Board Workshop / Discussion Agenda

15 West Kellogg Blvd.
Saint Paul, MN 55102
651-266-9200

April 28, 2026 - 10:30 a.m. **Courthouse Room 220**

WORKSHOP

1. Solid Waste Governance Evaluation Workshop 2026-092

Sponsors: Public Health

15 West Kellogg Blvd.
Saint Paul, MN 55102
651-266-9200

Board Workshop / Discussion

Request for Board Action

Item Number: 2026-092 **Meeting Date:** 4/28/2026

Sponsor: Public Health

Title
Solid Waste Governance Evaluation Workshop

Attachment
1. Memo Solid Waste Governance Analysis
2. HDR Regional Solid Waste Governance Case Studies
3. Minnesota Regional Governance Examples
4. Husch-Blackwell Governance Options Analysis with Exhibit
5. Governance Comparison Table
6. History of RC&WC Joint Solid Waste Work
7. Alt Gov Decision Tree - Rev Mar 2026 RC
8. Solid Waste Governance Eval Executive Summary
9. Presentation

RAMSEY/WASHINGTON
RECYCLING & ENERGY
CONNECTING VALUE TO WASTE

January 22, 2026

To: Ramsey/Washington Recycling & Energy Board

From: Trista Martinson, Executive Director; Zack Hansen, limited duration staff; Leigh Behrens, Planning Manager; Melissa Finnegan, Strategic Partnerships Manager

Re: Preliminary Analysis of Solid Waste Management Governance

This report and its attachments present a preliminary analysis of solid waste management governance options available to Ramsey and Washington Counties and the Ramsey/Washington Recycling & Energy (R&E) Board. Both 2024-2042 Ramsey County and Washington County Solid Waste Management Plans (SWMPs) provide this policy direction on waste governance: "*The R&E Board will continue to evaluate and implement appropriate changes to its governance structure and size to ensure effectiveness.*"

In response to those policies, the 2025-2030 R&E Strategic Plan includes this strategic initiative: *"The R&E Board will continue to evaluate and implement appropriate changes to its governance structure and size to ensure effectiveness."* In addition to work specific to Ramsey and Washington Counties, the Association of Minnesota Counties (AMC) has created a solid waste working group. Commissioners on that working group have expressed significant interest in waste governance. R&E Board member Commissioner Bigham co-chairs this committee.

Background & History

There is a history of successful partnerships between Ramsey and Washington Counties for solid waste issues. A summary of that history is found in ***Attachment 6***. Joint solid waste governance by the two Counties dates to the 1970s, when the Counties jointly owned and operated the first MPCA-permitted landfill in Minnesota, called the Lake Jane landfill (SW-1). Following the discovery of groundwater contamination at SW-1 and prompted by state legislation, the Counties engaged in joint work to examine landfill alternatives. Since the early 1980s, there has been a series of joint powers agreements (JPAs) and amendments related to solid waste management. These JPAs were structured to:

- Explore waste-to-energy (early 1980s)
- Manage long-term resource recovery facility contracts with Northern States Power Company (NSP) and several subsequent owners (1980s to 2015)
- Include joint efforts other than waste processing, such as outreach and education, food waste management and business recycling (beginning 1990s)
- Own and operate the Ramsey/Washington Recycling & Energy Center (R&E Center) with expanded joint program efforts (since 2015)

Since the purchase of the R&E Center in 2015, the current JPA has worked well to complete its *original* purpose, which was the start-up of R&E. That governance structure, a joint powers entity of Ramsey County and Washington County, was established to facilitate the purchase of the R&E Center, convert the facility from private to public operation, modernize old technology and coordinate existing programs that had been jointly operated. It was not designed to foster a scaling-up of R&E to meet the challenges presented in the current SWMPs.

There are several reasons to consider a change in the current governance structure:

- **Structural limitations**: R&E's responsibilities have expanded as new opportunities for efficiency through collaboration have emerged. This is evident in the substantial increase in SWMP alignment of policies and strategies. In the past several years, R&E has been assigned increased responsibility for managing the Counties' solid waste; taken on new initiatives at the local, state and federal level; and realized that progress toward the Counties' goals and the R&E vision requires major system changes in the east metro's management of solid waste.

- **Efficiency challenges**: The current joint powers governance structure is designed for the two Counties and R&E to coordinate similar work. While each county may administer projects and programs that address unique needs, R&E is responsible for programs (joint activities) that address shared priorities for both Counties. Over time, these R&E programs have been implemented collaboratively by R&E staff along with as many as 30 staff from each county. As programs have grown, and county staff are redirected to other initiatives, this collaborative approach has created challenges in managing competing priorities and expectations. To improve efficiency, R&E has added staff in recent years to make these programs less reliant on a larger number of county staff. While this has improved aspects of R&E program implementation, it has also created new challenges to the collaboration between the counties and R&E.

- **Nimbleness:** R&E's agility and flexibility are not fully realized under the current structure. Since its inception in 2015, R&E has operated "light on its feet," anticipating system needs and pivoting to meet them, with well-informed decisions made in a very timely fashion. This attribute is critical to continue to engage with partners and seize new opportunities.

- **Changes in governance are not new:** Examining solid waste governance has occurred in the past, when changes in solid waste management have called for it. Over time, a series of JPAs and amendments have changed the form of governance to adapt to evolving legislation, state policy expectations, public input and court decisions. For example, research into alternate governance structures occurred when purchase of the facility was considered. At that time, there was strong interest in solid waste management district formation and altering the Joint Powers Agreement. Because the current statutes related to district formation were unworkable and time-consuming, the JPA option was selected.

This preliminary analysis is the first step in evaluating governance options. It outlines the dimensions of joint governance, proposes desired elements of a governance structure, outlines available alternative governance structures and suggests next steps for board consideration.

Previous Governance Analyses

From 2013 to 2015, the two Counties, through the Ramsey/Washington Resource Recovery Project (RRP) Board (predecessor to R&E), spent considerable time evaluating whether to purchase the current R&E Center from its private owner. Governance was among several dimensions of that analysis.

As part of the policy evaluation related to purchase of the R&E Center, the Counties opted to pursue a JPA. Leading up to this decision were several presentations and documents, as well as considerable board discussion. All the reports are available on the R&E website. These historical documents related to governance were reviewed for this analysis. Three key elements were:

- **February 2014**: Background information on governance was provided in "*Waste Processing Governance Policy Study*" (pages 45-57). That document cited information from a previous Solid Waste Management Coordinating Board study on regional governance, as well as work by Resource Recovery Project consultants and county staff. Four types of governance systems were cited: joint exercise of powers, intergovernmental service agreements, legislatively created entities and waste management districts.
- **April 2014:** A memorandum titled "Policy Evaluation – Direction on Technology and Policy Evaluation" (pages 116-129) was transmitted to the board. Of note on pages 124-125, the evaluation focused on two governance options: joint exercise of powers and waste management districts, ruling out intergovernmental service agreements and a legislatively created entity.
- **September 2014:** Legal counsel presented "Future Governance Approaches" (page 150-162) which, on page 150, provides a comparison of joint exercise of powers and waste management districts. The result of the discussion that followed and future action was the selection of governance using a joint powers agreement. While there was appeal to a waste management district, the existing state legislation related to creating a district was (and remains) unworkable. A JPA was the only viable option for proceeding with the purchase within the available time.

Governance Dimensions

Evaluating a change in governance is a multi-faceted, multi-level process. Issues range from broad, high-level matters to more nuanced details. Prior to purchasing the R&E Center, the governance discussion focused on identifying the structure and function of an organization that would assume public ownership of an existing private facility. The pending governance discussion will have a different focus. As with the previous analysis, classifying issues into dimensions clarifies a complex process.

Dimensions are the high-level topics requiring attention when evaluating governance changes. Dimensions frame the research and policy analysis and assure all bases are covered. Seven dimensions have been identified in the graphic below for the potential upcoming analysis of governance.

Governance Dimensions			
Governance Structure	**Legal**	**Finance**	**Risk Management**
Evaluate optimal structures for east metro waste management, considering policies and strategies in county plans	Review legal issues associated with a governance change, including a legal risk analysis	Identify and evaluate financial issues associated with a change in governance	Identify and evaluate risks associated with a new governance structure and consider risk mitigation alternatives
Administration	**Community Engagement**	**Strategic Partnerships**	
Identify administrative elements and a scope of change for each (e.g. IT, human resources, finance, procurement, etc.)	Identify interested parties and communities, plan for engagement, seek dialogue and input	Advocate for governance legislation as needed; engage cities, townships and other partners during governance evaluation	

Alternative Governance Examples

The current analysis examined various governance models in Minnesota and the United States. R&E's consultant HDR evaluated 12 regional solid waste entities across the country and interviewed five of them (***Attachment 2***). R&E staff also reviewed several types of regional governing structures in Minnesota, including waste-related joint powers boards (***Attachment 3***).

Key Takeaway: There is great variation in waste governance, but there are some common threads. The most effective waste management systems are governed locally in a structure that best fits local needs. To ensure accountability, a governing board with elected officials is important to direct the work. An organization needs to have the tools available to meet its mandates, including personnel, regulatory, financial, operational and so on. There also needs to be a way for a governing entity to expand or contract by onboarding or offboarding nearby communities.

Additional key findings related to waste governance:

- **Variability:** There is wide variation in organizations governing waste. The scope of authority, governing oversight, range of duties, regulatory authority, financing and accountability is very different. This is understandable given the wide variety of approaches to solid waste management across the U.S. (and even within Minnesota). The form of regional government follows the assigned or assumed function of that entity.
- **Structure:** Form follows function in waste governance structures. Formal partnerships (such as joint powers agreements) are common in Minnesota, but with a wide range of duties delegated to joint boards. Elsewhere in the U.S., intergovernmental partnerships (joint powers, intergovernmental agreements and special districts) exist to serve local needs. In some areas, state laws require or frame local government waste structures, with less flexibility at the local level.
- **Boards:** Oversight of the reviewed regional governing structures is provided by boards of directors of some type. Board composition, authority, involvement and operations vary. In most cases, boards reviewed in this analysis were comprised of elected officials – appointed by another entity (county, city). Technical or policy advisory committees are also common.
- **Staffing:** The level and type of staffing varied with the responsibility of the governing entity. In some cases, there were large staff complements when the duties were wide-ranging and involved operating facilities. In other cases, where regional coordination, planning and/or reporting were the major duties, there were few staff. Most entities contracted with private sector service providers for some work.
- **Onboarding and offboarding communities:** Multiple entities provided information on member communities (cities or counties) choosing to leave or requesting to join the entity. Several entities recommended clear pathways for such transitions and changes.
- **Precedent for Minnesota regional governance:** There are examples of effective regional governance options beyond JPAs that can provide guidance in designing a regional model for waste governance. In several cases, a state government has created regional entities, and in others, authority is provided to local governments to do so.

Governance Alternatives

This discussion of governance alternatives draws heavily from Attachment C, a legal analysis from R&E's legal consultant, Husch Blackwell. This memo builds on governance previous analyses and examines in detail the enhanced joint powers option and the waste district option. The latter is discussed in two scenarios: existing law and the proposed legislation for waste management districts.

Four governance alternatives were evaluated during purchase of the R&E Center. At that time two options were ruled out: Intergovernmental Service Agreement and Legislative Established Entity. That narrowing continued in this analysis, with those two alternatives ruled out.

Alternatives ruled out:

- **Intergovernmental Service Agreement:** This form of cooperative agreement is generally used for the use of equipment or services between local units of government and is flexible. There is an absence of a formal organizational structure, which would make it difficult to deal with policy, planning and financing of projects.
- **Legislative Established Entity:** An authority or district created by the legislature can be designed to meet a variety of purposes. This approach can be used to define a consistent level of solid waste management. However, because the power to create the entity rests solely with the legislature, counties could have very little control in the outcome of the legislative process and the time it would take to create one.

Governance Alternatives to Explore

This analysis examined these alternatives:

- **Status quo:** The current JPA remains unchanged.
- **Enhanced joint powers agreement:** The Counties agree to expand the authority of the R&E Board to include additional solid waste responsibilities that are not held by the current Joint Powers Board.
- **Solid waste management district:** Obtain authorization from the state to allow counties to form a new unit of government that assumes certain solid waste responsibilities. Within this alternative, there are two scenarios considered:
    - Waste management district formed under ***existing*** law
    - Waste management district formed under ***proposed*** law

The alternatives of the status quo, an enhanced joint powers agreement and waste management districts (existing law and the proposed legislation) are outlined in ***Attachment 5***. That table, based on the legal memo from Husch Blackwell, summarizes the differences between these three alternatives.

Governance Decision Process and Timeline

If the R&E Board and county boards decide to proceed with the governance analysis, the recommended decision-making process is found in ***Attachment 7***, a flow-chart depicting the process.

Board Policy Question for Discussion

Should the R&E Board recommend that R&E and county staff work together to evaluate governance structures for joint solid waste management, including the status quo, an enhanced joint powers agreement and a solid waste management district?

If the Board says "yes" to this question, then the county boards will be requested to consider the same question. If both Counties agree to the evaluation, then R&E would lead the work to evaluate alternative governance options. If one or both Counties say "no" to the question, then the status quo will continue.

Next Steps: Scope of Further Evaluation

If the R&E Board and county boards agree to evaluate alternative governance structures, the next step would be for a workgroup of R&E and county staff to evaluate the selected alternate governance structures using dimensions of governance change, outline a transition plan and deliver reports to R&E Board. This work would inform decision number six on the flow chart in ***Attachment 7***.

That work would begin at a scoping level, identifying the specific topics requiring attention and action in each of the governance dimensions. It would frame the issues that need to be addressed, how to approach them, the level of effort needed and a timeline.

The evaluation would be structured around dimensions already identified. These are the high-level topics requiring attention when evaluating governance changes. Dimensions frame the research and policy analysis and ensure all bases are covered. For the upcoming analysis of governance, seven dimensions have been identified, shown in the **Governance Dimensions** section of this document.

Alternative Governance Case Studies

Prepared for Ramsey/Washington Recycling & Energy
June 11, 2025; Revised January 9, 2026

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Executive Summary and Key Findings

Ramsey/Washington Recycling & Energy (R&E) tasked HDR with identifying examples of alternative governance structures, such as Solid Waste Management Districts (SWMD) or similar entities to understand how they function in managing solid waste. R&E selected 12 of the identified entities for a detailed evaluation and then conducted detailed interviews with five selected entities.

Key Findings:

Oversight: The level of oversight and regulatory authority varies widely by type of entity, with some entities owning and operating facilities, and others only providing administrative coordination between member communities (such as annual reporting).

Structure: Examples of both intergovernmental partnerships (including joint powers, cooperative agreements, and special districts) and state regulations/processes to develop entities were identified. Of the 12 entities, six are partnerships and six are formed via state regulations. Local government collaboration from member communities is key for all entities.

Boards: Oversight is provided by Boards, which have varying levels of involvement and authority over the identified entities. Some Boards are highly involved with decision making, while others have limited involvement. All identified entities have Boards comprised of elected officials from local jurisdictions or local government staff. There were no new board elections specific to the entities, as is the case for many Watershed Districts and Conservation Districts in MN.

Staffing: Interviewed entities typically had a small number of direct staff members and often contracted for additional services, including facility operations.

Onboarding and offboarding communities: Multiple entities discussed member communities (cities or counties) choosing to leave or requesting to join the entity. Several entities identified the need for clear pathways for such transitions and changes.

Additional follow-up: Two of the entities interviewed have many similarities to R&E and may provide additional benefit through future connections.

- Rethink Waste in California is a large organization, with oversight of a franchise agreement for waste hauling for their member communities and oversight of the operations for various waste facilities. Rethink's Board of Directors was previously city staff but transitioned to elected officials due to the desire by elected officials to be more involved.
- Montgomery County Solid Waste District in Ohio owns and operates facilities and provides significant education and outreach to the community. Montgomery County SWD is funded through tip fees and property charges, and they have had experience with member communities wanting to leave and join their SWD. Montgomery County's size is comparable to R&E.

Introduction and Background

Ramsey/Washington Recycling & Energy (R&E) identified a need to better understand alternative governance structures, such as Solid Waste Management Districts (SWMD), and how they function in managing solid waste within a community. HDR conducted a national search and utilized industry knowledge and connections to identify existing structures that may be useful case studies for R&E. After compiling a list, R&E selected 12 entities for a detailed evaluation and then further focused on five entities for interviews.

The following document includes summaries of the selected entities. This document is meant as reference material for R&E to summarize the identified alternative governance structures.

Feedback from the research identified the following key findings:

- The level of oversight and regulatory authority varies widely by type of entity, with some entities owning and operating facilities, and others only providing administrative coordination between member communities (such as annual reporting).
- Oversight is provided by Boards, which have varying levels of involvement and authority over the identified entities. Some Boards are highly involved with decision making, while others have limited involvement.
- Interviewed entities typically had a small number of direct staff members and often contracted for services including facility operations.
- Multiple entities discussed member communities (cities or counties) choosing to leave or join their organizations, and the need for clear pathways for such transitions and changes.

Delaware Solid Waste Authority

Area represented: The State of Delaware

Purpose: Providing dependable, accessible, and sustainable solid waste management systems to the State of Delaware

Founding legislation: The enactment in 1975 of Title 7, chapter 64 of the Delaware Code made the Delaware Solid Waste Authority responsible for developing, adopting and implementing the Statewide waste management plan for Delaware.

Delaware Code Online: Title 7, chapter 64, powers of authority—6406

Though created by the General Assembly in 1975, DSWA is **not** a state agency. DSWA receives no state or federal tax dollars. Additional information on founding and history: History - DSWA

Board: DSWA has a Board of Directors and a Citizens' Advisory Board. The members of the Board, except for the Board Chairperson, are confirmed by the state senate, and the Governor appoints Board members for three-year terms. The Board of Directors sets policies and has decision-making authority about current operations, programs, and planning, and they hire employees.

Staff: DSWA has a Chief Executive Officer and a Chief Operating Officer.

Facilities and services: They have recycling centers, collection stations, transfer stations and landfills.

Website: Home - Delaware Solid Waste Authority

Other highlights: They offer two student scholarships to Delaware students studying engineering or environmental studies programs.

Eastern Idaho Waste District

Area represented: Madison, Fremont, Clark and Teton Counties, Idaho

Purpose: The District's mission is to provide solid waste disposal services, facilities, and equipment to reduce, transfer, and recycle solid waste within the Eastern Idaho region.

Founding legislation: ABOUT – Eastern Idaho Waste District

Section 31-4902 – Idaho State Legislature

Powers of board: Section East31-4906 – Idaho State Legislature

"The District does not have taxing authority. **Ultimately, future costs will be reduced for taxpayers** through regional consolidation of services and reduced landfill tipping fee costs. This regional collaboration provides a responsible solution to deliver essential services while conserving public resources."

Board: The district is governed by a Board of Directors, with one board member representing each member county, selected by its county.

Staff: They have an Executive Director and a municipal advisor.

Website: Eastern Idaho Waste District – Environmentally Conscious Waste Management

News: Local landfill 14 years in the making will serve 80,000 people in four counties - East Idaho News

Johnson County Solid Waste District

Area represented: Johnson County, Wyoming

The Johnson County Solid Waste District was formed in 2002. It is a Special District of Johnson County, Wyoming.

Legislation: Wyoming Statutes CHAPTER 11 - Solid Waste Disposal Districts

Board: The Solid Waste Board is comprised of six members.

Staff: The Solid Waste District has a manager.

Facilities and Services: A landfill and recycling center. They accept solid waste, construction waste, & green waste. They also accept tires, freon units, & metal.

Website: Johnson County Solid Waste District

News: Johnson County Commission Updated on Landfill Expansion – Sheridan Media

Talking trash | News | buffalobulletin.com

Mid-America Regional Council Solid Waste Management District

Area represented: Kansas City, MO-District E: Cass, Clay, Jackson, Platte, and Ray counties, Missouri

Purpose: The districts were created to foster regional cooperation between cities and counties in managing solid waste. The districts help plan and implement recycling services and other alternatives to waste disposal at the local level. They also administer waste reduction, reuse, recycling and composting grants to support these efforts.

Founding legislation: Missouri Statutes: Missouri Revisor of Statutes - Revised Statutes of Missouri, RSMo Section 260.300-310 lists the contractual authority and powers of the SWMD.

Board: The District represents the interests of members through a 15-member Executive Board and a management council.

Staff: Staff from the Mid-American Regional Council support the Solid Waste Management District with administrative tasks and staffing through an annual memorandum of understanding.

Website: Solid Waste Management District | MARC

Lake Region Solid Waste Authority

Area represented: Anderson, Coffee, Franklin, Linn, Miami, Osage, and Shawnee Counties, Kansas

Purpose: Facilitate proper solid waste management, advocate for waste reduction and landfill diversion, and encourage the public to recycle.

Founding legislation: About Us – Lake Region Solid Waste Authority

In 1995, six counties agreed to form a Solid Waste Authority for joint planning and in 2024 a seventh county joined. The government document for this authority is an interlocal agreement, which is signed by each county commissioner and then sent to the Kansas Attorney General for final approval.

Each county in the solid waste authority receives funds from tipping fees or tax revenue or something similar to finance the county's solid waste operations. The operating budget for the solid waste authority comes from dues paid by each county.

Board: LRSWA is governed by a Board of Directors made up of two voting members from each of the seven counties.

Staff: They have a regional director who oversees day-to-day operations.

Website: Lake Region Solid Waste Authority – Serving Anderson, Coffey, Franklin, Linn, Miami, Osage, and Shawnee Counties

Solid Waste Management Plan: LAKE REGION

Interview highlights:

- The LRSWA provides reporting oversight to the state and coordinates education and outreach on a limited basis. They have one staff person who works part-time to compile annual reporting requirements from the member counties and works with a Board comprised of County Commissioners for high-level collaboration.
- Each county manages its own waste and contracts, and the LRSWA has no facilities, contracts, or other infrastructure.
- The LRSWA has a very limited budget, no specific authority, and serves more as an administrative and educational resource to the counties.

Lincoln County Solid Waste District

Area represented: Cooperative program between the cities of Depoe Bay, Lincoln City, Newport, Siletz, Toledo, Waldport, and Yachats; Dahl Disposal Service; North Lincoln Sanitary Service, Thompson's Sanitary Service; and Lincoln County, Oregon

Purpose: To provide sustainability program coordination, litter and illegal dumping program administration, coordination HHW collection and reduction, strategic planning, management, and reporting for the Lincoln County Waste Shed, and reduce, reuse, recycling and compost promotion and education.

Founding legislation: Lincoln County Code (LCC) Chapter 2 Purpose, Policy and Scope

Staff: They have one district manager.

Facilities and services: They have four transfer stations.

Website: Solid Waste District | Lincoln County, OR

Interview highlights:

- Lincoln County Solid Waste District (LCSWD) is a cooperative agreement between cities and functions as a government organization.
- The existing franchise agreement between the waste haulers and the County provides all services and is outside the oversight of the LCSWD. The LCSWD facilitates the franchise entities and ensures cooperation.
- Family-owned businesses that collaborate well are the key to the current success, for hauling and facility management within the District.
- The LCSWD serves as a resource, provides coordination, oversees quality service by franchise haulers, and provides education.

Lucas County Solid Waste Management District

Area represented: Lucas County, Ohio

Purpose: "To develop and enhance programs which enable residents to easily recycle common household wastes as well as to assist business and industry with the implementation of waste reduction and recycling programs, with programs/services to reduce, reuse and recycle."

Founding legislation: hb592.pdf Approved-Plan-Update-102324

In 1988, Ohio faced a combination of solid waste management problems, including rapidly declining disposal capacity at existing landfills, increasing quantities of waste being generated and disposed, environmental problems at many existing solid waste disposal facilities, and increasing quantities of waste being imported into Ohio from other states. These issues combined with Ohio's outdated and incomplete solid waste regulations caused Ohio's General Assembly to pass House Bill (H.B.) 592. H.B. 592 dramatically revised Ohio's outdated solid waste regulatory program and established a comprehensive solid waste planning process.

Board: The SWMD has a Board of Trustees/Policy Committee with seven members.

Staff: The SWMD has one staff member, the Solid Waste District Manager.

Website: Solid Waste Management District | Lucas County, OH - Official Website

News: Lucas County materials recovery facility (MRF) work continues in 2025 | Lucas County, OH

Montgomery County Solid Waste District

Area represented: Montgomery County, Ohio

Purpose: They provide waste disposal and recycling services to Montgomery County municipalities, businesses, and residents.

Founding Legislation: The Montgomery County SWMD formed as a single county district on October 4, 1988.

Section 3734.52 - Ohio Revised Code | Ohio Laws

Definition of SWMD: One of two structures a county/group of counties can form for purposes of complying with Ohio Revised Code Section 3734.52. The other structure is a regional solid waste management authority. A solid waste management district can consist of one or more counties. The SWMD's main purpose is to prepare, adopt, submit, and implement a solid waste management plan. In addition, a SWMD is responsible for providing safe and sanitary management of solid waste generated within the SWMD in compliance with Chapters 343 and 3734 of the Ohio Revised Code. A SWMD is governed by two groups – a policy committee and a board of county commissioners/board of directors.

Board: The Montgomery County SWD is governed by two bodies: 1) the Board of Directors, which consists of the county commissioners from all counties in the SWMD, and 2) a Policy Committee, which is responsible for developing a solid waste management plan for the SWMD. BOD is responsible for implementing the policy committee's SWMP.

Staff: The Montgomery County SWD has a director, assistant director, public information officer, and three program specialists on staff.

Facilities and Services: A transfer station, a MRF and an ash monofil. The SWD houses the Environmental Learning Center and the Keep Montgomery County Beautiful program, which offer educational programs to schools, communities and businesses as well as litter resources.

Website: Solid Waste | Montgomery County, OH - Official Website

SWMP: Montgomery-County-SWMP---Feb-5-2025

Interview highlights:

- MCSWD owns and operates the transfer station, provides education and outreach, and contracts for some hauling and disposal with a private hauler. They also own and operate a MRF, an Environmental Learning Center, and an ash monofil.
- MCSWD has flow control for the County and also accepts out of county waste at their TS, at a higher fee. The transfer station is currently at capacity.
- MCSWD provides extensive education at the facility, including tours.
- MCSWD is funded through tip fees and annual property charges to all residential (flat fee) and commercial (volume-based) entities in the county.
- MCSWMD utilizes services and pays fees to the County for services such as IT, HR, legal, fleet services, etc., as they are not a county entity.
- MCSWMD has had experience with entities wanting to leave or join the District and has encountered issues when member entities control different assets within the agreements. A clear legal process for joining or leaving a District is critical to success. MCSWMC's existing language is available online for reference.

Regional Recycling & Waste Reduction District

Area represented: Pulaski County, AR

Purpose: Promoting recycling and waste reduction in partnership with Pulaski County residents

Founding legislation: 1991 Arkansas legislation to establish the solid waste districts: A Bill ACT 752 OF 1991

- Rules & Regulations of the Pulaski County Regional SWMD Section 5: Powers and Duties

Board: Their Board of Directors is comprised of seven members, including six mayors of communities in the county as well as Pulaski County Judge.

Staff: The District includes four staff, including the Executive Director, contract services, recycling officer and environmental officer.

Facilities and services: residential curbside, recycling and garbage service, special recyclables like electronics, glass, plastic bags, HHW and household batteries, C&D recycling facility, tire recycling in District 2 of Arkansas.

Website: Regional Recycling & Waste Reduction District – Promoting recycling and waste reduction in partnership with Pulaski County residents and businesses

Other highlights: The board has the power to petition the Arkansas Pollution Control and Ecology Commission or Director of the Arkansas Dept of Env. Quality to issue, continue, revoke, modify or deny any permit for solid waste management. The Regional Recycling & Waste Reduction District originally was called the Pulaski County Regional Solid Waste Management District. The name was changed in 2008.

Rethink Waste South Bayside Waste Management Authority

Area represented: City of Belmont, City of Burlingame, City of East Palo Alto, City of Foster City, Town of Hillsborough, City of Menlo Park, City of Redwood City, City of San Carlos, City of San Mateo, the County of San Mateo and the West Bay Sanitary District, California

Purpose: Provide innovative waste reduction and diversion management through responsible and cost-effective programs that promote environmental sustainability in our communities

Founding legislation: Legal document: Third Amended and Restated JPA Agreement - clean (00198459-1).DOCX with powers of agency (article 7: Powers). Formed in 1982

Board: They have a Board of Directors with eleven members representing the service areas.

Staff: They have ten staff members, including an Executive Director, finance manager, recycling and compliance manager, principal engineer and operations manager and other roles, plus multiple public outreach and environmental education fellows.

Facilities and services: a "joint powers authority where all recyclables, compost materials, and solid waste that are generated within 100+ square mile service area are collected, handled, processed and then transported to their final location. "

They have a franchised waste hauler (Recology San Mateo County) for the Rethink Waste service area and a contractor (South Bayside Industries) to operate the MRF, transfer station and public recycling center.

Website: RethinkWaste – A Public Agency

Interview highlights:

- Rethink owns a large transfer station and MRF. They have two significant contracts:
  - A master trash and recycling hauling contract for all residential and commercial entities in the District. Individual cities use the master agreement for collections. Individual cities can choose various add-on services (ex. yard waste, bulky items, etc.) and set their own individual billing rates to their customers.
  - A contract for the operations of the Rethink-owned transfer station and MRF.
- Rethink provides oversight and coordination of those two contracts, works with member communities, provides education and outreach, and coordination between member entities.
- Rethink has an ongoing fellowship program for Rethink employees that's been very successful.
- Rethink has a process for entities to exit the agreement. One member community chose this option, and the process worked.
- Their Executive Director is active in the state legislature, particularly regarding lithium-ion batteries, as their MRF had a significant fire due to a battery.

Solid Waste Agency of Northwest Nebraska

Area represented: Dawes, Sheridan, Sioux Counties and the Hemingford area residents in Box Butte County, Nebraska

Purpose: This agency will handle solid waste from households to final disposal in the communities and provide a disposal site for all rural residents.

Founding legislation: Early in 1992, SWANN was formed by communities and counties. All counties and communities signed an interlocal agreement.

October 9, 1992-new federal regulations went into effect, Subtitle D, related to a law passed called Resource Conservation and Recovery Act, which was followed by passage of LB1257 by NE legislature.

Mission & History: Solid Waste Agency of Northwest Nebraska (SWANN)

Nebraska Legislature: "County, municipality, or agency; provide or contract for disposal of solid waste; joint ownership of facility; governing body; powers and duties; rates and charges.

(1) Effective October 1, 1993, each county and municipality shall provide or contract for facilities and systems as necessary for the safe and sanitary disposal of solid waste generated within its solid waste jurisdiction area. Such disposal shall comply with rules and regulations adopted and promulgated by the council for integrated solid waste management programs."

Board: They have a Board of Directors, who represent the participating communities and counties.

Staff: They have two executive staff members, an Executive Director and an Operations Director. They also have administrative office staff, collection, disposal and transfer station staff, and community site operators.

Facilities: SWANN has a transfer station in Chadron and a landfill, as well as community sites in seven towns.

Services: They provide commercial and construction disposal service, residential waste removal service and roll-off dumpster service. Customers pay the SWANN directly for their services.

Website: Solid Waste Agency of Northwest Nebraska (SWANN)

News: Newsroom: News & Events: Solid Waste Agency of Northwest Nebraska (SWANN)

Interview highlights:

- SWANN provides residential collection and has a policy for waste designation for residential and commercial waste. All residents pay a set fee for disposal, and commercial fees are volume-based. Residents can bring other materials like C&D directly to the transfer station.
- Keep Chadron Beautiful (part of Keep America Beautiful) provides most residential recycling collection and hauling services.
- Two communities lost their local waste haulers (rural areas) and asked to join SWANN as a result, since there were no other feasible options for disposal. SWANN added them through formal approval process.
- Most cities oversee their own billing to customers and send fees to SWANN.
- SWANN has bonding authority for items that are not covered through hauling and operations fees.
- SWANN owns and operates the transfer station and landfill. All waste is baled before it goes to their landfill, which reduces litter and increases efficiencies.

St Joseph County Solid Waste Management District

Area represented: St. Joseph County, Indiana

Purpose: The Solid Waste Management District serves all residents throughout St. Joseph County. The District offers comprehensive recycling, household hazardous waste (HHW), educational services to the citizens of St. Joseph County.

Founding legislation: The District was formed in 1991 by St. Joseph County Ordinance No. 76-90. This resolution established a District in accordance with IC 13-21-2-14.5.

Legislation details for the SWMD: § 50.01. - Designation. | Code of Ordinances | St. Joseph County, IN | Municode Library, 50.09 powers of SWMD board—use for spreadsheet

Board: St Joseph SWMD Board members include county commissioners, mayors, city council members, county council members, an attorney and the county auditor. Solid Waste Management District Board | St. Joseph County, IN,

Staff: St Joseph SWMD has six staff members, including a director, an educator, a program assistant, and three staff for the Household Hazardous Waste Program.

Facilities and Services: These services include Countywide Curbside Recycling Program, Permanent Household Hazardous Waste Facility, and School Education Efforts

Website: Solid Waste Management District (SWMD) | St. Joseph County, IN

Examples of Regional Governance Systems in Minnesota

Prepared by Zack Hansen and Leigh Behrens
October 1, 2025

As part of the preliminary analysis on governance alternatives, Ramsey/Washington Recycling & Energy (R&E) staff examined various joint governance models in Minnesota. Staff reviewed regional governing structures in Minnesota, including (but not limited to) solid waste-related entities. This document is a complement to the case studies from R&E's strategic engineering consultant, HDR, on regional solid waste entities across the United States outside of Minnesota.

The examples of Minnesota-specific regional governance systems are organized in four categories:

- Joint powers agreements (JPAs) between local governments
- Regional governance entities created by the Minnesota state government
- Waste management districts
- Regional government entities created locally

JPAs Between Local Governments

- **Tri-County Solid Waste Commission (Tri-County)**: Benton, Sherburne and Stearns Counties, Minnesota (website)

  Tri-County was established in 1983. Representation and leadership are provided by the Tri-County Solid Waste Commission Board, which consists of local county commissioner representation based on population. The mission statement of Tri-County is to "provide an efficient waste collection system that includes energy generation, recycling, hazardous waste management and disposal in a cost-effective an environmentally acceptable manner."

  Tri-County has a 20-year contract (through 2031) to deliver about 45% of the solid waste generated in the Tri-County area to the waste-to-energy facility owned by Pope and Douglas Counties. Solid waste haulers are required to deliver waste based on a monthly quota. The remaining 55% of waste is landfilled.

- **Pope-Douglas Solid Waste Management (PDSWM):** Douglas and Pope Counties, Minnesota (website)

  PDSWM was formed in 1983 to foster regional cooperation on solid waste management between Douglas and Pope Counties and to provide waste processing services to other counties. PDSWM operates a wide variety of programs and facilities, including a waste-to-energy facility in Alexandria, permitted to manage up to 80,000 tons per year of solid waste, various collection and transfer sites and recycling and organic waste management facilities.

- **East Central Solid Waste Commission**: Chisago, Isanti, Kanabec Mille Lacs and Pine Counties, Minnesota (website)

The East Central Solid Waste Commission is a joint powers board dating back to 1988. The commission owns and operates a solid waste management disposal system consisting of a municipal solid waste landfill (located in Kanabec County), two transfer stations (one located near Cambridge in Isanti County, and the other located near Hinckley in Pine County) and an inactive compost facility (located adjacent to the municipal solid waste landfill).

- **Prairieland Solid Waste Board:** Faribault and Martin Counties, Minnesota

  Established in 1989, the JPA authorizes the Prairieland Solid Waste Board to oversee a facility that processes waste into refuse-derived fuel, or RDF (used at Xcel's Wilmarth Facility), and to support other solid waste activities of the two counties.

- **Prairie Lakes Municipal Solid Waste Authority (PLMSWA):** Becker, Clay, Otter Tail, Todd and Wadena Counties, Minnesota (website)

  In 2010, Otter Tail, Becker, Todd and Wadena Counties entered into a JPA to form the PLMSWA, which served to facilitate regional cooperation on solid waste management among the member counties. Clay County joined the PLMSWA in 2014.

  In 2011, the PLMSWA became owner and operator of the Perham Resource Recovery Facility, a waste-to-energy facility in Perham, Minnesota. The five member counties deliver over 60,000 tons per year of municipal solid waste to the facility. The facility recycles 1,200 tons of material per year and sells one million pounds of steam per day to local businesses (such as Tuffy's Pet Foods and Bongards Creameries), while also employing 33 full-time staff members.

- **Tri-County Solid Waste Joint-Powers Board:** Le Sueur, Nicollet and Sibley Counties, Minnesota (website)

  LeSueur, Nicollet and Sibley Counties collaborate to implement an integrated solid waste management system to offer services to residents and businesses. Two commissioners from each county comprise the board. Counties are responsible for ordinance enforcement, while Tri-County staff administer and direct county solid waste and recycling programs, household hazardous waste (HHW) collection, resource recovery, problem materials and educational programs.

Regional Governance Entities Created by Minnesota State Government

- **Metropolitan Mosquito Control District**: Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington Counties, Minnesota (website)

  The Metropolitan Mosquito Control District promotes health by protecting the public from disease caused by mosquitoes, black flies and ticks, in an environmentally safe manner. The district covers the seven county Twin Cities metro area. County boards appoint commissioners to the district board annually. Anoka, Dakota, Hennepin and Ramsey Counties have three commissioners each, and Carver, Scott and Washington have two commissioners each. The district is funded with a tax levy administered by each member county, limited to annual increases according to an index established in state law.

- **Mississippi Headwaters Board (MHB):** Aitkin, Beltrami, Cass, Clearwater, Crow Wing, Hubbard, Itasca and Morrison Counties, Minnesota (website)

  The MHB works to protect and preserve the Mississippi River in Minnesota. It was formed in 1980 as an alternative to the designation of the first 400 miles of the Mississippi River into the National Wild and Scenic River System. Minnesota Statutes §§ 103F.361-377 established a permanent joint powers board. The state mandates the MHB to enhance and protect the natural, cultural, historic, scientific and recreational values of the headwaters region. It has an eight-member board, with each county appointing one county commissioner. Terms are two years, with vacancies filled by the original appointing county.

- **White Bear Lake Conservation District (WBLCD):** White Bear Lake, White Bear Township, Dellwood, Mahtomedi and Birchwood, Minnesota **(**website)

  This district was formed by the State of Minnesota in 1971 for the purpose of taking care of White Bear Lake for all to enjoy. The WBLCD is governed by a 10-member volunteer board of directors made up of two representatives appointed by the city councils of the five municipalities that border White Bear Lake. Each city determines their appointment process. Board members are appointed for three-year terms and there are no term limits for board members.

- **Watershed Districts:** multiple, Minnesota (website)

  In 1955, the Minnesota Legislature authorized the creation of watersheds through the Watershed Act. The intent of the Act was to develop water management policies and plans on a watershed basis, because water does not follow political boundaries. Watershed districts are approved by the state's Board of Water and Soil Resources. Each watershed district is governed by a three- to nine-member board of managers appointed by the county boards of commissioners with land in the watershed district and each manager serves a three-year term.

Waste Management Districts

- **Western Lake Superior Sanitary District (WLSSD):** Duluth, Carlton, Cloquet, Hermantown, Proctor, Rice Lake, Scanlon, Thomson, Wrenshall and surrounding townships, Minnesota (website)

  This is the only waste district in Minnesota and was created prior to the current law to form districts. WLSSD was established by the legislature in 1971 as a public corporation and political subdivision of the state. The board of directors is a mix of elected and appointed officials serving three-year terms, with nine members from the City of Duluth (four members), the City of Cloquet (three members), municipalities in Carlton County (one member) and municipalities in St. Louis County (one member). The makeup of the board is directed by law.

  The district provides solid waste and wastewater services in an area of 530 square miles around Duluth. It regulates all solid waste activities in the area, and owns and operates facilities, providing a full array of solid waste and recycling services.

Regional Government Entities Created Locally

- **Regional Rail Authorities (RRAs):** multiple, Minnesota (Ramsey County RRA website; Washington County RRA website; Minnesota Valley RRA website)

  RRAs are created by local governments. Per state law, these entities provide a means whereby one or more municipalities, with state and federal aids as may be available, may provide for the preservation and improvement of local rail service for agriculture, industry or passenger traffic and provide for the preservation of abandoned rail right-of-way for future transportation uses, when determined to be practicable and necessary for the public welfare, particularly in the case of abandonment of local rail lines.

  In most cases, individual counties have created distinct regional rail authorities, such as the Ramsey County RRA, Washington County RRA and Dakota County RRA. These RRAs consist of the county board of commissioners, appointed to the regional rail authority board annually. An example of an exception to this structure is the Minnesota Valley RRA, which consists of Carver, Renville, Redwood, Sibley and Yellow Medicine Counties and whose board includes one commissioner from each county board.

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MEMORANDUM

Date: October 16, 2025

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 to: "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 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, subds. 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.

A bill for an act

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

115A.63 SOLID WASTE MANAGEMENT DISTRICTS.

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

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

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

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

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

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

(1) name the proposed district;

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

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

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

Subd. 2. **Transition plan contents.** (a) Counties proposing to establish a district must jointly prepare a draft transition plan that contains, at a minimum, the following information:

(1) the name of the proposed district and the location of its registered office;

(2) a description of the territory and counties wholly or partly within the boundaries of the proposed district, and a map showing the district boundaries;

(3) resolutions of intent to establish the proposed district adopted by the governing body of each proposed member county under subdivision 1;

(4) evidence that each proposed member county is operating under a solid waste management plan approved by the commissioner;

(5) a statement describing how the proposed district will further the state's solid waste management policies and purposes expressed in section 115A.02;

(6) a discussion of the role county solid waste employees may play in staffing the proposed district;

(7) a list and description of solid waste management facilities and services operating in the proposed district, identified as public, private, and county-owned;

(8) for each proposed member county, a list of the following documents and a schedule for their transfer to the district for implementation:

(i) solid waste management plans;

(ii) designation plans;

(iii) solid waste management ordinances;

(iv) state and local permits held by county-owned facilities; and

(v) existing contracts with private parties for waste management services;

(9) a description of how the district will ensure the continued operation of county-owned solid waste facilities located in the proposed district, and a schedule for transferring their ownership to the district;

(10) a list of proposed member county solid waste funding sources and finances, remaining principal and debt service on outstanding county solid waste management bonds, and other county financial obligations related to solid waste proposed for transfer to the district;

(11) a list and schedule of unified districtwide ordinances the district proposes to adopt; and

(12) draft articles of incorporation.

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

Subd. 3. **Public hearing.** Each proposed member county must hold a public hearing in its jurisdiction for the purpose of receiving public comments on the draft transition plan. Notice of the hearing must be published in a newspaper of general circulation in the county no more than 45 days and no less than 15 days before the date of the public hearing, and at the same time must be mailed to the governing body of each city and town within the county. In addition to comments it receives at the public hearing, each proposed member county must also accept comments in written or electronic form that are received up to ten days following the date of the public hearing. No later than 30 days after the public hearing, the member counties must prepare a final transition plan, revised as needed, and a list of responses to comments received.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

115A.65 PERPETUAL EXISTENCE.

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

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

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

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

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

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

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

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

(2) the manner of removing a director;

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

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

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

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

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

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

115A.68 REGISTERED OFFICE.

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

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

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

115A.69 POWERS.

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

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

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

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

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

(c) ~~The~~ A district's right to acquire lands and property rights by condemnation ~~shall be exercised in accordance with~~ is governed by chapter 117. 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.

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

Subd. 5. **Gifts and grants.** ~~The~~ 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, may enter into any necessary related agreement ~~required in connection therewith,~~ and may hold, use, and dispose of the money or property in accordance with the terms of the gift, grant, loan, or agreement.

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

Subd. 7. **Facilities and services.** ~~The~~ A 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~~ A district shall contract with private persons ~~for the construction, maintenance, and operation of~~ to construct, maintain, and operate facilities and services ~~where the facilities and services~~ that

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

Subd. 8. **Rates; charges.** ~~The~~ A district may establish and collect rates and charges for the facilities and services ~~provided by the district~~ it provides and may negotiate and collect rates and charges for facilities and services ~~contracted for by the district~~ provided under contract. ~~The board of directors of the district may agree with the holders of district obligations which are secured by revenues of the district as to the maximum or minimum amounts which the district shall charge and collect for services provided 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. Notice of the hearing shall be published at least once in a legal newspaper of general circulation throughout the area affected by the rates and charges. Publication shall be no more than 45 days and no less than 15 days prior to the date of the hearing.~~

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

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

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

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

Subd. 13. **Research.** ~~The~~ A 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.

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

Subd. 15. **Insurance.** ~~The~~ A district may require any employee to obtain and file with it an individual bond or fidelity insurance policy. 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~~.

Subd. 16. **Reviewing projects.** ~~The~~ A 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~~ the district's approval ~~of the district~~.

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

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

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

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

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

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

115A.71 BONDING POWERS.

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

Subd. 2. **Debt.** ~~The~~ A district's bonds ~~shall~~ must be sold, issued, and secured in the manner provided in chapter 475 for revenue bonds and the district ~~shall have~~ has 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~~ are not ~~be~~ subject to any limitation as to rate.

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

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

(2) ~~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; and

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

(b) Every issue of revenue bonds by ~~the~~ a district ~~shall~~ must be payable out of any funds or revenues from ~~any~~ a facility of the district, subject only to agreements with the holders of particular bonds or notes pledging particular revenues or funds. If ~~any~~ a facility ~~of the district~~ is funded in whole or in part by Minnesota waste management bonds issued under sections 115A.58 and 115A.59, the state bonds shall take priority. ~~The~~ A 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~~ A 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.

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

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

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

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

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

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

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

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

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

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

115A.72 AUDIT.

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

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

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

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

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

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

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

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

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

115A.82 ELIGIBILITY.

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

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

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

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

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

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

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

Sec. 20. **REVISOR INSTRUCTION.**

The revisor shall renumber Minnesota Statutes, section 115A.70, subdivision 8, as Minnesota Statutes, section 115A.69, subdivision 18.

Sec. 21. **REPEALER.**

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

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

Governance Comparison Table

Prepared by Zack Hansen and Leigh Behrens on December 19, 2025

The following table compares the current Joint Powers Board (JPB) to three alternatives: an enhanced Joint Powers Agreement (JPA)/JPB, a solid waste management district (SWMD) under current Minnesota state statute and an SWMD under proposed legislation. Content herein is based on ***Attachment 4***, the Husch Blackwell memorandum titled Potential Future Governance Options Analysis.

The table summarizes the following elements in the four scenarios:

- Creation
- Term
- Alteration
- Termination of the organization
- Potential for regional coordination
- Ability for metro and non-metro counties to form entity
- Autonomy
- Powers
- Delegation of powers
- Board of directors
- Employment
- Liabilities
- Solid waste service charge
- Debt issuance
- Loan and grant funding
- Waste designation

Attachment 5: Governance Comparison Table

Element	Current JPB	Enhanced JPB	SWMD under current statute	SWMD under proposed legislation
Creation	Already exists. Can be amended by counties as it has been historically. No requirement for hearings or state agency involvement.	Straightforward: decided by the counties following negotiation of an agreement. Can be established relatively quickly. No requirement for hearings or state agency involvement.	Complex and with uncertain timing; Minnesota Pollution Control Agency (MPCA) makes decisions. Lack of MPCA rules creates uncertainty for legality, process and outcome. No districts have ever been formed under this law.	Decided by member counties following a process prescribed in law. Processes are more structured and transparent. It takes more time than an enhanced JPB. Process balances transparency, accountability and efficiency.
Term	Determined by the counties.	Flexible, determined by the counties.	Exists in perpetuity.	
Alteration	An additional county can be added to a JPB by creating a new JPA with the additional county. There was previously one formal attempt to add Dakota County in the late 1980s. At the time of the final decision, Dakota County decided not to join.	An additional county can be added to a JPB by creating a new JPA with the additional county. For a county to leave a JPB, it must follow the process for withdrawal that is set out in the JPA. A withdrawal provision will generally include a notice period and settlement of financial and other obligations that must be fulfilled as a part of the withdrawal.	The procedure for altering an existing waste district is like the procedure for forming a waste district. A petition is jointly submitted by the governing bodies of at least half of the counties within the district. The MPCA reviews the petition for legal requirements. If objections are received, a hearing is conducted. The MPCA then submits the petition to advisory councils for review and prepares a report. The MPCA makes a final decision.	Clear process for district modification under the proposed legislation. Modification begins with a resolution from the board of commissioners of the county/ counties seeking the change. The proposal is then submitted to the district's board of directors, accompanied by supporting documentation similar to that required for initial district formation. The district and affected counties hold public hearings to gather input from residents and stakeholders, with notice requirements ensuring broad awareness. 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.

Attachment 5: Governance Comparison Table

Element	Current JPB	Enhanced JPB	SWMD under current statute	SWMD under proposed legislation
Termination of the organization	The current JPA provides for conditions of termination or dissolution of the JPB. In no event shall the Agreement be terminated prior to the payment in full of all bonds and other indebtedness of the R&E Board incurred to acquire or improve the facility.	Decision made by counties following the process set out in the enhanced JPA.	Decision made by MPCA with uncertain effect or timing.	Decision made by unanimous decision of member counties with public input.
Potential for regional coordination	A new JPA would be required to add additional counties.	A JPB can collaborate with other counties. To expand, a new joint powers agreement among all parties would need to be negotiated and approved.	A district is 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.	
Ability for metro and non-metro counties to form entity	Each governmental unit party to the JPA must have independent authority to exercise the power delegated. The JPA needs to be carefully drafted to ensure commonality of powers being delegated to the JPB, which could mean limiting the overall scope of powers.		Metro and non-metro counties can be in a district, but the entire district must follow law and policy required of metro counties.	
Autonomy	Delegates specific powers to the JPA. Was designed for purchase of the R&E Center and converting it from being privately owned to publicly owned. Includes joint activities for certain non-facility work.	A JPA is an agreement among counties, and as such, is accountable to counties, and has the level of autonomy it is allowed to have.	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.	

Attachment 5: Governance Comparison Table

Element	Current JPB	Enhanced JPB	SWMD under current statute	SWMD under proposed legislation
Board of directors	Two commissioners from Washington County and three commissioners from Ramsey County. The commissioners are appointed by the respective county boards. Each county may appoint an alternate commissioner.	Structure determined by members but can only include all or a subset of county commissioners of member counties.	Must be made up of residents of the district. Elected representation is not required.	At least five members, only county commissioners appointed by member counties.
Employment	Has the authority to hire R&E employees. Has its own human resources services, but contracts with Ramsey County for certain employee benefits.	Joint powers employees tend to be employed by the JPB but may actually work through the employment system of one of the member counties. For R&E, this is partially true, with employee benefits associated with Ramsey County.	May employ persons or firms and contract for services to perform engineering, legal or other services necessary to carry out its functions.	May employ persons or firms and contract for services to perform engineering, legal or other services necessary to carry out its functions. A district may give preference to hiring employees employed by member counties.
Liabilities	Is considered a separate and distinct public entity to which the Counties have transferred all responsibility and control for actions taken pursuant to this Agreement. R&E is required to comply with all laws and rules that govern a public entity, and the protections of Minnesota Statutes Chapter 466.	It is possible for liabilities of the JPB, in some instances, to reach back and become liabilities of the member counties. The JPA needs careful drafting to maximize protection for the member counties.	All liability would reside with the district.	

Element	Current JPB	Enhanced JPB	SWMD under current statute	SWMD under proposed legislation
Powers	Per the JPA: In addition to the responsibilities associated with ownership and operation of the facility, R&E administers joint activities, which include but are not limited to: • a Hauler Rebate program, as determined necessary • waste education and outreach related to reduction, recycling, waste processing and other waste management • engaging with schools, including facility tours and other efforts • administering BizRecycling and related programs • making plans and conducting research • initiating or administering other joint solid waste management projects on behalf of the Counties, as determined by the board	Can be delegated any powers held in common by counties, except taxing authority; change in powers possible by amending the JPA.	Counties forming the district decide in a petition to the MPCA what powers are assigned to the district. Change in powers is subject to a petition process with the MPCA deciding.	Counties forming a district prepare a transition plan that details the powers, as well as articles of incorporation.
Delegation of powers	Revocable		Irrevocable	

Element	Current JPB	Enhanced JPB	SWMD under current statute	SWMD under proposed legislation
Solid waste service charge	Has not been delegated to the R&E Board. Each county retains that authority and implements a service charge, called a County Environmental Charge.	Could be delegated to a JPB under an enhanced JPA. Once delegated, it is unlikely that the county could continue to retain and use this authority unless the JPA provides for a division of responsibility between the member counties and the JPB. The JPB could, through its governing documents, contractually return proceeds from the service charge to member counties.	Can utilize service charges as a primary mechanism. There is legal uncertainty whether counties could continue to use service charges once a district exercises its authority to issue rates and charges.	Can use existing fee and service charge authority under state law. There is legal uncertainty whether counties could continue to use service charges once a district exercises its authority to issue rates and charges.
Debt issuance	Is authorized "to incur and discharge debts, liabilities and obligations, including the authority to issue [revenue] bonds pursuant to Minnesota and federal law. Any issuance of debt must be approved by a two-thirds (2/3) majority of the [R&E] Board." Additionally, each County Board must agree that R&E may issue bonds (also consistent with Minn. Stat. 471.59, subd. 11(a)). Counties may not delegate the authority to pledge their full faith and credit or taxing power to a JPB.	Could receive a delegation of county revenue bond authority. Counties may not delegate the authority to pledge their full faith and credit or taxing power to a JPB, thus limiting the JPB to revenue bonds, subject to the requirements of the JPA and state law.	May possess separate statutory revenue bond authority if granted by the petitioning counties. Would require counties to assign general obligation bonding authority.	Can issue revenue and general obligation bonds and levy property taxes.

Element	Current JPB	Enhanced JPB	SWMD under current statute	SWMD under proposed legislation
Loan and grant funding	Authority to apply for, accept, receive and disburse grants, loans, donations and other assistance from the federal government, state of Minnesota or any other agency or organization.	Appears to be eligible for the same loan and grant programs, including the Solid Waste Processing Facilities Capital Assistance Program (CAP) and, likely, Local Recycling Development Grant (LRDG) funds. Because counties are eligible recipients of LRDG funds, an enhanced JPB may receive such funds if the member counties delegate that authority and, likely, LRDG funds.	Appears to be eligible for the same loan and grant programs, including CAP. For LRDG funds, a metropolitan-area district, which assumes county authorities under Chapter 473, would also be eligible. The statutes are less clear regarding SCORE funding.	Appears to be eligible for the same loan and grant programs, including CAP. For LRDG funds, a metropolitan-area district, which assumes county authorities under Chapter 473, would also be eligible. The proposed legislation specifies that a district can receive SCORE funds that would otherwise have been distributed to individual counties.
Waste designation	Waste designation ordinances were adopted by and are implemented by each of the Counties. The Counties agree to coordinate with each other and maintain and enforce these ordinances. At the same time, R&E holds Waste Delivery Agreements with haulers as a voluntary business relationship, with contracted haulers receiving benefits such as ability to deliver to R&E-contracted transfer stations.	Under an enhanced JPB, the new entity would likely need to independently enact waste designation if that authority is delegated to the JPB, unless the JPB makes a contractual arrangement with one or more counties to continue implementing waste designation on its behalf.	A district possessing designation authority in its articles of incorporation may be authorized to designate a resource recovery facility under the waste designation statutes. It is unclear in the law how the transfer of authority from counties to a district is handled.	For a district formed under the proposed legislation, the new entity must independently enact waste designation if that authority is included in the district's articles of incorporation. 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.

History of Ramsey and Washington Counties' Joint Work on Solid Waste Management

Prepared by Zack Hansen and Leigh Behrens | November 17, 2025

Ramsey and Washington Counties have a 50-year history of successful partnerships on solid waste management. Joint solid waste governance by the two Counties dates to the 1970s, when the Counties jointly owned and operated the first Minnesota Pollution Control Agency (MPCA) permitted sanitary landfill in Minnesota, called the Lake Jane landfill. Following the discovery of groundwater contamination at SW-1 and prompted by state legislation, the Counties engaged in joint work to examine and implement landfill alternatives.

Since the early 1980s, there have been a series of joint powers agreements (JPAs) and amendments related to solid waste management. There has been increasing responsibility delegated by the Counties to the joint powers board (JPB) and, more recently, increased independence. Note that, over the years, form has followed function, and JPAs have been modified to reflect the changes to and increases in collaborative work.

In summary, over the past 50 years, the two Counties have continually worked together on solid waste management issues. Through the JPAs and amendments, the Counties have implemented joint governance structures to adapt to evolving legislation, state policy expectations, public input and court decisions. The JPB has increasingly been delegated responsibilities and granted increased independence to carry out this critical joint work to benefit east metro communities, economy and the environment.

Brief History of East Metro Solid Waste Collaboration

1980s – The Ramsey/Washington Waste-to-Energy Project, a JPB, was created to explore waste-to-energy technology. After examining and deciding against the use of mass-burn technology, the Counties jointly entered into agreements with Northern States Power Company (NSP, now Xcel Energy) for a privately owned and operated refuse-derived fuel (RDF) facility. NSP built and operated the facility located in Newport. The JPB focused on oversight of the agreements with NSP, and in the late 1980s, the board hired a project manager to administer the JPB.

1990s – The JPB continued oversight of the NSP agreements. A leadership change resulted in a joint staff committee comprised of staff from each county.

Early in this decade, a United States Supreme Court decision resulted in the loss of flow control of waste to privately-owned facilities (waste designation authority). Considerable public policy work was led by the JPB to assure a flow of waste to the RDF facility, resulting in contracts with and financial incentives to waste haulers for delivery of waste.

In 1999, the JPB began work on ways to implement the following expanded policy directive from the two Counties: "Ramsey and Washington Counties will work through the Ramsey/Washington County Resource Recovery Project to […] devote additional resources to identify and divert non-processible and other waste streams from processing that can be more appropriately reduced, recycled or composted."

2000s – The JPB, renamed to the Ramsey/Washington Resource Recovery Project (RRP) Board, continued to address methods to assure a supply of waste to the RDF facility, using hauler contracts to

deliver waste to the RDF facility, funded by the County Environmental Charge administered by each county.

In addition, there was increased focus on waste management higher on the state's waste hierarchy. Beginning with policy work to explore alternatives, a series of JPAs expanded joint work into non-resource recovery fields including food waste/organics recovery and recycling, grants to businesses, and work with schools.

Later in the decade, the RDF facility was sold to a private equity firm's subsidiary, RRT, with the JPB leading the Counties' work on the ownership change.

2010s – The waste processing agreement with RRT provided an option for the Counties to purchase the facility. The private equity firm owning the facility decided to sell or close the facility, prompting considerable policy discussion by the two Counties and RRP Board. Ultimately, the decision was made to purchase the facility in 2015. That resulted in a new JPA, which created the currently-named Ramsey/Washington Recycling & Energy (R&E) Board.

In purchasing the RDF facility in Newport, renamed the Recycling & Energy Center (R&E Center), the Counties could implement waste designation to assure the flow of waste to a public facility. The Ramsey and Washington Counties Joint Designation Plan was approved by both county boards in August 2016, defining the system and its benefits including material recovery (e.g., metals), energy recovery, landfill abatement and other environmental benefits. Waste designation ordinances were adopted by and are implemented by each of the Counties, which were complemented by R&E's waste delivery agreements with haulers. The agreements grant haulers benefits such as waste delivery at transfer stations. From this arrangement, R&E and haulers hold voluntary business relationships, and county ordinances provide a regulatory "backstop" that incentivizes contracting and contract compliance with R&E.

The JPA creating R&E also included expanded joint activities. In 2018, county solid waste management plans were revised. County boards directed revisions to closely align the Counties' approaches to solid waste management. The resulting plans, containing 25 aligned strategies, increased the expectations for R&E to coordinate joint waste prevention and diversion work.

2020s – In 2020, the R&E Board approved a plan to increase material recovery of organics and recyclables through a series of facility enhancements. Through several funding mechanisms, including $7 million in Minnesota state bonding funds awarded through the MPCA Capital Assistance Program, the R&E Center installed major improvements to increase the Counties' recycling rates. The recyclables recovery system (C-line) and food scraps bag recovery building were completed in 2023.

The two Counties' 2024 solid waste management plan revisions increased the alignment of strategies and sub-strategies by 10 times over the previous plans. This change, as well as a desire by the Counties to be less involved in R&E finances, resulted in a series of amendments to the JPA that created more financial independence and responsibility for R&E. Also included was a change in the governance structure of the JPA, and the establishment of an executive director position in lieu of a joint staff team.

The 2024 solid waste management plans also include an aligned policy stating, "The R&E Board will continue to evaluate and implement appropriate changes to its governance structure and size to ensure effectiveness." In September 2025, the R&E Board adopted a strategic plan with Strategic Goal 4a to explore and pursue "strengthened governance that maximizes nimbleness."

R&E Governance Decision Tree - for Board Discussion

Revised March 19, 2026

Timeline *(Subject to change)*

Oct. 8, 2024

Decision Point #1:
Should **R&E and the counties** evaluate alternative governance structures?

Decision: Yes.
Ramsey and Washington County Boards both approved Solid Waste Management Plans in 2024 that include a policy to evaluate governance, stated in Ramsey and Washington Counties Partnerships Priority #6: "The R&E Board will continue to evaluate and implement appropriate changes to its governance structure and size to ensure effectiveness."

Sep. 25, 2025

Decision Point #2:
Should the **R&E Board** adopt the R&E Strategic Plan, which includes an element on exploring alternative governance?

Decision: Yes.
R&E Strategic Plan adopted with **4A. Strengthened governance that maximizes nimbleness:** *"i. Identify and implement a sustainable governance structure (e.g., waste management district or enhanced JPA) that increases nimbleness and impact."*

Jan. 29, 2026

Decision Point #3:
Should **the R&E Board** approve a platform that includes working with other entities on legislation that modifies the language for solid waste management districts in Minnesota?

Decision: Yes

TASK: *Work with AMC and other interested parties to pass proposed legislation*

Decision: No

TASK: *Monitor legislation supported by other entities*

Decision Point #4:
Should **the R&E Board** recommend that R&E and county staff work together to evaluate alternate governance structures including an enhanced joint powers agreement and a solid waste district?

Decision: Yes

TASK: *R&E staff & board members bring recommendation to County Boards*

Decision: No

Process ends with no governance evaluation

Mar. 31 & Apr. 28, 2026

Decision Point #5:
Should **both County Boards** direct county staff to work with R&E to evaluate governance structures 1) enhanced JPA and/or 2) a waste district compared to the current R&E JPA?

Decision: Both counties say **yes** to evaluation of <u>both</u> alternatives

TASK: *Evaluate both alternate governance structures using dimensions of governance change, outline each transition plan, and deliver reports to R&E Board.*

Decision: Both counties say **yes** to evaluation of <u>one</u> alternative

TASK: *Evaluate selected alternate governance structure using dimensions of governance change, outline a transition plan, and deliver report to R&E Board.*

Decision: One or both counties say **no** to all evaluation

Process ends with no governance evaluation

Minnesota 2026 Legislative Session: Feb. to May 2026

Est. Q1 2027

Decision Point #6:
Should **the R&E Board** select an alternative waste management governance structure to recommend to the Ramsey and Washington County Boards for implementation?

Decision: Yes to recommending solid waste management district

TASK: *R&E staff/board members bring recommendation of solid waste district to County Boards*

Decision: Yes to recommending enhanced JPA

TASK: *R&E staff/board members bring recommendation of enhanced JPA to County Boards*

Decision: No

Process ends with no governance change

Est. Q2 2027

Decision Point #7A:
Should **the Ramsey and Washington County Boards** direct staff to work with R&E to begin to implement a solid waste management district?

Decision: Both counties say **yes** to solid waste district

TASK: *Begin implementation process to transition to solid waste management district*

Decision: One or both counties say **no**

Process ends with no governance change

Decision Point #7B:
Should **the Ramsey and Washington County Boards** direct staff to work with R&E to begin to implement an enhanced JPA structure?

Decision: Both counties say **yes** to enhanced JPA

TASK: *Begin implementation process to transition to an enhanced JPA*

Decision: One or both counties say **no**

Process ends with no governance change

Did proposed legislation pass in the 2026 session?

2027+ [timeline depends on leg. session outcome]

No

TASK: *Counties/ R&E work with interested parties pass proposed legislation next year*

Next Minnesota Legislative session: Jan./Feb. to May

Decision: Yes

Did solid waste district legislation pass?

RAMSEY/WASHINGTON
RECYCLING & ENERGY
CONNECTING VALUE TO WASTE

Ramsey County Board Workshop date: Tuesday, April 28, 2026
Subject: Solid Waste Governance Evaluation
Submitted by: Trista Martinson, Ramsey/Washington Recycling & Energy Board Executive Director

EXECUTIVE SUMMARY

In 2025, Ramsey/Washington Recycling & Energy (R&E) conducted a preliminary analysis of solid waste governance, updating previous exploration of this topic in 2014. This effort examined governance models to best protect over 50 years of county investment in the shared solid waste management system and advance the ambitious goals of each county's Solid Waste Management Plans. At its January 29, 2026, workshop, the R&E Board directed staff to present the findings to both county boards. Staff will request board direction on initiating a tri-entity evaluation of governance options to enhance the prevention, diversion and management of waste to maximize community, economic and environmental benefits.

This workshop's purpose is to inform Ramsey County commissioners of the preliminary analysis of waste governance options for efficient and effective waste prevention, diversion and management programs, operations and systems in Ramsey and Washington Counties. The policy basis for this work originated from chapter three, policy six in the Counties' Solid Waste Management Plan (approved by each county in fall 2024) and strategic initiative 4A.i in the R&E Strategic Plan (approved in fall 2025).

Staff will use the commissioner discussion and feedback from this workshop to proceed with next steps, as directed, in the governance evaluation. The policy question for discussion is:

Should the Ramsey County Board direct county staff to work with R&E to evaluate potential governance structures for joint solid waste management, including the status quo, an enhanced joint powers agreement and/or a solid waste management district?

The attachments provided with this item present the findings from staff's initial analysis of this topic, intended to equip commissioners with key insights to guide informed discussions and strategic next steps.

<u>Workshop Outline</u>

1. Introduction
    a. Background and history
    b. Previous governance analyses
2. 2025 preliminary governance analysis findings
    a. Regional entity case studies
    b. Governance options comparison
        i. Status quo (current JPA)
        ii. Enhanced JPA
        iii. Solid waste management district
3. Discussion on potential joint evaluation of governance
    a. Governance dimensions of evaluation
    b. Governance evaluation process and timeline
    c. Commissioner discussion of policy question

ATTACHMENTS:

1. R&E Staff memorandum: Preliminary Analysis of Solid Waste Management Governance
2. HDR report: Alternative Governance Case Studies
3. Examples of Regional Governance Systems in Minnesota
4. Husch-Blackwell memorandum: Potential Future Governance Options Analysis
5. Governance Comparison Table
6. History of Ramsey and Washington Counties' Joint Work on Solid Waste Management
7. R&E Governance Decision Tree (revised from January 29, 2026 R&E Board meeting)

RAMSEY/WASHINGTON
RECYCLING & ENERGY

Solid Waste Governance Evaluation

Ramsey County Board Workshop

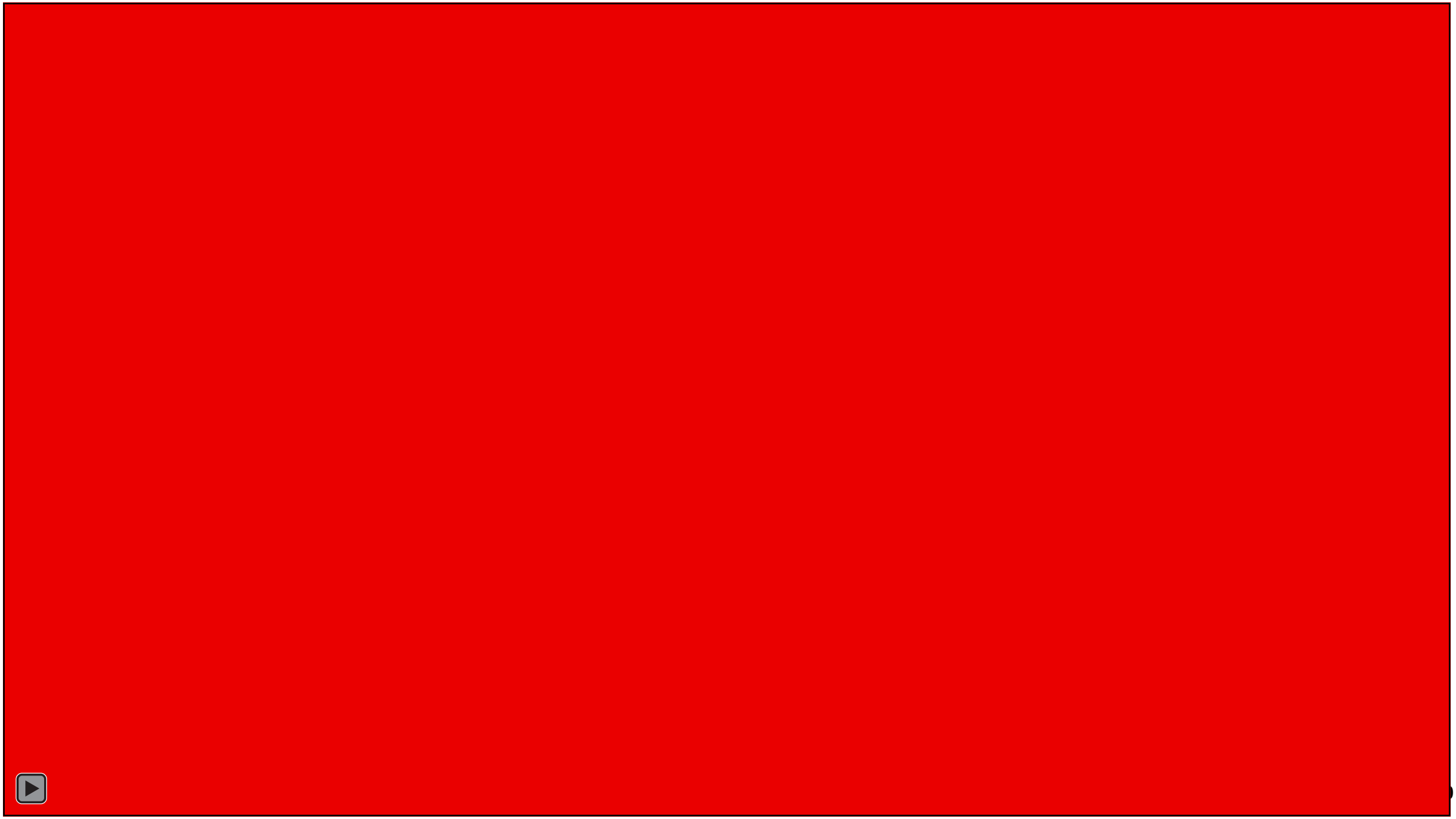
Tuesday, April 28, 2026

About Ramsey/Washington R&E Board

- Governed via joint powers agreement (JPA)
- Three Ramsey County and two Washington County commissioners
  - Ex officio members: Minnesota Pollution Control Agency (MPCA) and City of Newport
- Two main budgets:
  - **Programs budget** funded by counties with County Environmental Charge (CEC) funds
  - **Facility budget** funded by Recycling & Energy (R&E) Center tipping fees paid by garbage haulers







R&E Updates – 2025 Recap

- 122 BizRecycling grants to local businesses/apartments, over **3.8 million pounds (lbs**) of waste diverted
- **11.4 million lbs** of edible food rescued and distributed to people in need
- Over 19,000 mattresses recycled, preventing nearly **1.9 million lbs** from going to the landfill
- Over **250,000 lbs** of building materials reused or recycled
- About **2,000 people** toured the R&E Center
- R&E Center processed nearly **360,000 tons** of waste, making enough electricity for 12,000 homes for a year
- **2026-27 Budgets passed**: R&E Center tipping fees are $142/ton; will be $159/ton in 2027

Why We Are Here

State statutes, regulations, rules & goals

- Est. 2026: Construction & Demolition (C&D) landfill rulemaking
- 2030: 75% recycling goal
- 2035: Food scraps recycling mandate
- 2040: Carbon free energy standard
- 2050: Net zero carbon emissions

Ambitious county priorities

- County Solid Waste Management Plans
- R&E Scope of Resource Management (Est. 2015 by R&E Board)

Proactive efforts on emerging issues

- Per- and polyfluoroalkyl substances (PFAS) management
- Extended producer responsibility (EPR) for packaging (and other materials)
- Waste processing technologies
- Future issues yet to be discovered

Workshop Purpose

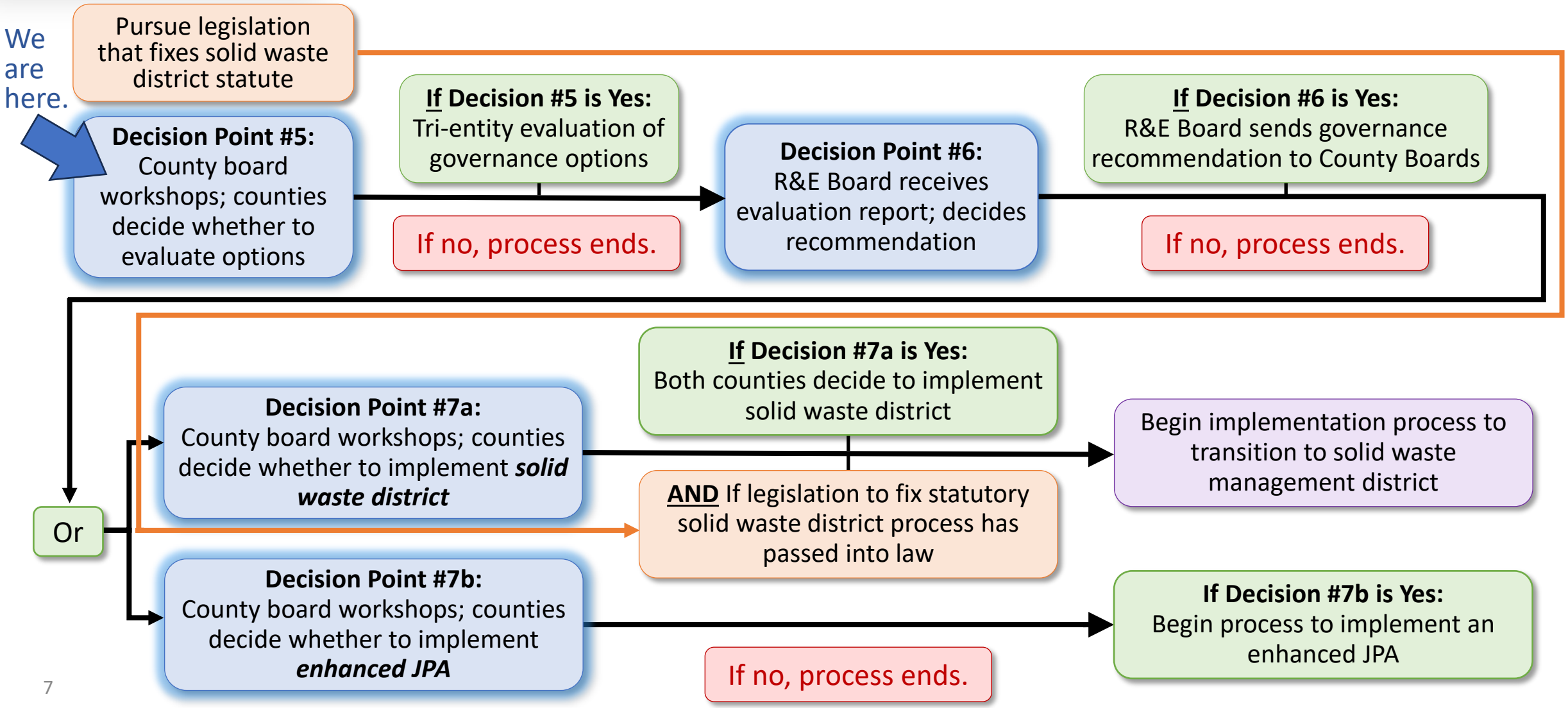
- To inform Ramsey County Board members about the preliminary analysis of solid waste governance options undertaken by R&E in 2025
- Seek direction on the R&E Board-recommended tri-entity (Ramsey, Washington, R&E) evaluation of solid waste governance alternatives

Policy question for discussion:

Should the Ramsey County Board direct county staff work with R&E to evaluate potential governance structures for joint solid waste management, including the status quo, an enhanced joint powers agreement and/or a solid waste management district?

RAMSEY/WASHINGTON RECYCLING & ENERGY

Flow of Decision-Making



Workshop Outline

Introduction

1. Background and history
2. Previous governance analyses

2025 Preliminary governance analysis

3. Regional entity case studies
4. Governance options
   a. Status quo (current JPA)
   b. Enhanced JPA
   c. Solid waste management district

Discussion on potential joint governance evaluation

5. Governance dimensions of evaluation
6. Governance evaluation proposed process and timeline
7. Board member discussion of policy question

Introduction: Background and History

RAMSEY/WASHINGTON RECYCLING & ENERGY

Complexity of the Solid Waste System

Where it starts…

Waste Generated & Discarded

Households/businesses no longer need products/ packaging and make decisions on how to discard the item



RAMSEY/WASHINGTON RECYCLING & ENERGY

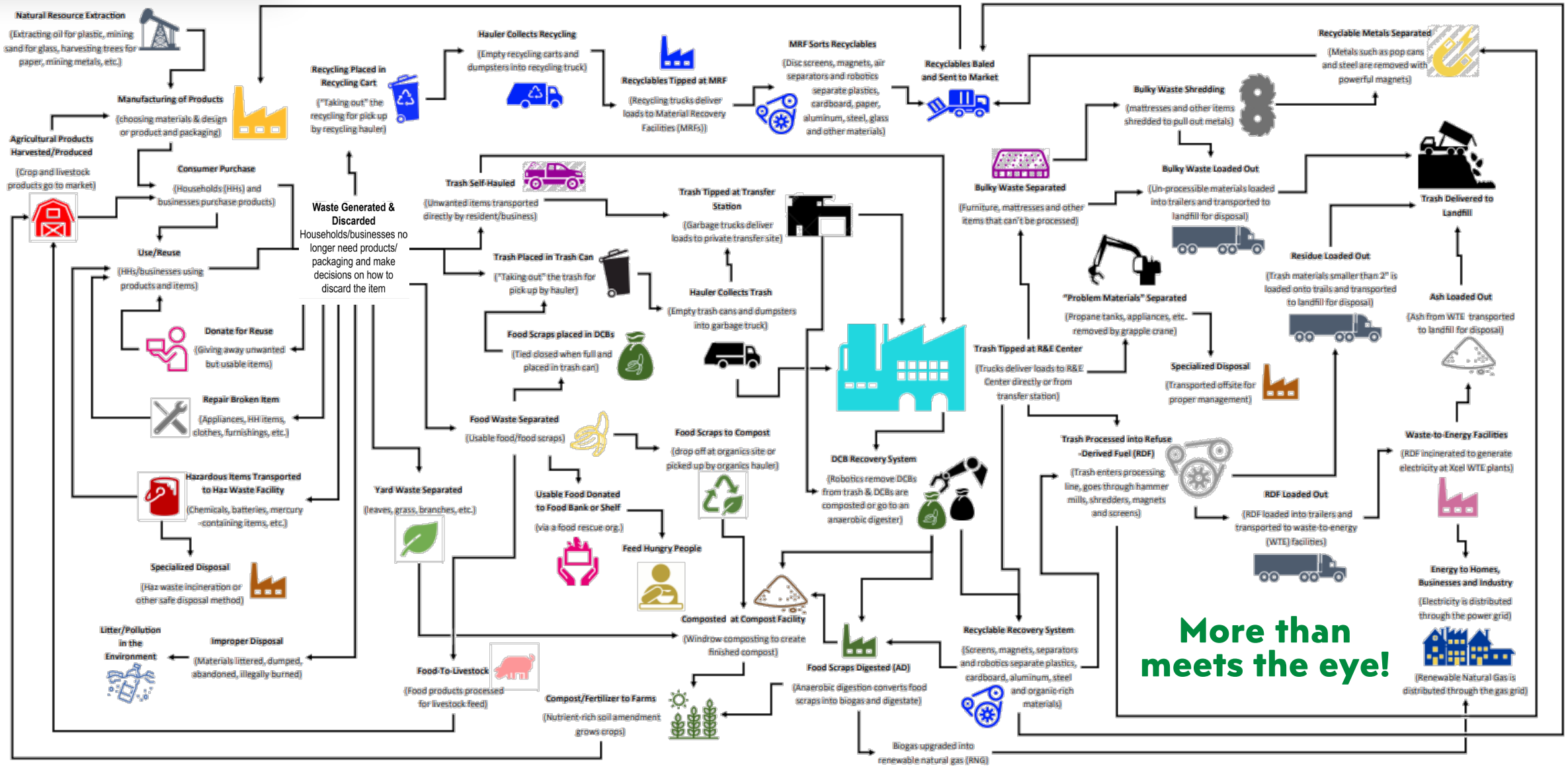
Complexity of the Solid Waste System

Where it starts…

Waste Generated & Discarded
Households/businesses no longer need products/ packaging and make decisions on how to discard the item

RAMSEY/WASHINGTON RECYCLING & ENERGY

Complexity of the Solid Waste System



Complexity of Solid Waste System

Ramsey/Washington R&E
- Trash
- Bulky items
- Mattresses
- Business/school recycling
- Household/school food scraps
- Food waste prevention & rescue



Ramsey County/Washington County
- Household hazardous waste
- Household electronics/electric items
- School recycling/food scraps
- Household yard/wood waste
- Household recycling/food scrap drop-off
- Household item repair

Cities & Townships
- Trash
- Recycling
- Household yard/wood waste
- Bulky items
  - Special pickups
  - Illegal dumping cleanups
  - Clean-up events

Private Sector/Other Entities
- Trash
- Recycling
- Yard/wood waste & commercial food waste
- Bulky items
- Appliances & electronics
- Construction & demolition waste
- Hazardous waste
- Infectious waste
- Reuse (thrift, etc.) & repair

50+ Years of Ramsey/Washington Collaboration



1975-1982
Initial Partnership between Ramsey & Washington Counties

First JPA between Ramsey & Washington Counties for joint ownership/operation of Lake Jane Landfill



1982-2006
Ramsey/Washington Waste-To-Energy (WTE) Project

New JPA explores WTE and refuse-derived fuel (RDF) processing as a landfill alternative



2006-2015
The Resource Recovery Project (RRP)

New JPA adds duties beyond processing, i.e., food waste, business/ school recycling, haz. waste reduction



2015-present
Ramsey/Washington Recycling & Energy (R&E) Board

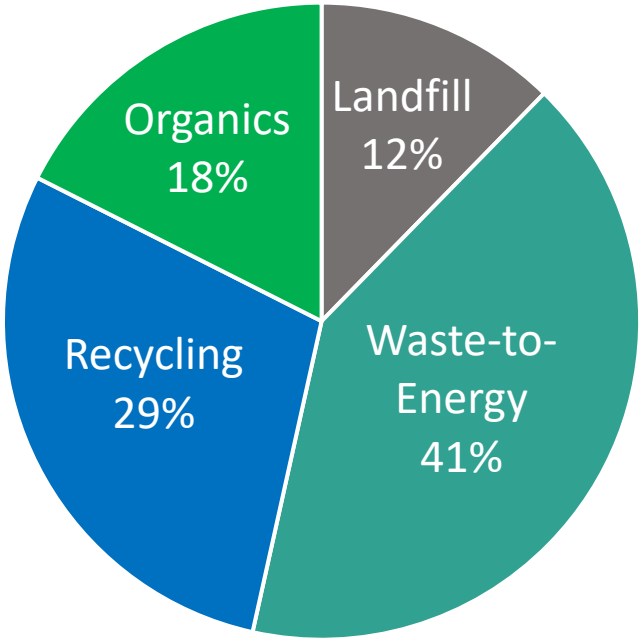
New JPA executed to acquire R&E Center, expand joint efforts

2025: Revised JPA and strategic plan adopted

Collaboration Accomplishments

In 2024, Ramsey/Washington Counties:

- Landfilled only 12% of waste generated
  - Lowest in the Twin Cities metro
  - 8th lowest in the entire state
- Recycled nearly 50% of waste
  - In the top 25% of counties in Minnesota for recycling rate



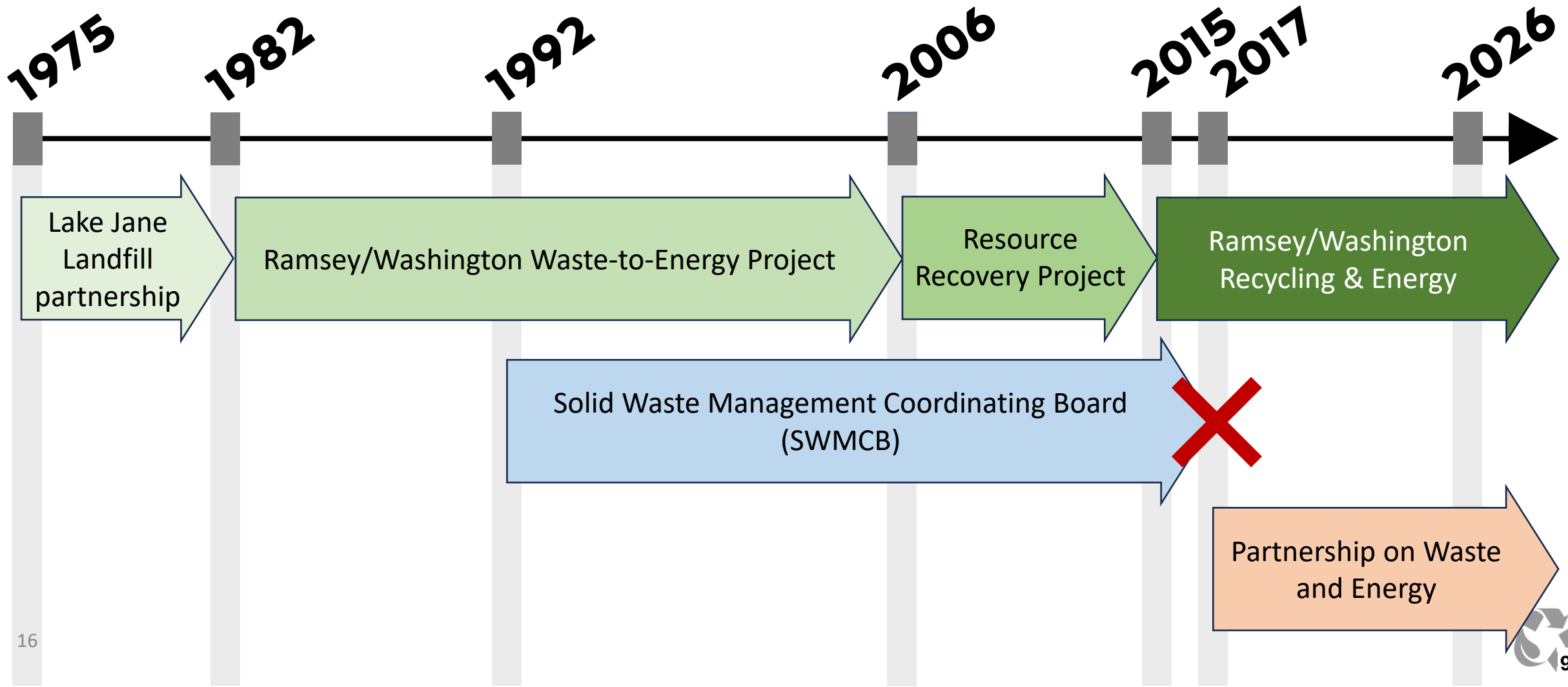
2025 R&E Annual Report:

89,450 fewer tons of Carbon Dioxide (CO_2) vs. landfill = **20,029** fewer cars on the road for a year

12,048 homes powered by electricity from RDF made at the R&E Center

20x more jobs supported by recycling vs. landfilling

History of Solid Waste JPAs in the Metro



2014 Governance Analysis

February 2014

- Preliminary governance report: “Waste Processing Governance Policy Study”
- Four systems considered: joint exercise of powers (JPA), intergovernmental service agreement, legislatively created entity and waste district

April 2014

- RRP Board selects two options to evaluate: JPA and waste district

September 2014

- Legal counsel presents comparison of JPA vs waste district
- JPA selected due to being only viable option for proceeding with the R&E Center purchase within the available time
- Interest in waste management district, but the existing state legislation related to creating a district was unworkable for counties to proceed

2025 Preliminary Governance Analysis

2025 Preliminary Analysis on Governance

Overall goal: Identify a governance design that can best accomplish county and R&E goals as specified in county solid waste management plans

Business case:

- Over 10 years since previous evaluation
- R&E responsibilities have expanded
- Current governance structure poses limitations
- Ambitious scope for resource management

Purpose of preliminary analysis: Lay initial groundwork for examining the effectiveness, efficiencies and environmental and economic advantages of governance options and the logistics for how to implement them

Regional Governance Case Studies

National Systems

- HDR inc. evaluated 12 regional solid waste entities across the United States and interviewed five of them

Minnesota Systems

- R&E staff reviewed seven types of regional governing structures in Minnesota

Key Findings

- Variability
- Structure
- Consistency for public
- Governing boards and staffing
- Onboarding and offboarding member communities
- Minnesota precedence for regional governance

Governance Comparison Method

Four scenarios evaluated:

- Current joint powers board
- Enhanced joint powers board
- Waste district under current legislation
- Waste district under proposed legislation

Elements evaluated:

- Entity creation
- Entity term
- Alteration
- Termination of the organization
- Potential for regional coordination
- Ability for metro and non-metro counties to form entity
- Autonomy
- Delegation of powers
- Powers
- Board of directors
- Employment
- Solid waste service charge
- Debt issuance
- Loan and grant funding
- Liabilities
- Waste designation

Potential Opportunities Identified

- Clarity in accountability
- Counties insulated from liability
- Ability to add other counties/increase collaboration
- Financial elements
- Ability to scale programs, services and operations
- Ease for public to navigate single entity
- Potential cost-savings from reduced redundancy
- Protect 50+ years of county & taxpayer investments

Governance Options for Potential Evaluation

Collaborative evaluation provides a first step for consideration of solid waste entity governance options.

Status Quo

Current JPA with no change in structure

Enhanced Joint Powers Agreement



A JPA that strengthens R&E's role, responsibility and authority

Solid Waste Management District



A new government entity created by delegating county solid waste management responsibilities

Ruled Out

- Intergovernmental services agreement

Less Preferred

- Legislatively-established entity

Discussion on Potential Joint Governance Evaluation

Dimensions of a Full Governance Analysis

Evaluate optimal waste management structures for east metro, considering policies and strategies in county plans

Governance Structure



Review legal issues associated with a governance change, including a legal risk analysis

Legal



Identify and evaluate financial issues associated with a change in governance

Finance



Identify and evaluate risks associated with a new governance structure and consider risk mitigation alternatives

Risk Management



Identify administrative elements and a scope of change for each (e.g. information technology, human resources, finance, procurement, etc.)

Administration



Identify interested parties and communities, plan for engagement, seek dialogue and input

Community Engagement

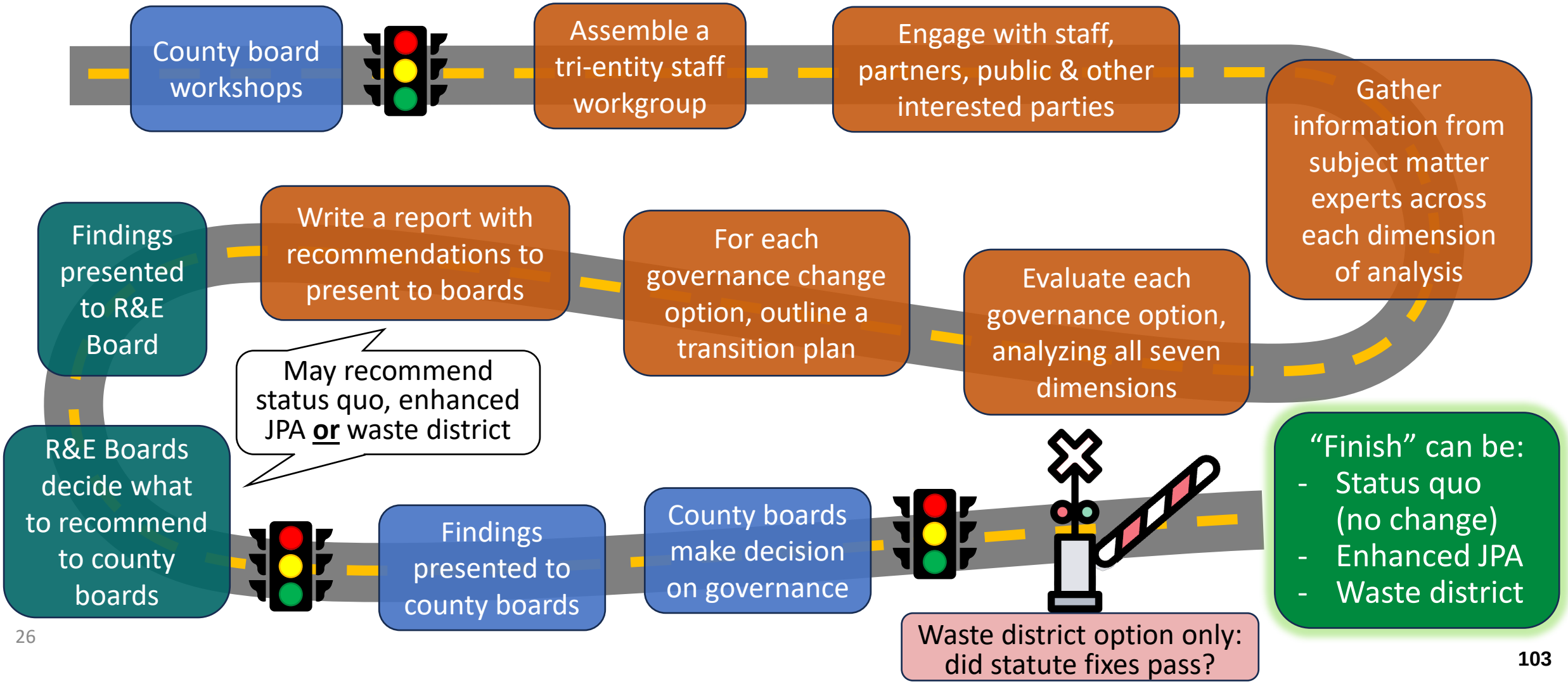


Advocate for governance legislation; engage cities, townships, other partners throughout evaluation

Strategic Partnerships



Roadmap for Proposed Evaluation



Proposed Process and Timeline

Timing subject to change based on mutual agreement

Timing	Condition	Action	Decision #
Mar. 31 & Apr. 28, 2026	-	County board workshops on alternative governance	#5
Q3-4 2026	**if** decision #5 is yes for both counties	Develop workgroup of R&E and county staff to conduct full governance evaluation using seven dimensions of analysis	-
Q1 2027	-	Staff present evaluation findings to R&E Board	#6
Q2 2027 (dates TBD)	**if** decision #6 is yes	Staff present evaluation findings to county boards	#7A/B
Q2 2027+	**if** legislation passes and decision #7A or #7B is yes	Begin process to transition to new governance structure	-

Board Discussion

Policy question for discussion:

Should the Ramsey County Board direct county staff to work with R&E and Washington County for an evaluation of potential governance structures for joint solid waste management, including the status quo, an enhanced joint powers agreement and/or a solid waste management district?