chapter 223, subchapter III-A. The resolution authorizing the issuance of bonds or the trust agreement

securing the bonds shall provide that any officer to whom, or bank, trust company or other financial institution or fiscal agent to which, money shall be paid shall act as trustee of money and shall hold and apply the same for the purposes hereof, subject to such regulations as may be provided in the resolution or trust agreement or as may be required by this chapter.

[1987, c. 737, Pt. C, §§99, 106 (AMD); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

6. Remedies. Any holder of bonds issued under this chapter or of any of the coupons appertaining to those bonds, and the trustee under any trust agreement, except to the extent the rights given may be restricted by the resolution authorizing the issuance of those bonds or trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, including proceedings for the appointment of a receiver to take possession and control of the properties of the district, protect and enforce any and all rights under the laws of the State or granted under this chapter or under the resolution or trust agreement, and may enforce and compel the performance of all duties required by this chapter or by the resolution or trust agreement to be performed by the district or by any officer of the district, including the fixing, charging and collecting of rates, fees and charges for the use of or for the services and facilities furnished by the district, or if applicable, the making of any assessments against member municipalities under section 1756.

[1983, c. 820, §2 (NEW) .]

7. Refunding bonds. Any district formed under this chapter by resolution of its board of directors, without district vote, may issue refunding bonds for the purpose of paying any of its bonds at maturity or upon acceleration or redemption. The refunding bonds may be issued at such time prior to the maturity or redemption of the refunded bonds as the board of directors deems to be in the public interest. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium thereon, any interest accrued or to accrue to the date of payment of those bonds, the expenses of issuance of the refunding bonds, the expenses of redeeming the bonds being refunded and such reserves for debt service or other capital or current expenses from the proceeds of the refunding bonds as may be required by a trust agreement or resolution securing bonds. The issuance of refunding bonds, the maturities and other details thereof, the security therefor, the rights of the holders thereof, and the rights, duties and obligations of the district in respect of the same shall be governed by the applicable provisions of this chapter relating to the issuance of bonds other than refunding bonds.

[1983, c. 820, §2 (NEW) .]

8. Tax exemption. All bonds, notes or other evidences of indebtedness issued under this chapter, and their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the State.

[1983, c. 820, §2 (NEW) .]

9. Bonds declared legal investments. Bonds and notes issued by any district under this chapter are made securities in which all public officers and public bodies of the State and its political subdivisions, all insurance companies and associations and other persons carrying on an insurance business, trust companies, banks, bankers, banking associations, savings banks and savings associations, including savings and loan associations, credit unions, building and loan associations, investment companies, executors, administrators, trustees and other fiduciaries, pension, profit-sharing, retirement funds and other persons carrying on a banking business, and all other persons who are now, or may hereafter be, authorized to invest in bonds or other obligations of the State, may properly and legally invest funds, including capital in their control or belonging to them. The bonds and notes are made securities which may properly and legally be deposited

with and received by any state, municipal or public officer, or any agency or political subdivision of the State, for any purpose for which the deposit of bonds or other obligations of the State is now or may hereafter be authorized by law.

[1983, c. 820, §2 (NEW) .]

10. Certain bond issues; notice; special meeting; vote. In the event that the directors vote to authorize bonds or notes, for any of the corporate purposes of a refuse disposal district, excluding notes payable within one year, or notes in anticipation of the revenues to be collected or received in any year or notes in anticipation of bonds which have already been authorized in accordance with this chapter, or notes in anticipation of the receipt of approved federal or state grants, the authorized amount of which, singly or in the aggregate included in any one financing, is \$1,000,000 or more, the directors shall provide notice to the general public:

A. Of the proposed bond or note issue and the purposes for which the debt is being incurred; and
[1983, c. 820, §2 (NEW) .]

B. Call a special district meeting for the purpose of permitting the collection of testimony from the public concerning the amount of the debt so authorized. Notice of the proposed bond or note issue, the purposes for which the debt is being issued and the call of the special meeting shall be published at least once in a newspaper having general circulation in the district. [1983, c. 820, §2 (NEW) .]

No debt may be incurred under the vote of the directors until the expiration of 7 full days following the date on which the special district meeting was held. If, prior to the expiration of that period, a petition signed by at least 5%, but not less than 50, of the registered voters of the district is filed with the clerk of the district requesting reference of the vote of the directors to referendum, the clerk of the district shall call and hold a special election of the voters of the district for the purpose of submitting to referendum vote the question of approving the vote of the directors. The vote of the directors shall be suspended until it has received approval by vote of a majority of the voters of the district voting on the question at the special election.

[1983, c. 820, §2 (NEW) .]

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

[1983, c. 820, §2 (NEW) .]

SECTION HISTORY

1983, c. 820, §2 (NEW). 1985, c. 337, §5 (AMD). 1987, c. 737, §§C99,C106 (AMD). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,C10 (AMD).

§1752. CHARGES

All persons, firms and corporations, whether public, private or municipal, shall pay to the treasurer of any district formed under this chapter the rates, tolls, assessments, rents, tipping fees, transportation charges and other charges established by the directors for services provided by the district. In this subchapter, the words "other charges" shall include, but not be limited to, interest on delinquent accounts at a rate not to exceed the highest lawful rate set by the Treasurer of State for municipal taxes. The district may submit periodic bills directly to individual users or to member municipalities, as determined by the directors.
[1983, c. 820, §2 (NEW) .]

A district may establish schedules of charges by any method determined by the directors. [1983, c. 820, §2 (NEW) .]

The rates, tolls, assessments, rents, tipping fees and transportation charges and other charges shall be so established as to provide revenue at least sufficient, together with any other moneys available therefor, to:
[1983, c. 820, §2 (NEW).]

1. Current operating expenses. Pay the current expenses of operating and maintaining the waste facilities of the district;

[1983, c. 820, §2 (NEW) .]

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

[1983, c. 820, §2 (NEW) .]

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

[1983, c. 820, §2 (NEW) .]

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

[1983, c. 820, §2 (NEW) .]

5. Payment of obligations. Pay or provide for any and all amounts which the district may be obligated to pay or provide for by law or contract, including any resolution or contract with or for the benefit of the holders of its bonds and notes.

[1983, c. 820, §2 (NEW) .]

SECTION HISTORY

1983, c. 820, §2 (NEW).

§1753. COLLECTION OF UNPAID CHARGES

The treasurer of the district may collect the rates, tolls, assessments, rents, tipping fees, transportation charges and other charges established by the district and those charges shall be committed to him. The treasurer may, after demand for payment, sue in the name of the district in a civil action for any rate, toll, rent, assessment, tipping fee, transportation charge or other charges remaining unpaid in any court of competent jurisdiction. In addition, the treasurer may order the termination of service for nonpayment of any amount owed to the district. [1983, c. 820, §2 (NEW).]

SECTION HISTORY

1983, c. 820, §2 (NEW).

§1754. GUARANTEE BY MUNICIPALITIES OF DISTRICT BONDS AND NOTES

1. Guarantee of bonds and notes. Subject to approval by a vote of the inhabitants of the district, as provided in subsection 2 or 3, the district board of directors may provide by resolution for the issuance, at one time or from time to time, of guaranteed notes and bonds of the district for any purpose for which the district may issue debt. Except as otherwise provided, notes and bonds issued by the district, in accordance with this section, must be authorized, issued and sold in the same manner as and subject to the other provisions of this subchapter relating to notes and bonds. The principal, premiums, if any, and interest on notes and bonds issued under this section must be guaranteed by the member municipalities of the district and the full faith and credit of the member municipalities must be pledged for the guarantee provided in this section. The

share of liability of each member municipality for the guaranteed notes and bonds must be established in accordance with either the valuation method established under subsection 4, paragraph A or the per capita method established under subsection 4, paragraph B.

[1993, c. 11, §4 (AMD) .]

2. Application of guarantee. The guarantee provided for under this section shall apply to notes and bonds of the district designated by the district board of directors under subsection 1, if, at the time of district formation under section 1721, the inhabitants of the proposed member municipalities of the district confer that authority upon the board of directors and establish a ceiling or limit on the aggregate amount of notes and bonds guaranteed by member municipalities which may be issued by the district under this section. The referendum ballot to form the district shall include a statement listing each member municipality's fractional share of liability for guaranteed notes and bonds which may be issued under this section.

The articles to be voted upon shall be in substantially the following form:

A. To see if the residents of the town (or city) of (name of town or city) will authorize the board of directors of (name of district or proposed district) to issue notes (or bonds) of the district which will be guaranteed in part by (name of municipality) and to which guarantee will be pledged the full faith and credit of (name of municipality). [1983, c. 820, §2 (NEW) .]

B. To see if the residents of the town (or city) of (name of town or city) will establish a ceiling in the aggregate amount of \$ on guaranteed notes (or bonds) which may be issued by (name of district or proposed district). [1983, c. 820, §2 (NEW) .]

C. To see if the residents of the town (or city) of (name of town or city) will authorize the board of directors of (name of district or proposed district) to proportionally allocate liability for notes (or bonds) of the district based on the (most recent state valuation of property, or the most recent census of residents) of (name of town or city). [1993, c. 11, §5 (NEW) .]

[1993, c. 11, §5 (AMD) .]

3. Authority to issue guaranteed notes and bonds; referendum. If the referendum vote establishing the district does not confer authority upon the board of directors to issue guaranteed notes and bonds, a subsequent referendum may be held in which these questions are submitted to the inhabitants of each municipality comprising the district for a vote. Where a vote is taken under this subsection after formation of the district, the votes shall be counted in each municipality and the affirmative vote of a simple majority of votes cast shall be required in each municipality in order for the article to pass. The referendum vote to form the district shall include a statement listing each member municipality's fractional share of liability for guaranteed notes and bonds which may be issued under this section.

The articles to be voted upon shall be in substantially the same form as the articles under subsection 2.

[1983, c. 820, §2 (NEW) .]

4. Establishing share of liability among members. A district shall establish the share of liability of each member municipality for guaranteed notes and bonds issued under this section as either:

A. A fraction, the numerator of which is the most recent state valuation of all property within the member municipality and the denominator of which is the most recent state valuation of all property located within the member municipalities of the district; or [1993, c. 11, §6 (NEW) .]

B. A fraction, the numerator of which is the most recent census of all residents of the member municipality and the denominator of which is the most recent census of all residents of the member municipalities of the district. [1993, c. 11, §6 (NEW) .]

The fractional method used to establish the share of liability for guaranteed notes and bonds must be the same for all of the district's member municipalities.

[1993, c. 11, §6 (NEW) .]

5. Changes in method for sharing liability apply prospectively. The fractional share of liability among member municipalities in effect at the time a guaranteed note or bond is issued is the fractional share of liability in effect for the term of that note or bond. An article authorizing a district to issue guaranteed notes or bonds may be amended to change the method used by that district to allocate liability for bonds and notes only by submitting that question to the inhabitants of the district in the same manner as that prescribed in this section. If a change in the method used to allocate liability for bonds and notes is approved by the inhabitants of the district, the new method of allocation is effective only for notes or bonds issued after the date the change is approved by the inhabitants of the district.

[1993, c. 1, §135 (COR) .]

SECTION HISTORY

1983, c. 820, §2 (NEW). RR 1993, c. 1, §135 (COR). 1993, c. 11, §§4-6 (AMD).

§1755. POWER OF ASSESSMENT FOR EXPENSES AND COSTS NOT COVERED BY OTHER DISTRICT REVENUES

1. Power of assessment; question. At such time as the question of the formation of the proposed district and other questions relating thereto are submitted to the legal voters of the various municipalities comprising the proposed district, an additional question may be submitted with regard to granting the district assessment power, which question shall be in substantially the following form:

To see if the residents of the town (or city) of (name of town or city) will grant assessment authority to the directors of (name of district) over the member municipalities which are to comprise the district for the purpose of paying expenses and costs of the district which are not covered by other district revenues.

The assessments so authorized shall be shared by member municipalities of the district under the same formula as guarantees are shared pursuant to section 1754, and the referendum ballot shall include a statement listing the fractional share of the assessment to be borne by the member municipality.

[1983, c. 820, §2 (NEW) .]

2. Subsequent question. Subsequent to the formation of the district, if assessment authority was not conferred upon the district at the time of formation, the question may be addressed to the legal voters of the district in substantially the same form as prescribed pursuant to subsection 1.

Where a vote is taken under this subsection after formation of the district, the votes shall be counted in each municipality and the affirmative vote of a simple majority of votes cast shall be required in each municipality in order for the question to pass. The assessments so authorized shall be shared by member municipalities of the district under the same formula as guarantees are shared pursuant to section 1754, and the referendum ballot shall include a statement listing the fractional share of the assessment to be borne by the member municipality.

[1983, c. 820, §2 (NEW) .]

SECTION HISTORY

1983, c. 820, §2 (NEW).

§1756. DISTRICT ASSESSMENTS

Where assessment authority is granted to a district pursuant to section 1755, the district shall have that assessment power with respect to the member municipalities and any assessments made shall follow these procedures. [1983, c. 820, §2 (NEW).]

1. Warrant. In substantially the same form as a warrant of the Treasurer of State for taxes, the board of directors shall issue its warrants to the assessors of each member municipality requiring them to assess upon the taxable estates within the municipality an amount which is that municipality's share of the district's expenses and costs which are not covered by other revenues of the district, as determined by the board of directors after preparation of the district budget.

[1983, c. 820, §2 (NEW) .]

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

[1983, c. 820, §2 (NEW) .]

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

[1983, c. 820, §2 (NEW) .]

4. Payment. Each member municipality shall pay the amount of the tax assessed in the fiscal year against the municipality to the treasurer of the district. The payments shall be paid in monthly installments on or before the 20th of each month.

[1983, c. 820, §2 (NEW) .]

5. Enforcement. If a member municipality fails to pay the installment due, or any part, on the dates required, the treasurer of the district may issue a warrant for the amount of the unpaid tax to the county sheriff requiring the sheriff to levy by distress and sale on the real and personal property of any of the inhabitants of the municipality where that default takes place. The sheriff or sheriff's deputies shall execute the warrant. In collecting taxes within member municipalities, the board of directors shall have the same power as county officials for the collection of county taxes under Title 36, chapter 105, subchapter IX.

[1983, c. 820, §2 (NEW) .]

SECTION HISTORY

1983, c. 820, §2 (NEW).

§1757. BONDS ISSUED BY MUNICIPALITIES

For the purpose of assisting a district in financing any solid waste facility authorized by this chapter, and notwithstanding any other provision of law, any individual municipality may issue general obligation bonds backed by the full faith and credit of the municipality. Proceeds of the bonds or any part thereof may be either loaned or contributed to a district of which a municipality is a member. The issuance of the bonds and the loaning or contributing of funds to a district formed under this chapter shall constitute a valid purpose for which a municipality may raise or appropriate money under Title 30-A, sections 5721 to 5728. General obligation bonds issued by a municipality under this section shall be a municipal security as defined in Title 30-A, section 5903, and shall be eligible for purchase by the Maine Municipal Bond Bank. Nothing in this section may be read or construed to prohibit a municipality acting under this section from levying user fees and charges and discharging its debt out of the funds generated by the fees and charges. A municipality

issuing bonds under this section and a district receiving the proceeds of the bonds may enter into such contracts and agreements as they may agree upon, both with each other and 3rd parties, establish trust or enterprise funds to provide for timely payment of the bonds, employ a trustee and do all things which may be necessary or convenient to the district or the municipality to make use of the bonds, as may be determined by the board of directors of the district and the municipal officers of the municipality. [1987, c. 737, Pt. C, §§100, 106 (AMD); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

1983, c. 820, §2 (NEW). 1987, c. 737, §§C100,C106 (AMD). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,C10 (AMD).

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