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MEMORANDUM

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To: Ramsey/Washington Recycling & Energy

From: Kevin D. Johnson, Partner
Ian Johnson, Associate

Re: Potential Future Governance Options Analysis

I. Introduction

This memorandum provides an overview of two potential governance approaches for the continued oversight and management of the joint solid waste management system between Ramsey and Washington Counties. The two governance approaches are:

- A. An enhanced joint powers board, which is the basic governance form currently being used by the two Counties, and is authorized by *Minn. Stat. §471.59*; and
- B. Establishment of a solid waste management district, which is an alternate governance option:
 1. As provided by *current Minn. Stat. §§115A.62 to .72*.
 2. As provided by *proposed waste management district legislation*. The proposed legislation is attached as Exhibit A.

II. Enhanced Joint Powers Board

The Joint Exercise of Powers Act (Act), *Minn. Stat. §471.59*, provides a flexible tool that government units can use to work cooperatively to provide services to their communities.

Although the Act has undergone numerous changes since it was adopted in 1943, the primary purpose remains the same -- to allow governmental units to jointly or cooperatively undertake the exercise of governmental powers.

The Act provides that two or more “governmental units” may enter into a joint powers agreement (JPA). The Act defines a “governmental unit” as all local units of government in Minnesota or any other state, state agencies, and federal agencies, including all instrumentalities of government.

The decision to enter into a JPA must be made through formal action by the governing bodies of the participating governmental units. Under *Minn. Stat. §471.59, subds. 1–2*, the agreement must clearly state its purpose, the powers to be exercised, and the method by which those powers will be carried out. Governmental units may jointly exercise any power common to the parties. This statutory framework allows counties to delegate nearly all powers common to them, including all solid waste management responsibility and authority, to a JPB, provided such delegation is explicitly stated in the agreement.

Ramsey and Washington Counties could, therefore, expand the authority of the existing R&E Board to include additional solid waste responsibilities that are not held by the current JPB. This would be the enhanced JPB option.

Minn. Stat. § 473.811, subd. 7 authorizes governmental units to collaborate under the Joint Powers Act, or any other applicable law providing for joint or cooperative action, to carry out various solid waste management activities, including solid waste planning. A joint powers board can be delegated any power that is common to the counties, with the exception of taxation. Accordingly, participating counties may delegate the authority to approve a joint solid waste management plan (SWMP) to a JPB. If such delegation is clearly stated in the agreement, final approval by individual county boards of the SWMP would not be required.

However, counties may not delegate the authority to pledge their full faith and credit or taxing power to a JPB. Additionally, under *Minn. Stat. §115A.46, subd. 4*, a county may not delegate any portion of its solid waste management responsibilities unless it establishes a funding mechanism to ensure the delegated entity can adequately fulfill those responsibilities. Therefore, if a county chooses to delegate all its solid waste authority to a JPB, the JPA must include one or more funding mechanisms that ensure the board has sufficient resources to carry out its duties.

Through the adoption of a JPA, two or more governmental units may establish a joint powers entity, along with a governing board. Except for limited circumstances not present in the instant case, the governing board must be composed solely of members of the governing bodies of the governmental units that established the joint powers entity, and the members of the governing board must be representative of the parties to the JPA. A JPA may be continued for a definite term or until rescinded or terminated in accordance with its terms.

A. Authority of Joint Powers Entity

- 1. Property Acquisition.** A joint powers entity may acquire property,

provided that the JPA includes a provision that sets forth the process for the disposition of any property acquired through the joint exercise of powers. The JPA must also provide for the return of any surplus funds upon the completion of the purpose of the JPA in proportion to contributions of the contracting parties.

2. **Issuance of Bonds.** A joint powers entity may issue bonds or obligations pursuant to any law allowing the governmental units to issue bonds or obligations independently. The bonds or obligations must be issued in the same manner, and are subject to the same conditions and limitations, that would apply if the individual governmental unit were to issue the bonds or obligations. Obligations or other forms of debt incurred are the obligations of the joint powers entity on behalf of the governmental units party to the JPA. The joint powers entity may use the proceeds to carry out the purpose of the law authorizing the issuance of the bonds or obligations. The governing bodies of the governmental units party to the JPA must expressly grant the authority to the joint powers entity to issue obligations or other forms of indebtedness. If a joint powers entity is given the authority to issue bonds or other obligations it must be composed solely of members of the governing bodies that established the joint powers entity. Given that the JPB cannot be delegated the ability to pledge the full faith and credit nor taxing authority, the types of bonds issued by JPBs are likely limited to revenue bonds secured by revenues generated by the financed project. More likely is the approach in which one or more of the member entities use their full faith and credit and taxing authority to issue general obligation bonds with the proceeds utilized by the JPB under a financing agreement. For example, this was the approach utilized when the R&E Board acquired the R&E Center in Newport on December 31, 2015.
3. **Collection and Disbursement of Funds.** The JPA may provide for the payment into and disbursement of public funds to carry out the purposes of the agreement. The method of disbursement shall agree as far as practicable with the method provided by law for the disbursement of funds by the parties to the agreement. Contracts and purchases made shall conform to the requirements applicable to contracts and purchases of any one of the parties, as specified in the agreement. Also, the JPA must provide for strict accountability and reporting of all funds and receipts must be provided for.
4. **Employees.** The JPA may provide for the joint powers entity to hire and manage its own employees.
5. **Public/Private Partnerships.** The JPA may provide for the joint powers board to enter into public/private partnerships. Joint powers boards may exercise any power common to the contracting parties or any similar powers, which includes entering into contracts for services and facilities.

6. **Alteration of a Joint Powers Entity.** An additional county can be added to a joint powers board by creating a new joint powers agreement with the additional county. Under *Minn. Stat. §471.59, subd. 1*, two or more governmental units may jointly exercise any power common the contracting parties. Therefore, any power common to all of the counties that are a part of the joint powers agreement can be exercised by the joint powers board.

To have a new county join a joint powers board, the current JPA must be formally amended to include the new county as a participating member. The powers exercised in the JPA, or delegated to it, must be common to all participating counties. The county board of the prospective member county must formally approve the amended JPA and consent to join the JPB. The existing member counties of the JPB must also approve the amended JPA to allow entrance of the new member county.

In order for a county to leave a joint powers board, it must follow the process for withdrawal that is set out in the JPA. A withdrawal provision will generally include some sort of notice period and settlement of financial and other obligations that must be fulfilled as a part of the withdrawal.

7. **Dissolution of a Joint Powers Board.**

A joint powers board may be dissolved according to the terms outlined in the JPA. For example, the current R&E JPA states that the JPA can be terminated by mutual agreement of both Counties. Dissolution or termination provisions also generally provide procedures for the distribution of assets, settlement of liabilities, and termination of responsibilities.

B. **Limits on Joint Powers**

1. **Commonality of Powers.** The Act prohibits a joint powers entity from exercising any powers not held in common among the governmental units. Under the Act, governmental units may only jointly exercise powers that are common to all parties. In other words, each governmental unit that is a party to the JPA must have independent authority to exercise the power that is delegated to the JPA.

This means that, in terms of solid waste management powers, creating a JPB can be problematic when involving one or more Twin Cities metropolitan area (Metro) counties, which are primarily governed by the solid waste powers in *Minn. Stat. Chap. 473*, and one or more counties located outside the metropolitan area (Non-Metro), which are primarily governed by *Minn. Stat. Chap. 400*. In this case, the JPA would need to be

very carefully drafted to ensure commonality of the powers being delegated to the JPB, which could mean limiting the overall scope of powers delegated.

2. **Liability for Obligations.** A joint powers entity may not pledge the full faith and credit or taxing power of any of the governmental units that established the joint powers entity.

As noted earlier, under *Minn. Stat. §471.59* a JPB cannot pledge the full faith and credit or taxing authority of any participating governmental unit. However, a JPB could issue revenue bonds.

3. **Taxation/Service Charges.** Although joint powers entities cannot be delegated general property tax authority, participating counties could delegate their solid waste service charge authority to a JPB. *Minn. Stat. §400.08* provides solid waste service charge authority to Non-Metro counties, and *Minn. Stat. §473.81, subd. 3a* provides that Metro counties have the authority provided in *§400.08*. The basic authority provided is: “establish by ordinance, revise when deemed advisable, and collect just and reasonable rates and charges for solid waste management services provided by the county or by others under contract with the county.” Because of this commonality of power among Metro and Non-Metro counties, this is an example of a power that could be delegated to a Metro/Non-Metro JPB. Both Ramsey and Washington counties have used this authority to establish their County Environmental Charges (CEC). It would be possible for member counties to delegate their entire solid waste service charge authority to a JPB, or to delegate the authority for only the subset of solid waste management services delegated to the JPB, while retaining such service charge authority for the solid waste management services retained by the member counties. However, this split of service charge authority would need to be carefully executed to avoid potential confusion or overlapping charges. The JPA would thus need to clearly define delegated and retained services, billing responsibilities, and coordination mechanisms.

C. **Potential Joint Powers Authority Liabilities**

1. **General Liability.**

Caselaw applicable in Minnesota has long maintained that injured parties can make claims against each of the individual governmental units for damages caused by the activities of a joint venture of the governmental units. *Reimer v. City of Crookston*, 421 F.3d 673 (8th Cir. 2005). The *Reimer* court also declined to apply the statutory limitations on government liability (municipal tort liability limits) for damages to the joint venture and

instead allowed the plaintiffs to recover the maximum award allowable from each governmental unit participating in the joint venture.

In 2006, just following the disposition of the *Reimer* case, the Minnesota Legislature amended the joint powers statute to be explicit that one unit of government participating in a joint powers arrangement is not responsible for the acts or omissions of another governmental unit participating in the joint venture or joint enterprise, unless agreed to in writing. *Minn. Stat. §471.59, subd. 1a*. The statute further provides that a joint powers entity formed under *Minn. Stat. §471.59* and the participating units of government are considered a single unit of government for the purposes of municipal tort liability limits.

Further, governmental units party to the JPA cannot be held liable for the actions of the members of the governing board if the JPA did not expressly grant the members of the governing board the power to conduct such actions. *City of Geneseo v. Utilities Plus*, 533 F.3d 608 (8th Cir. 2008).

However, it may still be possible for members of a JPB to be held liable for the actions of the JPB. In order to mitigate this risk, the Minnesota Counties Intergovernmental Trust (MCIT) recommends that individual members of a joint powers entity receive a written hold harmless and indemnification provision from the joint entity. The Recycling & Energy Board's JPA does provide such a hold harmless and indemnification provision to the two member counties.

2. **Environmental Liability.** The primary source of potential environmental liability for a JPB arises under Minnesota environmental laws, including the State's mini-Superfund liability law, the Minnesota Environmental and Liability Act (MERLA). *Minn. Stat. Chap. 115B*. Under MERLA, any person responsible for the release or threatened release of hazardous substances is strictly liable, jointly and severally, for response costs and damages resulting from the release. Political subdivisions, including those participating in joint powers agreements, are subject to liability under MERLA, but their liability is limited to the statutory caps specified in *Minn. Stat. § 466.04*.

For the purpose of determining whether environmental liability may attach to the parties of a joint powers entity, the Minnesota Appeals Court has stated: "it is not clear whether a separate legal entity is created when governmental units act pursuant to the Joint Exercise of Powers Act, *Minn. Stat. § 471.59*. Neither is it clear, if an entity indeed is created, whether that entity has the attributes of a corporation or partnership, or is simply an agent acting on behalf of the principal member government units." *In re Matter of Greater Morrison Sanitary Landfill, SW-15*, 435 N.W.2d 92, 96 (Minn.

St. App. 1989), review denied (Minn. Mar. 29, 1989).

The *Morrison* court went on to determine that, unlike bonds where the full faith and credit of the counties may not attach to the debt issuance of a joint powers entity, the “public cannot risk its natural resources” and must be guaranteed funds necessary to safely and properly close the landfill in question. A guarantee from a joint powers board, that may or may not be adequately funded, is insufficient. As a result, joint powers boards cannot be treated like a corporation in such a situation and the guaranty must come from the full faith and credit of the member governmental units. *Id.*

As mentioned above, the Legislature amended the joint powers statute to provide greater certainty than what was present when the *Morrison* court was reviewing the statute - at least with respect to how to look at a joint venture entity for the purposes of damage calculations. The courts do not appear to have taken up this issue directly since the 2006 amendments.

Presumably, the *Morrison* proposition that the parties to a JPA essentially guarantee the environmental liabilities of the joint powers entity is still good law - only now potentially subject to a single, non-stackable tort liability limit. However, the environmental liability of members can potentially be mitigated through the use of the hold harmless and indemnification provision recommended by the MCIT.

D. **Employment Issues**

1. **Collective Bargaining.** In addition to having the authority to hire and fire employees, joint powers entities are able to enter into union contracts with employees. An amendment to the Minnesota Public Employee Labor Relations Act sets forth rules for joint powers entities that are formed after January 15, 2015. The new law establishes a specific process relating to employee unions for governmental units to follow when they form a joint powers entity. First, the continuing contract portion of the law guarantees that the employees that are assigned to a new joint powers entity would continue to be covered by the terms of collective bargaining agreement with their former employer until a new collective bargaining agreement can be reached. Second, the employees of the new joint powers entity will select an employee representative to negotiate a new collective bargaining agreement. Alternatively, if both sides agree, employees could be covered by the collective bargaining agreement that applies to the largest portion of the new employees who are assigned to the new entity.

Employees of the new joint powers entity could choose not to be unionized if the majority of employees transferred to the entity are not currently unionized. If the employees of the new joint powers entity are not

unionized, the employer has no obligation to continue the terms of a previous collective bargaining agreement.

2. **Employment Liability.** When a governmental unit coordinates the human resource responsibilities for a joint powers entity, it may be liable for employment claims based on those actions. Further an individual unit of government may be sued by an employee of the joint powers entity if that unit of government plays some role in the employment decisions. Plaintiffs have an interest in naming as many defendants as possible and the courts may engage in an intensive analysis of the facts to determine the employee-employer relationships. For example, in *Bushard v. Independent School District #833*, 2001 WL 32805 (Minn. Ct. App. 2001), the school district, a party to an interagency collaborative agreement, also served as the fiscal agent for the collaborative. When the collaborative was sued by an employee for breach of employment contract and retaliatory discharge, the trial court and appellate court examined the roles and responsibilities of the school district and the collaborative to assess whether the primary employment relationship was with the district or the collaborative.

III. Waste Management District – Current Law

In the early 1980s, the Minnesota Legislature established procedures for the creation of solid waste management districts in Minnesota pursuant to *Minn. Stat. §§ 115A.62 to 115A.72*. More than four decades later, no waste management districts have been formed in Minnesota pursuant to the waste district statute. Thus, the path forward to creation of a waste management district is uncharted and laden with associated risks. The statute, however, is detailed and identifies the powers and authority of an established district. The statute also sets forth a relatively specific process. Because the statute is nearly the exclusive guidance on waste management districts in Minnesota, we articulate below the major elements of the statute and key issues related to each element.

The summary below highlights the significant procedural and practical shortcomings of the current statute. Proposed legislation has been drafted to address these issues and modernize the framework for establishing solid waste management districts in Minnesota. Section V, will explain the proposed changes.

A. MPCA Rules

The Minnesota Pollution Control Agency (MPCA) has the authority to approve establishment of waste management districts. *Minn. Stat. §115A.63, subd. 2* directs the MPCA to promulgate rules governing the establishment, alteration, and termination of solid waste management districts. The MPCA has not promulgated such rules and has no current plans to do so. The absence of MPCA rules presents a potential legal issue in that MPCA could chose to reject a petition for establishment of a waste management district due to the lack of required rules, or a party seeking to challenge the creation of a district could potentially bring a claim

against the formation process due to the lack of rules. If the MPCA would need to first establish rules before entertaining a petition for a district, there could be significant time delays in moving forward this form of governance, depending upon the timeframe envisioned by Ramsey and Washington Counties. At a minimum, MPCA promulgation of rules governing districts pursuant to the statute would take at least one year, and likely much longer. It should be noted that MPCA staff have stated to R&E that the agency has no intention of promulgating waste management district rules and supports changing the district law. Therefore, the best alternative would be to seek legislation eliminating the requirement for such rules, especially given that the statute is very detailed and likely could be implemented without rulemaking.

B. District Petition Process

Pursuant to the statute, waste management districts must be established and their powers and boundaries defined by the MPCA only after a petition requesting the action is jointly submitted by the governing bodies comprising at least one-half of the counties partly or wholly within the proposed district. *Minn. Stat. §115A.64*. Note, then, that it would be possible for only one of two counties to submit a petition requesting the establishment of a district, or that two counties could submit a petition including a third that is not participating in the petition development process.

Key elements of a petition include:

- the name of the proposed district;
- a description and map of the boundaries of the proposed district or alteration thereto;
- resolutions of support for the district from petitioning governing bodies;
- a statement of the reason, necessity, and purpose for the district, plus a general description of the solid waste management improvements and facilities contemplated for the district showing how its activities will accomplish the purpose of the district; and
- articles of incorporation stating the powers of the district and provisions for representation and election of the board of directors of the district.

After the petition has been filed, no petitioner may withdraw from it except with the written consent of all other petitioners for the district. At this point the process and timeline is within the grasp of the MPCA, and without rules the steps and timing are not at all clear.

At least 60 days before submitting the petition to the MPCA, the petitioners shall publish notice of the petition in the proposed district and serve copies of the petition to agency, the governing body of each political subdivision which is wholly or

partly within the proposed district, or is affected by the proposed alteration, and each regional development commission affected by the proposed district or alteration. Parties served have 60 days within which to comment on the proposed district.

Upon receipt of the petition, the MPCA determines whether the petition conforms in form and substance to the requirements of law and rule. If the petition does not conform to the requirements, the MPCA shall return it immediately to the petitioners with a statement describing the deficiencies and the amendments necessary to rectify them. If the petition does conform to the requirements, and if comments have been received objecting to the establishment or alteration of the district as proposed, the MPCA shall request the Office of Administrative Hearings to conduct a hearing on the petition. The hearing shall be conducted in the proposed district in the manner provided for contested cases. If no comments have been received objecting to the establishment of the district as proposed, the MPCA may proceed to grant or deny the petition without the necessity of conducting a contested case hearing.

In the case of a conforming petition, MPCA must also prepare a report containing recommendations on the petition. This report must contain findings and conclusions on whether the proposed boundaries, purposes, powers, and management plans of the district serve the purposes of the proposed district, are appropriately related to the waste generation, collection, processing, and disposal patterns in the area, and are generally consistent with the purposes of the MPCA's regulatory program.

It should be noted that at this point it is very difficult to determine the level of detail required, the timeline, and the level of influence and authority the MPCA has over the petition and formation process of a waste district. This is largely because no rules or regulations on district formation have been established by the MPCA. Also, to date, zero waste districts have been formed in Minnesota under Section 115A, meaning there is no reference point or precedent for the formation process. It should be noted that the statute appears to grant the MPCA significant authority and influence over the contents of a district petition. The MPCA can refuse to approve a petition until the counties or governmental units drafting the petition implement the changes that the MPCA requires.

C. MPCA Order

After considering the report of the administrative law judge, if a contested case hearing has been held, the MPCA will make a final decision on the petition. If the commissioner finds and determines that the establishment or alteration of a district as proposed in the petition would not be in the public interest, the MPCA shall give notice to the petitioners of intent to deny the petition. If a contested case hearing has not already been held, the petitioners may then request a hearing within 30 days

of the notice of intent to deny the petition.

Following the hearing and the report of the administrative law judge, the MPCA must make a final decision on the petition. If the MPCA finds and determines that the establishment or alteration of a district as proposed in the petition is in the public interest, the MPCA shall, by order, establish the district, define its boundaries, and give it a corporate name. The order shall include articles of incorporation stating the powers of the district and the location of its registered office. Upon the filing of a certified copy of the order of the commissioner with the secretary of state, the district will become a political subdivision of the state and a public corporation, with the authority, power, and duties prescribed in state statutes and the MPCA order.

D. Termination

Once formed, a waste district has no set expiration, but rather a perpetual existence to the extent necessary to carry out its purpose. The procedure for termination of a district includes another petition process similar to the petition for creation and is subject to MPCA determination that its termination is in the public interest. Further, there are significant time and frequency restrictions on how often the MPCA can even entertain the prospect of termination of a district. The agency cannot entertain a petition within the first five years of the district's formation, nor can it entertain such a petition for the same district more often than once in five years.

In order to start a termination procedure, no less than one-half of the counties that are wholly or partly in the district must submit a petition to the MPCA stating the existence of the district is no longer in the public interest. If the petition is dismissed or denied, the petitioners must pay all costs and expenses of the proceeding. At the time of filing the petition, a bond shall be filed by the petitioners with the MPCA in such sum as the MPCA determines to be necessary to ensure payment of costs.

If objection is made against the petition for termination, a contested case hearing on the petition will be held in the waste district. If the MPCA determines that the termination of the district as proposed in the petition would not be in the public interest, the MPCA will give notice to the petitioner of intent to deny the petition. Much like the petition to create a district, and if a contested case hearing has not already been held, the petitioner may request a hearing within 30 days of the notice of intent to deny the petition.

Following the hearing and the report of the administrative law judge, the MPCA will make a final decision. If the petition is dismissed, all costs of the proceeding shall be assessed against the petitioner(s). If the MPCA determines that the existence of the district is no longer in the public interest, the MPCA shall by findings and order terminate the district.

E. **District Organization**

1. **Board.** The chair shall be elected from outside the board of directors by majority vote of the board of directors. The first chair shall serve for a term of two years. Members of the board of directors shall be residents of the district.
 - a. There is no explicit restriction on county commissioners from the originating counties being on a waste district board, provided that the waste district's articles of incorporation provide for this.
 - b. While there is a statutory restriction on public officers being on a *watershed district board*, there is no similar restriction for a waste district in the law. However, waste district formation and the board of directors are subject to the approval of the MPCA.

2. **Bylaws.** The bylaws of the district, and amendments thereto, shall be adopted by a majority vote of the board of directors unless the certificate of incorporation requires a greater vote. The bylaws shall state:
 - a. the manner and time of calling regular meetings of the representatives and the board of directors, not less than once annually;
 - b. the title, manner of selection, and term of office of officers of the district;
 - c. the term of office of members of the board of directors, the manner of their removal, and the manner of filling vacancies on the board of directors;
 - d. the powers and duties of the board of directors consistent with the order and articles of incorporation establishing the district;
 - e. the definition of a quorum for meetings of the board of directors, which shall be not less than a majority of the members;
 - f. the compensation and reimbursement for expenses for members of the board of directors; and
 - g. such other provisions for regulating the affairs of the district as the board of directors shall determine to be necessary.

3. **Boundaries.** *Minn. Stat. §115A.63, subd. 3* holds that no waste district shall be established wholly within one county. *Minn. Stat. §115A.64, subd. 2(2)* holds that the waste district petition must include a description of the territory and political subdivisions within and the boundaries of the proposed district or alteration thereto, along with a map showing the district or alteration. None of the relevant statutes contain any provisions that seem to prevent creating a waste district with boundaries that exclude portions of counties. This likely means that some areas of a county can be excluded when a waste management district is formed.

E. **District Alteration**

1. **Minn. Stat. 115A.64 Procedure for Establishing and Altering.** The procedure for altering an existing waste district is very similar to the procedure required for forming a waste district. A petition must be jointly submitted by the governing bodies of at least half of the counties within the district, including a resolution from the district's board of directors approving the alteration. The petition must include the district's name, a description and map of the territory, resolutions of support from petitioning counties, a statement of purpose, and articles of incorporation. Notice of the petition must be published in local newspapers, and copies served to relevant entities, which have 60 days to comment. The commissioner reviews the petition for conformity to legal requirements. If objections are received, a hearing is conducted. The commissioner then submits the petition to advisory councils for review and prepares a report. The commissioner makes a final decision, establishing or altering the district if it serves public interest and legal purposes, and files the order with the secretary of state.

2. **Duties of an Added-on County.** The responsibilities of district members are defined in the district's Articles of Incorporation and Bylaws. Any new member joining an existing district must adhere to these obligations. If the district requires waste designation for its members, the new member must delegate that authority to the district. Additionally, if the district has already enacted waste designation, the new member becomes subject to that designation upon joining.

F. **District Powers**

1. **Acquisition of property.** The district may acquire real or personal property deemed necessary for the exercise of its powers or the accomplishment of its purposes. The district may hold the property for its purposes and may lease or rent the property. The district may take possession of any property for which condemnation proceedings have been commenced at any time after the issuance of a court order appointing commissioners for its condemnation.

2. **Property exempt from taxation.** Any real or personal property owned, used, or occupied by the district for any authorized purpose is declared to be owned and occupied for public purposes, and shall be exempted from taxation by the state, except to the extent that the property is subject to the

sales and use tax, provided that those properties shall be subject to special assessments.

3. **Facilities and Services.** The district may construct, equip, develop, enlarge, improve, and operate solid waste facilities and services as it deems necessary and may negotiate contracts for the use of public or private facilities and services. The district shall contract with private persons for the construction, maintenance, and operation of facilities and services where the facilities and services are adequate and available for use and competitive with other means of providing the same service.

Under *Minn Stat. §115A.69, subs. 3 and 11*, a waste district may acquire property by purchase, lease, condemnation, gift, or grant, any right, title, and interest in and to real or personal property deemed necessary for the exercise of its powers of the accomplishment of its purposes. A waste district may also enter into any contract necessary for the exercise of its power. Under these clauses, it is likely that counties can transfer waste assets and waste-related county contracts (e.g. waste delivery agreements) to a waste district without cost (assuming that the original contracts are assignable/transferable).

4. **Rates and Charges.** The district may establish and collect rates and charges for the facilities and services provided by the district and may negotiate and collect rates and charges for facilities and services contracted for by the district. Before establishing or raising any rates and charges, the board of directors shall hold a public hearing regarding the proposed rates and charges.
5. **Employees.** The district may employ persons or firms and contract for services to perform engineering, legal, or other services necessary to carry out its functions.
6. **Waste Designation Authority.** A waste management district possessing designation authority in its articles of incorporation may be authorized to designate a resource recovery facility under the waste designation statutes.
7. **Waste Project Review.** The district may require that persons shall not acquire, construct, alter, reconstruct, or operate a solid waste facility within the district without prior consultation with and approval of the district.
8. **Solid Waste Authority and Bonding Powers.** A district has all the authority of a county for solid waste management purposes given to counties under *Minn. Stat. Chaps. 115A, 400, and 473*, except the authority to issue general obligation bonds or to levy property taxes. The authority to issue general obligation bonds and to levy property taxes must be

specifically delegated to the district by the governing body of each county that is a member of the district. This delegation of authority is irrevocable unless each member county agrees to the revocation.

A district may exercise the bonding powers provided to the extent the powers are authorized by the order of the MPCA in establishing the district and by its articles of incorporation. The district's bonds shall be sold, issued, and secured in the manner provided for revenue bonds and the district shall have the same powers and duties as a municipality and its governing body in issuing revenue bonds under that chapter. No election shall be required. The bonds may be sold at any price and at public or private sale as determined by the district and shall not be subject to any limitation as to rate.

A district may borrow money and incur indebtedness by issuing bonds and obligations which are payable solely:

- from revenues, income, receipts, and profits derived by the district from its operation and management of solid waste facilities;
- from the proceeds of warrants, notes, revenue bonds, debentures, or other evidences of indebtedness issued and sold by the district which are payable solely from such revenues, income, receipts, and profits;
- from federal or state grants, gifts, or other moneys received by the district which are available therefor.

Every issue of revenue bonds by the district is payable out of any funds or revenues from any facility of the district, subject only to agreements with the holders of particular bonds or notes pledging particular revenues or funds. If any facility of the district is funded in whole or in part by Minnesota waste management bonds issued under *Minn. Stat. §§115A.58 and 59*, the state bonds take priority. The district may provide for priorities of liens in the revenues between the holders of district obligations issued at different times or under different resolutions. The district may provide for the refunding of any district obligation through the issuance of other district obligations entitled to rights and priorities similar in all respects to those held by the obligations that are refunded.

9. **Hazardous Waste Regulation.** While statutes do not explicitly state that a waste management district has authority to regulate hazardous waste, it could be reasonably inferred that such authority is intended. Under *Minn. Stat. §115A.63, subd. 3*, a district formed in the metropolitan area must assume the same procedural and substantive responsibilities as a metropolitan county. Metropolitan counties clearly have authority to

manage household hazardous waste and are required under *Minn. Stat. § 473.811, subd. 5b* to regulate commercial and industrial hazardous waste through ordinance. Although this authority is distinct from solid waste regulation under *Minn. Stat. § 473.811, subd. 5a*, *Minn. Stat. § 473.811, subd. 5c* provides for county enforcement of both solid and hazardous waste regulations. Therefore, by extension, a district formed under *Minn. Stat. § 115A.63* may also possess hazardous waste regulatory authority, provided such powers are included in its articles of incorporation and bylaws.

10. **Other Powers.** The district may use, sell, or otherwise dispose of all of the products and energy produced by its facilities. It can enter into any contract necessary or proper for the exercise of its powers or the accomplishment of its purposes. The district may act under the provisions of the Joint Powers Act or any other law providing for joint or cooperative action between government units. The district may conduct research studies and programs, collect and analyze data, prepare reports, maps, charts, and tables, and conduct all necessary hearings and investigations in connection with its work and may advise and assist other government units on planning matters within the scope of its powers, duties, and objectives. It may procure insurance in amounts it deems necessary to insure against liability of the board of directors and employees or both, for personal injury or death and property damage or destruction, with the force and effect stated in chapter 466, and against risks of damage to or destruction of any of its facilities, equipment, or other property as it deems necessary.

Importantly, given its status as a public corporation and a political subdivision of the state, it is likely that a waste district can enter public/private partnerships with other entities in the same manner that a county can. For example, a waste district can work with a non-member county via a contractual arrangement, instead of having the county become a member of the waste district.

G. **Liability and Remaining County Responsibility**

1. When a waste district is formed the counties included in the district delegate their authority for solid waste management to the district. Under *Minn. Stat. §115A.715*, a district has all the authority of a county for solid waste management purposes as provided under *Chapters 115A, 400, and 473*, except for the authority to issue general obligation bonds or levy property taxes unless specifically delegated by the counties. *Minn. Stat. § 115A.715*. This delegation of authority is irrevocable unless all member counties agree to revoke it.
2. Under *Minn. Stat. §115A.63, subd. 3*, the MPCA shall require the petitioners

for a waste management district to prepare a comprehensive solid waste management plan, as outlined in *Minn. Stat. §115A.46*, or in the case of Metro counties *Minn. Stat. §473.803*, and the Metropolitan Solid Waste Policy Plan. This implies that the plan must be included with the petition to form the district. While existing county plans may serve as a foundation, a new, district-specific plan will likely be required. Once a district is formed and counties have delegated planning authority to it, those counties are not expected to separately approve the district's solid waste management plan. The district likely assumes full responsibility for planning under the delegated authority.

However, a county or a solid waste management district established under §§ 115A.62 to 115A.72 may not delegate any portion of its responsibility for solid waste management to another governmental unit or person unless it establishes a funding mechanism to ensure the entity can adequately carry out the delegated responsibilities (*Minn. Stat. § 115A.46*). This ensures that the delegated entity has the financial capability to manage the responsibilities effectively.

Although the legal implications have not been tested in court, the statutory framework under *Minn. Stat. Chap. 115A* suggests that a waste management district, being a public corporation and separate political subdivision, would assume responsibility and liability for waste management functions, rather than the individual counties. While not legally binding, the separation of solid waste authorities between the Western Lake Superior Sanitary District (WLSSD) and St. Louis County supports this interpretation.

IV. Issues with the Current Waste Management District Statutory Framework

A. Uncertain Process and Lack of MPCA Rules

One of the primary issues with the current waste management district statutory framework is the absence of rules from the MPCA. The statute directs the MPCA to promulgate rules governing the establishment, alteration, and termination of solid waste management districts. However, the MPCA has not yet established these rules and has no current plan to do so. This absence presents a potential legal issue, as a petition for the establishment of a waste management district could be denied or challenged due to the lack of required rules. If the MPCA needs to establish rules before entertaining a petition for a district, there could be significant delays in moving forward with this form of governance.

B. Uncertain Outcome

The current process in statute places the authority to decide on the form and function of a district with the MPCA. As noted, the statute grants the MPCA significant authority and influence over the contents of a district petition. The MPCA can refuse to approve a petition until the counties or governmental units drafting the petition implement the changes that the MPCA requires. In this way the agency could create a district with does not conform to the original interest of the counties.

C. Complex and Time-Consuming Process

Establishing a waste management district under the current statute is complex and time-consuming, involving extensive involvement with the MPCA.

D. Uncharted Territory

No waste management districts have been formed in Minnesota under the current statute. This lack of precedent adds another layer of uncertainty and risk to the process.

E. Extreme Difficulty in Modifying or Terminating a District

Once a district is formed, modifying or terminating it is complex and ultimately dependent on a determination by the MPCA that such a change is in the public interest. Any alteration to a district's boundaries or powers must begin with another formal petition jointly submitted by the governing bodies of at least half of the counties within the district. Once submitted, the petition undergoes a rigorous review process involving public notice and comment periods. This extensive procedural framework could create significant administrative and legal hurdles for any proposed modification.

V. Waste Management District – Proposed Legislation

A. District Formation and Transition Plan

The proposed legislation allows a waste management district to begin the process with a joint resolution of intent adopted by the governing body of each proposed member county. The resolution must name the proposed district, list the member counties, describe the anticipated benefits, and direct the counties to prepare a transition plan.

The proposed member counties must jointly prepare a draft transition plan that must include the following:

1. District name and registered office location;
2. Description and map of district boundaries;
3. Resolutions of intent from each county;
4. Evidence of approved county solid waste management plans;
5. Statement of how the district will further state solid waste policies;
6. Role of county employees in district staffing;
7. Inventory of facilities and services (public, private, county-owned);
8. List and schedule for transfer of plans, ordinances, permits, and contracts;
9. Description of how county-owned facilities will be transferred to the district and operated;
10. Financial details (funding sources, outstanding bonds, obligations)
11. Schedule for unified districtwide ordinances; and
12. Draft articles of incorporation

Then, each proposed member county must hold a public hearing in its jurisdiction to receive comments on the draft transition plan. Notice must be published between 15 and 45 days before the hearing and sent to all cities and towns in the county. The member counties must then prepare a final transition plan, revised as needed pursuant to comments, and a list of responses to comments received.

Each proposed member county will then adopt a joint resolution establishing the district, approving the final transition plan and articles of incorporation and authorizing filing with the Secretary of State. The Secretary of State will issue a certificate of incorporation which serves as conclusive evidence of the district's legal organization and establishment.

The district must prepare and submit a new solid waste management plan to the MPCA by a date specified in the district's bylaws. Until the district board approves a district-wide solid waste management plan, the district must enforce existing county plans and ordinances. The district is responsible for administering the transfer of county solid waste plans, ordinances, facilities, debt, contracts, and other functions and authorities necessary for the operation of the district.

This formation and transition process outlined in the proposed legislation is significantly more workable than the current statutory framework. The proposed legislation places the counties themselves at the center of decision-making, streamlines procedural requirements, and provides explicit guidance for transitioning existing county solid waste systems into a unified district. This is in contrast to the current law, which requires complex petitions, lengthy public notice periods, and substantial MPCA involvement without clear rules. The proposed legislation eliminates uncertainty, reduces administrative delays, and ensures that the transfer of assets, contracts, ordinances, and financial obligations is clearly

defined and managed locally.

B. Board Composition

Under the proposed legislation, the board of directors must be composed of at least five members, with each member county appointing one or more county commissioners as directors. Additional directors are appointed based on county population, ensuring proportional representation. This structure is an improvement over the current law, which only requires board members to be residents of the district and does not mandate county commissioner involvement. By specifying commissioner appointments, the proposed legislation strengthens transparency, accountability, and alignment with local priorities, while reducing the risk of governance by individuals who may not have direct ties to county leadership or constituents.

C. Authority, Powers, and Increased Taxing and Bonding Authority

The proposed legislation grants waste management districts broad solid waste management powers and clear financial authority, making them functionally equivalent to counties for solid waste management purposes. Waste districts have all the authority and responsibilities for solid waste management that are given to counties under *Minn. Stat. Chaps. 115A, 400, and 473* (as applicable). Districts are public corporations and political subdivisions of the state. Districts can acquire, hold, lease, condemn, and dispose of property; construct and operate facilities; enter into contracts with both public and private entities; set and collect rates and charges for services; and adopt unified ordinances across their jurisdiction. They may also designate resource recovery facilities and establish technical advisory committees to support their work. Districts are also granted robust financial tools under the proposed legislation. They can issue revenue bonds backed by district revenues and general obligation bonds supported by the district's full faith and credit and taxing power, and taxing authority is available if included in the articles of incorporation by member counties.

These expanded powers are a major improvement over current law because they provide waste management districts with clear, direct authority to manage all aspects of solid waste systems, including the ability to issue general obligation (GO) bonds. GO bonds can be backed by the district's full faith and credit and taxing power, providing access to lower-cost financing for capital projects. By clarifying and expanding the district's powers, the proposed statute ensures districts have the financial flexibility and autonomy needed to effectively manage and invest in regional solid waste systems, while maintaining local control and accountability.

D. Alteration/Termination of District

There is a clear process for district modification under the proposed legislation. Modification begins with a resolution from the board of commissioners of the county or counties seeking the change, which must outline the nature and expected benefits of the proposed alteration. The proposal is then submitted to the district's board of directors, accompanied by supporting documentation similar to that required for initial district formation. If the district board approves, both the district and the affected counties must hold public hearings to gather input from residents and stakeholders, with notice requirements ensuring broad awareness. After considering public comments, the district may amend or withdraw its approval. If the modification is confirmed, the district updates its articles of incorporation and files the changes with the Secretary of State, making the alteration official. This process ensures that modifications are locally controlled, transparent, and responsive to community needs, while eliminating unnecessary state agency involvement and lengthy proceedings.

Termination of a district can also be initiated by the district's board. The board may propose a resolution stating the reasons why the district's continued existence is no longer in the public interest. Before adopting this resolution, the board must hold a public hearing. After the hearing, the board prepares a summary of all comments received and files the adopted resolution with each member county. Each member county must then adopt a joint resolution confirming the district's termination and publish notice locally. Importantly, if any member county objects to the termination, the process cannot proceed. This approach ensures that termination is transparent, participatory, and requires consensus among all member counties.

This new process is a substantial improvement over the complex and lengthy procedures required under current law, which involve multiple layers of state MPCA review, contested case hearings, ambiguous timelines, and ultimately, a determination by the MPCA that any alteration or termination is in the public interest.

E. Eligibility for Grants and Funding

Under the proposed legislation districts are explicitly eligible to receive state grants and funding streams that would otherwise be distributed to individual counties. The legislation specifies that the state funds must be distributed to a district in an amount equal to the total sum that would have been allocated to the member counties. The legislation also provides that a district may apply for and accept gifts, loans, or other property from the United States, the state, or any person for any of its purposes, and may enter into any necessary related agreement, and may hold, use, and dispose of the money or property in accordance with the terms of the gift, grant, loan, or agreement. This ensures that districts have direct access to essential financial resources for solid waste management, recycling, and facility

development. Additionally, districts are eligible for grants with the same requirements and oversight as counties. By clarifying eligibility and streamlining the distribution of funds, the proposed statute removes ambiguity and ensures districts have the financial support needed to effectively manage regional solid waste systems.

VI. Comparison of Enhanced Joint Powers Board and Waste Management District Under Proposed Legislation

A. Formation Process and Timeframe

A joint powers board can be established relatively quickly and easily. Participating counties are able to negotiate and approve a JPA through formal action by their governing bodies. The JPA outlines the powers, responsibilities, and governance structure, and can be amended or dissolved by the parties. There are no statutory requirements for public hearings, transition plans, or state agency involvement, so the process can be completed relatively quickly.

The formation of a waste management district under the proposed legislation is more structured and transparent, but much more streamlined than under the current waste management district law. It requires adoption of a joint resolution of intent by all proposed member counties, collaborative development of a detailed transition plan, and public hearings in each county to gather input. After finalizing the transition plan and responding to public comments, counties adopt a joint resolution to establish the district and file articles of incorporation with the Secretary of State. While this process involves more steps and public engagement than a joint powers board, it is designed to be clear, locally controlled, and free from state agency delays, making it practical to complete within a defined timeframe.

Overall, an enhanced joint powers board may offer maximum speed and flexibility, while the proposed district process balances transparency, accountability, and efficiency, representing a major improvement over the cumbersome procedures required by current law.

B. Organizational Structure

The joint powers model requires that the governing board be comprised of all or a subset of members of each county board. In contrast, a waste management district established under the proposed legislation is a separate public corporation and political subdivision of the state, with its board of directors explicitly composed of county commissioners appointed by each member county, and additional directors

allocated based on population. This statutory structure ensures direct accountability to county residents and elected officials, while also providing stability and proportional representation. Unlike previous law, which allowed for minimal county involvement and did not require commissioner representation on a district board, the proposed district model strengthens governance by tying decision-making to individuals with a direct mandate from the counties, resulting in greater transparency, continuity, and alignment with local priorities.

C. General Powers and Solid Waste Authority

Both a joint powers board and a waste management district under the proposed legislation can exercise broad powers delegated by the member counties, including planning, facility operation, and contracting. However, the process for changing these authorities differs. A joint powers board may offer greater flexibility, as the powers and responsibilities can be amended or retracted simply by updating the joint powers agreement according to its terms and the mutual consent of the parties.

In contrast, a waste management district's powers are established by statute and the district's articles of incorporation, and any modification requires a formal process involving resolutions, public hearings, and filings with the Secretary of State. While a joint powers board is limited to exercising only those powers held in common by all participating counties, the proposed district legislation grants districts the full range of county solid waste authorities, along with enhanced stability and accountability. This statutory clarity and permanence make districts well-suited for long-term regional management, while joint powers boards remain more adaptable for incremental or short-term changes.

D. Revenue Authority and Debt Authority

Both a joint powers board and a waste management district under the proposed legislation can generate revenue through service charges for solid waste management services. In a joint powers board, counties may delegate their service charge authority through the JPA, but typically, once delegated, the county cannot continue to exercise that authority unless the JPA specifically provides for a division of responsibilities. The joint powers board may also issue revenue bonds if authorized by the counties, and the board cannot levy taxes directly.

A waste management district under the proposed legislation is granted clear statutory authority to establish and collect rates and charges, as well as to issue both revenue and GO bonds backed by its own taxing power if authorized by member counties. The district's authority for service charges and bonding is set out in statute, providing greater clarity and financial flexibility. Overall, the proposed district model offers more robust and autonomous financial tools than a joint powers board, supporting long-term investment and regional system stability.

E. Employment

With regard to employment issues, joint powers employees tend to be employed by the joint powers board but actually work through the employment system of one of the member counties. This could raise liability issues for member counties that would not be presented by a district, where employees would be directly employed by the district. However, such liability issues have not proven insurmountable with existing Minnesota joint powers arrangements.

F. Loan and Grant Funding

Both joint powers boards and waste management districts under the proposed legislation are eligible for key state loan and grant programs, such as the Solid Waste Processing Facilities Capital Assistance Program and the Local Recycling Development Grants (LRDG). In a joint powers arrangement, eligibility for these funds depends on the member counties delegating authority to the board through the joint powers agreement, allowing the board to apply for and receive funding on behalf of the counties. Under the proposed legislation, waste management districts are explicitly recognized as eligible recipients, with the commissioner required to distribute funds directly to the district in an amount equal to what the member counties would have received individually. This statutory clarity ensures that metropolitan-area districts and multicounty districts have direct access to all relevant funding streams, removing ambiguity and administrative barriers present in current law.

G. Liability

In a joint powers arrangement, as noted above, it is possible for liabilities of the joint powers board, in some instances, to reach back and become liabilities of the member counties. For purposes of removing counties from liability relating to solid waste system management matters, a waste management district would be preferable in that all liability would reside with the district.

H. Waste Designation

Under both an enhanced JPB and a waste management district formed under the proposed legislation; the new entity must independently enact waste designation if that authority is delegated to the JPB or included in the district's articles of incorporation. Existing county designation ordinances cannot simply be transferred; they must be revised to fit the regulatory framework of the new entity, and amendments require MPCA approval, often necessitating a new or revised Waste Designation Plan. However, the proposed legislation streamlines this process for districts by requiring that designation plans be included as part of the transition plan during district formation. This ensures that the transition from county to district governance is comprehensive and coordinated. Additionally, the

statute explicitly authorizes a waste management district to designate a resource recovery facility, providing clear legal authority for regional waste designation and facility planning. This approach not only unifies regulatory authority but also simplifies the transition and empowers districts to pursue regional waste management goals more effectively than is possible under a joint powers arrangement.

I. Summary

If the Counties choose to continue with the joint powers governance method but find the current arrangement somewhat lacking in light of the scope of the future system and role of the Counties, the parties could reconsider the breadth of the powers and authorities granted to the joint powers board. Such powers and authorities could be strengthened and enhanced or, alternatively, more narrowly tailored depending on the desires of the two Counties. Alternatively, the Counties could consider forming a waste management district if the new proposed legislation is enacted as proposed. A waste management district under the proposed legislation provides clear statutory authority to the district, including the ability to issue general obligation bonds and levy taxes if authorized.

VII. Reasons Why a Waste Management District (Under the Proposed Legislation) May be Preferable to an Enhanced Joint Powers Agreement

A. Increased Autonomy and Independence

1. A waste district is a completely distinct governmental entity, separate from the counties that comprise it. This allows for greater autonomy in decision-making and operations, potentially reducing outside influence and day-to-day oversight from county boards.
2. The governing board of a waste district is comprised solely of county commissioners. This structure ensures accountability of district directors to residents and elected officials.
3. During the petition process forming the waste district, counties can choose to minimize their involvement in solid waste management by delegating substantial amounts of authority to the waste district. This can allow the counties to focus on other priorities while ensuring professional management of waste services by the district.

B. Comprehensive Authority

1. Once formed, a waste district can be delegated all solid waste management authority from member counties, including planning, facility operation, and regulatory powers. This delegation is irrevocable unless all member

counties agree to revoke it. This ensures an increased level of stability and continuity in governance and reduces the need to renegotiate a joint powers agreement every few years.

2. A waste district, under the proposed legislation, can exercise all powers granted to the counties under statute, including issuing general obligation bonds.

C. Clearer Separation of Liability

1. In a joint powers agreement, as discussed above, liabilities incurred by the joint powers board can sometimes reach back to the member counties. This means that in some circumstances the counties remain exposed to risks associated with solid waste management activities.
2. A waste district, as a separate public corporation and political subdivision, assumes responsibility for all liabilities related to waste management. This structure provides greater protection for member counties, insulating them from some direct liability.

D. Increased Potential for Enhanced Regional Coordination

As a separate governmental entity, a waste district could be better positioned to coordinate waste management activities across multiple counties, streamline operations, and pursue greater regional waste management goals without the constraints of individual county priorities.

E. Eligibility for Funding and Grants

As discussed above, a waste district is likely eligible for the same loan and grant programs as counties and joint powers boards, including capital assistance and recycling development grants. Its status as a public corporation may also facilitate access to certain additional potential funding streams.

Exhibit A – Proposed Waste Management District Amendments Legislation
Attached.

1.1 A bill for an act
1.2 relating to solid waste; clarifying recycling goals and the distribution of state
1.3 funding for solid waste purposes with respect to solid waste management districts;
1.4 modifying provisions governing the establishment and operation of solid waste
1.5 management districts; amending Minnesota Statutes 2024, sections 115A.03,
1.6 subdivision 32; 115A.551, by adding a subdivision; 115A.557, by adding a
1.7 subdivision; 115A.62; 115A.63; 115A.65; 115A.68; 115A.69; 115A.70, subdivision
1.8 8; 115A.71; 115A.72; 115A.82; 473.8441, by adding a subdivision; proposing
1.9 coding for new law in Minnesota Statutes, chapter 115A; repealing Minnesota
1.10 Statutes 2024, sections 115A.64; 115A.66; 115A.67; 115A.715.

1.11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.12 Section 1. Minnesota Statutes 2024, section 115A.03, subdivision 32, is amended to read:

1.13 Subd. 32. **Solid waste management district or waste district.** "Solid waste management
1.14 district" or "waste district" means a geographic area extending into two or more counties
1.15 in which the management of solid waste is vested in a special district established pursuant
1.16 to sections 115A.62 to 115A.72 under section 115A.641.

1.17 **EFFECTIVE DATE.** This section is effective the day following final enactment.

1.18 Sec. 2. Minnesota Statutes 2024, section 115A.551, is amended by adding a subdivision
1.19 to read:

1.20 Subd. 2b. **Solid waste management district; recycling goal.** The recycling goal of a
1.21 solid waste management district established under section 115A.641 is the same percentage
1.22 as the goals of the counties that comprise the district, as established in subdivision 2a. If
1.23 the district is composed of both metropolitan and nonmetropolitan counties, the districtwide
1.24 goal is the goal assigned to metropolitan counties in subdivision 2a.

2.1 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.2 Sec. 3. Minnesota Statutes 2024, section 115A.557, is amended by adding a subdivision
2.3 to read:

2.4 Subd. 1a. **Solid waste management district.** The commissioner shall distribute funds
2.5 under this section to a solid waste management district established under section 115A.641
2.6 in an amount equal to the total sum that would otherwise have been distributed to the
2.7 individual counties, or portions thereof, that compose the district.

2.8 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.9 Sec. 4. **[115A.61] DEFINITIONS.**

2.10 Subdivision 1. **Scope.** For the purposes of sections 115A.61 to 115A.73, the following
2.11 terms have the meanings given them.

2.12 Subd. 2. **Board.** "Board" means the board of directors governing a district.

2.13 Subd. 3. **District.** "District" means a solid waste management district established under
2.14 section 115A.64.

2.15 Subd. 4. **Member county.** "Member county" means a county that is wholly or partly
2.16 located within the jurisdiction of a district.

2.17 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.18 Sec. 5. Minnesota Statutes 2024, section 115A.62, is amended to read:

2.19 **115A.62 PURPOSE; PUBLIC INTEREST; DECLARATION OF POLICY.**

2.20 The legislature finds that the development of integrated and coordinated solid waste
2.21 management systems is needed to properly manage ~~properly~~ the solid waste generated in
2.22 the state, to conserve and protect the state's natural resources ~~in the state~~ and the health,
2.23 safety, and welfare of its citizens, and to further the state policies and purposes expressed
2.24 in section 115A.02; that this need cannot always be met solely by the activities of individual
2.25 ~~political subdivisions~~ counties or by agreements among ~~subdivisions~~ counties; and that
2.26 therefore it is necessary to establish a procedure for the creation of solid waste management
2.27 districts having the powers and performing the functions prescribed in sections 115A.62 to
2.28 ~~115A.72~~ 115A.73.

2.29 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.1 Sec. 6. Minnesota Statutes 2024, section 115A.63, is amended to read:

3.2 **115A.63 SOLID WASTE MANAGEMENT DISTRICTS.**

3.3 Subdivision 1. **Legal status.** Solid waste management districts established pursuant to
 3.4 ~~sections 115A.62 to 115A.72 shall be~~ under section 115A.641 are public corporations and
 3.5 political subdivisions of the state.

3.6 Subd. 2. **Establishment.** ~~The commissioner~~ Counties may establish waste districts as
 3.7 public corporations and political subdivisions of the state, ~~define the powers of such districts~~
 3.8 ~~in accordance with sections 115A.62 to 115A.72,~~ define and alter the boundaries of the
 3.9 districts as provided in ~~section 115A.64~~ sections 115A.641 and 115A.643, and terminate
 3.10 districts as provided in ~~section 115A.66~~ 115A.73. ~~The commissioner shall promulgate rules~~
 3.11 ~~pursuant to chapter 14 governing the establishment, alteration, and termination of districts.~~
 3.12 The commissioner shall assist counties in establishing districts.

3.13 Subd. 3. **Restrictions.** No waste district shall may be established within the boundaries
 3.14 of the Western Lake Superior Sanitary District established under chapter 458D. ~~No waste~~
 3.15 ~~district shall be established~~ or wholly within one county. ~~The commissioner shall not establish~~
 3.16 ~~a waste district within or extending into the metropolitan area, nor define or alter the powers~~
 3.17 ~~or boundaries of a district, unless the articles of incorporation of the district require that the~~
 3.18 ~~district will have the same procedural and substantive responsibilities, duties, and relationship~~
 3.19 ~~to the metropolitan agencies as a metropolitan county. The commissioner shall require the~~
 3.20 ~~completion of a comprehensive solid waste management plan conforming to the requirements~~
 3.21 ~~of section 115A.46, by petitioners seeking to establish a district.~~

3.22 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.23 Sec. 7. **[115A.641] ESTABLISHING A DISTRICT; PROCEDURE.**

3.24 Subdivision 1. **Joint resolution of intent.** A district may be proposed by a joint resolution
 3.25 of intent adopted by the governing body of each proposed member county. The joint
 3.26 resolution must, at a minimum:

3.27 (1) name the proposed district;

3.28 (2) name the proposed member counties to be included in the district;

3.29 (3) describe the benefits the proposed member counties hope to gain by establishing a
 3.30 district; and

3.31 (4) direct the proposed member counties to jointly prepare a transition plan for the district
 3.32 that satisfies the requirements of subdivision 2.

- 4.1 Subd. 2. Transition plan contents. (a) Counties proposing to establish a district must
4.2 jointly prepare a draft transition plan that contains, at a minimum, the following information:
- 4.3 (1) the name of the proposed district and the location of its registered office;
- 4.4 (2) a description of the territory and counties wholly or partly within the boundaries of
4.5 the proposed district, and a map showing the district boundaries;
- 4.6 (3) resolutions of intent to establish the proposed district adopted by the governing body
4.7 of each proposed member county under subdivision 1;
- 4.8 (4) evidence that each proposed member county is operating under a solid waste
4.9 management plan approved by the commissioner;
- 4.10 (5) a statement describing how the proposed district will further the state's solid waste
4.11 management policies and purposes expressed in section 115A.02;
- 4.12 (6) a discussion of the role county solid waste employees may play in staffing the
4.13 proposed district;
- 4.14 (7) a list and description of solid waste management facilities and services operating in
4.15 the proposed district, identified as public, private, and county-owned;
- 4.16 (8) for each proposed member county, a list of the following documents and a schedule
4.17 for their transfer to the district for implementation:
- 4.18 (i) solid waste management plans;
- 4.19 (ii) designation plans;
- 4.20 (iii) solid waste management ordinances;
- 4.21 (iv) state and local permits held by county-owned facilities; and
- 4.22 (v) existing contracts with private parties for waste management services;
- 4.23 (9) a description of how the district will ensure the continued operation of county-owned
4.24 solid waste facilities located in the proposed district, and a schedule for transferring their
4.25 ownership to the district;
- 4.26 (10) a list of proposed member county solid waste funding sources and finances,
4.27 remaining principal and debt service on outstanding county solid waste management bonds,
4.28 and other county financial obligations related to solid waste proposed for transfer to the
4.29 district;
- 4.30 (11) a list and schedule of unified districtwide ordinances the district proposes to adopt;
4.31 and

5.1 (12) draft articles of incorporation.

5.2 (b) The commissioner shall assist counties in preparing a transition plan.

5.3 Subd. 3. **Public hearing.** Each proposed member county must hold a public hearing in
5.4 its jurisdiction for the purpose of receiving public comments on the draft transition plan.

5.5 Notice of the hearing must be published in a newspaper of general circulation in the county
5.6 no more than 45 days and no less than 15 days before the date of the public hearing, and at
5.7 the same time must be mailed to the governing body of each city and town within the county.

5.8 In addition to comments it receives at the public hearing, each proposed member county
5.9 must also accept comments in written or electronic form that are received up to ten days
5.10 following the date of the public hearing. No later than 30 days after the public hearing, the
5.11 member counties must prepare a final transition plan, revised as needed, and a list of
5.12 responses to comments received.

5.13 Subd. 4. **District establishment.** (a) Each proposed member county must adopt a joint
5.14 resolution establishing the district, which must include:

5.15 (1) approval of the proposed district's final transition plan;

5.16 (2) approval of the proposed district's articles of incorporation; and

5.17 (3) authorization to file the articles of incorporation with the secretary of state.

5.18 (b) Each proposed member county must file a copy of the joint resolution of intent and
5.19 the articles of incorporation, certified by the county's recording officer, with the secretary
5.20 of state.

5.21 (c) The secretary of state's issuance of a certificate of incorporation serves as conclusive
5.22 evidence of the legal organization and establishment of a district.

5.23 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.24 Sec. 8. **[115A.642] TRANSITION.**

5.25 (a) Until the board has approved a solid waste management plan for a district, the district
5.26 must adopt and enforce the solid waste management plans and ordinances, including waste
5.27 designation plans and ordinances, operating in each member county at the time of the
5.28 district's establishment.

5.29 (b) By a date specified in its bylaws, a district is required to submit a solid waste
5.30 management plan that meets the requirements of section 115A.46 to the commissioner for
5.31 approval. A district is subject to the same provisions of sections 115A.42 to 115A.46 as are
5.32 counties, unless the district's boundaries are wholly contained within the metropolitan area,

6.1 in which case the district's solid waste management plan and its administration by the
6.2 commissioner are subject to the provisions of section 473.149.

6.3 (c) A district is responsible for administering the transfer of county solid waste plans,
6.4 ordinances, facilities, debt, and other county solid waste functions and authorities necessary
6.5 to the efficient operation of the district, including existing contracts with private vendors
6.6 that may need to be newly executed.

6.7 **EFFECTIVE DATE.** This section is effective the day following final enactment.

6.8 **Sec. 9. [115A.643] ALTERING DISTRICT BOUNDARIES; PROCEDURE.**

6.9 (a) The board of commissioners of a county or counties proposing to alter a district's
6.10 boundaries must:

6.11 (1) adopt a resolution stating the nature of the alteration and the expected benefits to be
6.12 realized by both the county or counties proposing the alteration and the district; and

6.13 (2) submit to the district's board of directors a document containing all the elements
6.14 required under section 115A.641, subdivision 2, with respect to the county or counties
6.15 proposing the alteration.

6.16 (b) After reviewing the documents submitted under paragraph (a), if the district approves
6.17 of the alteration, it must adopt a resolution to that effect.

6.18 (c) The district and each county proposing an alteration must hold a public hearing in
6.19 their respective jurisdictions for the purpose of receiving public comments on the resolution
6.20 adopted under paragraph (a). Notice of the hearing must be published in a newspaper of
6.21 general circulation in the district and in each county proposing an alteration no more than
6.22 45 days and no less than 15 days before the date of its public hearing, and at the same time
6.23 must be mailed to the governing body of each city and town within the district and county.
6.24 In addition to comments received at the public hearing, the district and each county must
6.25 also accept comments in written or electronic form that are received up to ten days following
6.26 the public hearing. No later than 30 days after the public hearing, each county must submit
6.27 to the district a list of responses to comments received.

6.28 (d) The district may amend or withdraw its resolution approving the alteration based on
6.29 the public comments received by the district and from the counties.

6.30 (e) If the district confirms its approval of the alteration, it must amend the district's
6.31 articles of incorporation accordingly, and must submit both the resolution approving the
6.32 alteration and the revised articles of incorporation to the secretary of state.

7.1 **EFFECTIVE DATE.** This section is effective the day following final enactment.

7.2 Sec. 10. Minnesota Statutes 2024, section 115A.65, is amended to read:

7.3 **115A.65 PERPETUAL EXISTENCE.**

7.4 A waste district ~~created~~ established under the provisions of ~~sections 115A.62 to 115A.72~~
7.5 section 115A.641 shall have perpetual existence to the extent necessary to perform all acts
7.6 necessary and proper for carrying out and exercising the powers and duties expressly given
7.7 ~~in~~ it. A district ~~shall not~~ may be terminated ~~except pursuant to~~ only by following the
7.8 procedures of section ~~115A.66~~ 115A.73.

7.9 **EFFECTIVE DATE.** This section is effective the day following final enactment.

7.10 Sec. 11. **[115A.661] ORGANIZATION OF DISTRICT.**

7.11 Subdivision 1. **Board of directors.** A district's board of directors must be composed of
7.12 at least five members. The board of county commissioners of each member county shall
7.13 appoint one or more of their members as a board director. After each member county appoints
7.14 one director, the appointment of additional directors necessary to achieve the desired total
7.15 number of directors shall be made by member counties based on their population.

7.16 Subd. 2. **Terms.** The board shall stagger the terms of the directors appointed initially
7.17 under subdivision 1 so that, so far as is practicable, one-third of the directors have a term
7.18 of one year, one-third have a term of two years, and one-third have a term of three years.
7.19 All directors subsequently appointed have a term of three years.

7.20 Subd. 3. **Vacancy.** A board vacancy shall be filled by appointment of a director by the
7.21 appropriate board of county commissioners to complete the remaining term of the director
7.22 creating the vacancy.

7.23 Subd. 4. **Bylaws.** The board shall approve bylaws by majority vote. The bylaws must
7.24 address, at a minimum:

7.25 (1) the manner and time of calling regular board meetings;

7.26 (2) the manner of removing a director;

7.27 (3) the powers and duties of the board consistent with sections 115A.61 to 115A.73;

7.28 (4) the definition of a quorum for board meetings of the board of directors, which shall
7.29 not be less than a majority of directors;

8.1 (5) compensation and reimbursement for expenses for directors, which may not exceed
 8.2 that provided for in section 15.0575, subdivision 3; and

8.3 (6) other provisions regulating the affairs of the district that the board determines are
 8.4 necessary.

8.5 **EFFECTIVE DATE.** This section is effective the day following final enactment.

8.6 Sec. 12. Minnesota Statutes 2024, section 115A.68, is amended to read:

8.7 **115A.68 REGISTERED OFFICE.**

8.8 Every district shall maintain an office ~~in this state~~ located within the district to be known
 8.9 as its registered office. ~~When~~ A district ~~desires to~~ may change the location of its registered
 8.10 office, ~~it shall file with the secretary of state and the commissioner of the agency, by filing~~
 8.11 a certificate with the secretary of state and the commissioner stating the new location ~~by~~
 8.12 ~~city, town, or other community~~ and the effective date of change. ~~When the certificate has~~
 8.13 ~~been duly filed, the board of directors may make the change without any further action.~~

8.14 **EFFECTIVE DATE.** This section is effective the day following final enactment.

8.15 Sec. 13. Minnesota Statutes 2024, section 115A.69, is amended to read:

8.16 **115A.69 POWERS.**

8.17 Subdivision 1. **General.** ~~A district shall have all powers necessary or convenient to~~
 8.18 ~~perform its duties, including the powers provided in this section.~~ A district has all the
 8.19 authority and responsibilities for solid waste management purposes that is given to counties
 8.20 under this chapter, and chapters 400 and 473, as applicable.

8.21 Subd. 2. **Actions.** ~~The~~ A district may sue and be sued, and ~~shall be~~ may exercise the
 8.22 rights and authorities of a public body within the meaning of chapter 562.

8.23 Subd. 3. **Acquiring property.** ~~The~~ (a) A district may acquire by purchase, lease,
 8.24 condemnation, gift, or grant, any right, title, and interest in and to real or personal property
 8.25 deemed necessary ~~for the~~ in order to exercise of its powers or ~~the accomplishment of to~~
 8.26 accomplish its purposes, including positive and negative easements and water and air rights.

8.27 (b) Any local government unit and the commissioners of transportation, natural resources,
 8.28 and administration may convey to or permit the use of any property or facilities by the
 8.29 district, subject to the rights of the holders of any bonds issued ~~with respect thereto~~ for the
 8.30 property or facilities, with or without compensation and without an election or approval by
 8.31 any other government agency. ~~The~~ A district may hold the property ~~for its purposes, and~~

9.1 ~~or may lease or rent the property so far as not needed for its purposes,~~ upon the terms and
9.2 in the manner as it deems advisable.

9.3 (c) ~~The A district's right to acquire lands and property rights by condemnation shall be~~
9.4 ~~exercised in accordance with~~ is governed by chapter 117. The district may take possession
9.5 of any property for which condemnation proceedings have been commenced at any time
9.6 after the issuance of a court order appointing commissioners for its condemnation.

9.7 Subd. 4. **Right of entry.** Whenever ~~the~~ a district deems it necessary to ~~the~~
9.8 ~~accomplishment of~~ accomplish its purposes, the district or any member, employee, or agent
9.9 ~~thereof, when~~ authorized by it, may, after reasonable notice has been given to the property
9.10 owner and occupant, enter upon any property, public or private, during normal business
9.11 hours for the purpose of obtaining information or conducting surveys or investigations,
9.12 ~~provided that the entrance and activity is undertaken after reasonable notice and during~~
9.13 ~~normal business hours and~~ provided that compensation is made for any damage to the
9.14 property caused by the entrance and activity.

9.15 Subd. 5. **Gifts and grants.** ~~The~~ A district may apply for and accept gifts, loans, or other
9.16 property from the United States, the state, or any person for any of its purposes, may enter
9.17 into any necessary related agreement ~~required in connection therewith,~~ and may hold, use,
9.18 and dispose of the money or property in accordance with the terms of the gift, grant, loan,
9.19 or agreement.

9.20 Subd. 6. **Property exempt from taxation.** Any real or personal property owned, used,
9.21 or occupied by ~~the~~ a district for any authorized purpose is declared to be acquired, owned,
9.22 used, and occupied for public and governmental purposes, and ~~shall be exempted~~ is exempt
9.23 from taxation by the state or any political subdivision of the state, except to the extent that
9.24 the property is subject to the sales and use tax under chapter 297A, provided that those
9.25 properties ~~shall be~~ are subject to special assessments levied by a political subdivision for a
9.26 local improvement in amounts proportionate to and not exceeding the special benefit received
9.27 by the properties from the improvement. ~~No possible~~ Only use of the properties ~~in any~~
9.28 ~~manner different from their use~~ for solid waste management purposes at the time shall be
9.29 considered in determining the special benefit received by the properties.

9.30 Subd. 7. **Facilities and services.** ~~The~~ A district may construct, equip, develop, enlarge,
9.31 improve, and operate solid waste facilities and services as it deems necessary and may
9.32 negotiate contracts for the use of public or private facilities and services. ~~The~~ A district
9.33 shall contract with private persons ~~for the construction, maintenance, and operation of~~ to
9.34 construct, maintain, and operate facilities and services ~~where the facilities and services that~~

10.1 are adequate ~~and~~, available for use, and competitive with other means of providing the same
10.2 service.

10.3 Subd. 8. **Rates; charges.** ~~The A district may establish and collect rates and charges for~~
10.4 ~~the facilities and services provided by the district it provides and may negotiate and collect~~
10.5 ~~rates and charges for facilities and services contracted for by the district provided under~~
10.6 ~~contract. The board of directors of the district may agree with the holders of district~~
10.7 ~~obligations which are secured by revenues of the district as to the maximum or minimum~~
10.8 ~~amounts which the district shall charge and collect for services provided by the district.~~
10.9 ~~Before establishing or raising any rates and charges, the board of directors shall hold a~~
10.10 ~~public hearing regarding the proposed rates and charges. Notice of the hearing shall be~~
10.11 ~~published at least once in a legal newspaper of general circulation throughout the area~~
10.12 ~~affected by the rates and charges. Publication shall be no more than 45 days and no less~~
10.13 ~~than 15 days prior to the date of the hearing.~~

10.14 Subd. 9. **Disposition of property.** ~~The A district may sell or otherwise dispose of any~~
10.15 ~~real or personal property acquired by it which is no longer required for accomplishment of~~
10.16 ~~to accomplish its purposes. The property ~~shall~~ must be sold in the manner provided by~~
10.17 ~~section 469.065, insofar as practical. The district ~~shall~~ must give appropriate notice of sale~~
10.18 ~~which it deems appropriate. When ~~the~~ a district determines that ~~any~~ property ~~which has~~~~
10.19 ~~been acquired from a government unit without compensation is no longer required, the~~
10.20 ~~district ~~shall~~ must transfer it to the government unit.~~

10.21 Subd. 10. **Disposition of products and energy.** ~~The A district may use, sell, or otherwise~~
10.22 ~~dispose of ~~all of the~~ products and energy produced by its facilities. Section 471.345 ~~shall~~~~
10.23 ~~does not apply to the sale of products and energy. The district ~~shall~~ must give particular~~
10.24 ~~consideration preference to the needs of purchasers in this state ~~and shall actively promote~~~~
10.25 ~~sales to such purchasers so long as this can be done at, provided that such preference~~
10.26 ~~conforms with prices and ~~under~~ conditions that meet constitutional requirements and ~~that~~~~
10.27 ~~are is consistent with the district's object of being financially self supporting to the greatest~~
10.28 ~~extent possible.~~

10.29 Subd. 11. **Contracts.** ~~The A district may enter into any contract necessary or proper ~~for~~~~
10.30 ~~the to exercise of its powers or ~~the accomplishment of~~ accomplish its purposes, including~~
10.31 ~~contracting with a county or counties for enforcement activities, and contracting with private~~
10.32 ~~entities to purchase goods or services.~~

10.33 Subd. 12. **Joint powers.** ~~The A district may act under the provisions of section 471.59,~~
10.34 ~~or any other law providing for joint or cooperative action between government units.~~

11.1 Subd. 13. **Research.** ~~The~~ A district may conduct research studies and programs, collect
11.2 and analyze data, prepare reports, maps, charts, and tables, and conduct all necessary hearings
11.3 and investigations in connection with its work and may advise and assist other government
11.4 units on planning matters within the scope of its powers, duties, and objectives.

11.5 Subd. 14. **Employees; contracts for services.** ~~The~~ A district may employ persons or
11.6 firms and contract for services to perform engineering, legal, or other services necessary to
11.7 carry out its functions. A district may give preference to hiring employees employed by
11.8 member counties.

11.9 Subd. 15. **Insurance.** ~~The~~ A district may require any employee to obtain and file with
11.10 it an individual bond or fidelity insurance policy. It may procure insurance in amounts it
11.11 deems necessary to insure against liability of the board of directors and employees or both,
11.12 for personal injury or death and property damage or destruction, with the force and effect
11.13 stated in chapter 466, and against risks of damage to or destruction of any of its facilities,
11.14 equipment, or other property ~~as it deems necessary.~~

11.15 Subd. 16. **Reviewing projects.** ~~The~~ A district may require that persons shall not acquire,
11.16 construct, alter, reconstruct, or operate a solid waste facility within the district without ~~prior~~
11.17 ~~consultation with and~~ the district's approval of the district.

11.18 Subd. 17. **Technical advisory committee.** A district may establish and appoint a solid
11.19 waste management technical advisory committee composed of public and private sector
11.20 individuals with technical expertise in waste management to advise the district on matters
11.21 the district deems appropriate.

11.22 **EFFECTIVE DATE.** This section is effective the day following final enactment.

11.23 Sec. 14. Minnesota Statutes 2024, section 115A.70, subdivision 8, is amended to read:

11.24 Subd. 8. **Authority Designation.** ~~A waste management district possessing designation~~
11.25 ~~authority in its articles of incorporation may be~~ is authorized to designate a resource recovery
11.26 facility under sections 115A.80 to 115A.89.

11.27 **EFFECTIVE DATE.** This section is effective the day following final enactment.

12.1 Sec. 15. Minnesota Statutes 2024, section 115A.71, is amended to read:

12.2 **115A.71 BONDING POWERS.**

12.3 ~~Subdivision 1. **General.** A district may exercise the bonding powers provided in this~~
12.4 ~~section to the extent the powers are authorized by the order of the commissioner establishing~~
12.5 ~~the district and by its articles of incorporation.~~

12.6 Subd. 2. **Debt.** ~~The~~ A district's bonds ~~shall~~ must be sold, issued, and secured in the
12.7 manner provided in chapter 475 for revenue bonds and the district ~~shall have~~ has the same
12.8 powers and duties as a municipality and its governing body in issuing revenue bonds under
12.9 that chapter. No election shall be required. The bonds may be sold at any price and at public
12.10 or private sale as determined by the district and ~~shall~~ are not be subject to any limitation as
12.11 to rate.

12.12 Subd. 3. **Revenue bonds.** (a) A district may borrow money and incur indebtedness by
12.13 issuing bonds and obligations which are payable solely from:

12.14 (1) ~~from~~ revenues, income, receipts, and profits derived by the district from its operation
12.15 and management of solid waste facilities;

12.16 (2) ~~from~~ the proceeds of warrants, notes, revenue bonds, debentures, or other evidences
12.17 of indebtedness issued and sold by the district which are payable solely from such revenues,
12.18 income, receipts, and profits; and

12.19 (3) ~~from~~ federal or state grants, gifts, or other ~~moneys~~ revenue received by the district
12.20 ~~which are available therefor.~~

12.21 (b) Every issue of revenue bonds by ~~the~~ a district ~~shall~~ must be payable out of any funds
12.22 or revenues from ~~any~~ a facility of the district, subject only to agreements with the holders
12.23 of particular bonds or notes pledging particular revenues or funds. If ~~any~~ a facility ~~of the~~
12.24 ~~district~~ is funded in whole or in part by Minnesota waste management bonds issued under
12.25 sections 115A.58 and 115A.59, the state bonds shall take priority. ~~The~~ A district may provide
12.26 for priorities of liens in the revenues between the holders of district obligations issued at
12.27 different times or under different resolutions. ~~The~~ A district may provide for the refunding
12.28 of any district obligation through the issuance of other district obligations entitled to rights
12.29 and priorities similar in all respects to those held by the obligations that are refunded.

12.30 Subd. 4. **General obligation bonds; tax levies.** (a) The board may, by resolution,
12.31 authorize the issuance of general obligation bonds to:

12.32 (1) acquire, construct, or improve solid waste disposal sites and facilities, and to pay
12.33 interest during their construction and for a reasonable period thereafter; and

13.1 (2) pay up to 50 percent of first-year operating costs for a newly constructed solid waste
 13.2 disposal site or facility.

13.3 (b) The board may establish a reserve for bond payments, working capital, refunding of
 13.4 outstanding bonds, certificates of indebtedness, or judgments.

13.5 (c) With respect to bonds issued under this section, the board:

13.6 (1) must pledge its full faith and credit and taxing power for the payment of the bonds,
 13.7 including the use of any revenues received from user charges;

13.8 (2) must sell and provide security for the bonds in the manner provided in chapter 475;
 13.9 and

13.10 (3) has the same powers and duties as a municipality issuing bonds under chapter 475,
 13.11 except that no election is required and the debt limitations of that chapter do not apply.

13.12 **EFFECTIVE DATE.** This section is effective the day following final enactment.

13.13 Sec. 16. Minnesota Statutes 2024, section 115A.72, is amended to read:

13.14 **115A.72 AUDIT.**

13.15 The board of directors, at the close of each year's business, ~~shall cause~~ must have an
 13.16 audit of the books, records, and financial affairs of the district to be made conducted by a
 13.17 an independent, certified public accountant or the state auditor. Copies of a written report
 13.18 of the audit, certified to by the auditors, shall must be placed and kept on file maintained
 13.19 at the principal place of business of the district district's registered office and shall be filed
 13.20 with the secretary of state and the commissioner.

13.21 **EFFECTIVE DATE.** This section is effective the day following final enactment.

13.22 Sec. 17. **[115A.73] TERMINATION.**

13.23 Subdivision 1. **Resolution.** A district's board of directors may initiate proceedings to
 13.24 terminate the district by proposing a resolution for termination stating the reasons why the
 13.25 existence of the district is no longer in the public interest.

13.26 Subd. 2. **Public hearing.** Prior to adopting a resolution for termination, the board must
 13.27 hold a public hearing for the purpose of receiving comments on the proposed termination.
 13.28 No more than 45 days and no less than 15 days before the hearing, the board must publish
 13.29 notice of the hearing in a newspaper of general circulation in each member county and mail
 13.30 the notice to the governing body of each city and town served by the district. In addition to
 13.31 comments it receives at the public hearing, the district must accept comments submitted to

14.1 it in written or electronic form until ten days following the hearing, and must prepare a
14.2 written summary of all comments received and the district's responses to the comments.
14.3 The district must file the adopted resolution for termination and its responses to public
14.4 comments with the recording officer of each member county.

14.5 Subd. 3. **Joint resolution of termination.** Following receipt of the approved district
14.6 resolution for termination and preparation of the summary of comments received, each
14.7 member county must adopt a joint resolution that confirms the district resolution for
14.8 termination and states that the existence of the district is no longer in the public interest.
14.9 Each member county must publish notice of the joint resolution in a newspaper of general
14.10 circulation in the county and mail the notice to the governing body of each city or town in
14.11 the county that is served by the district. If any member county adopts a resolution objecting
14.12 to the termination, the termination may not proceed.

14.13 **EFFECTIVE DATE.** This section is effective the day following final enactment.

14.14 Sec. 18. Minnesota Statutes 2024, section 115A.82, is amended to read:

14.15 **115A.82 ELIGIBILITY.**

14.16 Facilities may be designated under sections 115A.80 to 115A.89 by:

14.17 (1) a solid waste management district established pursuant to sections 115A.62 to 115A.72
14.18 ~~and possessing designation authority in its articles of incorporation~~ under section 115A.641;
14.19 or

14.20 (2) a county, but only for waste generated outside of the boundaries of a district qualifying
14.21 under clause (1) or the Western Lake Superior Sanitary District established under chapter
14.22 458D.

14.23 **EFFECTIVE DATE.** This section is effective the day following final enactment.

14.24 Sec. 19. Minnesota Statutes 2024, section 473.8441, is amended by adding a subdivision
14.25 to read:

14.26 Subd. 6. **Solid waste management district.** The commissioner shall distribute grants
14.27 under this section to a solid waste management district established under section 115A.641
14.28 in an amount equal to the total sum that would otherwise have been distributed to the
14.29 individual metropolitan counties, or portions thereof, that compose the district. A solid
14.30 waste management district awarded grant funds under this section is subject to the provisions
14.31 of this section that apply to counties.

15.1 **EFFECTIVE DATE.** This section is effective the day following final enactment.

15.2 Sec. 20. **REVISOR INSTRUCTION.**

15.3 The revisor shall renumber Minnesota Statutes, section 115A.70, subdivision 8, as

15.4 Minnesota Statutes, section 115A.69, subdivision 18.

15.5 Sec. 21. **REPEALER.**

15.6 Minnesota Statutes 2024, sections 115A.64; 115A.66; 115A.67; and 115A.715, are

15.7 repealed.

15.8 **EFFECTIVE DATE.** This section is effective the day following final enactment.