

Section 14 is effective July 1, 1982. The remaining sections are effective the day following final enactment.

Approved March 22, 1982

CHAPTER 569 — S.F.No. 1965

An act relating to the environment; amending various provisions of the waste management act; authorizing the commissioner of administration to acquire certain development rights; defining terms for purposes of the resource recovery program; prohibiting the waste management board from certifying the use of facilities for disposal of radioactive waste; stating various policies and requirements relating to solid and hazardous waste plans and facility permits; prescribing standards, procedures, approvals, and supervision relating to designations of resource recovery facilities; requiring the board to place its highest priority on alternatives to land disposal of hazardous waste; allowing the removal of the moratorium on development at certain sites; directing a study of solid waste utilization in the St. Cloud area; appropriating money; amending Minnesota Statutes 1980, Sections 115A.08, by adding a subdivision; 115A.15, Subdivisions 2, 6, and by adding a subdivision; 115A.42; 115A.46; 115A.62; 115A.69, Subdivision 10; 115A.70, Subdivisions 1, 2, and 3; 116.07, Subdivision 4b; 400.16; 400.162; 473.149, Subdivision 1; 473.153, by adding subdivisions; 473.802; 473.803, Subdivision 1, and by adding a subdivision; 473.811, Subdivision 7, and by adding a subdivision; 473.823, Subdivision 3; 473.827, Subdivision 1, and by adding a subdivision; 473.831, Subdivision 2; Minnesota Statutes 1981 Supplement, Sections 115A.06, Subdivisions 4 and 13; 115A.11, Subdivision 1; 115A.21, Subdivision 3; 115A.24, Subdivision 1, and by adding a subdivision; 473.803, Subdivision 1a; and 473.831, Subdivision 1; proposing new law coded in Minnesota Statutes, Chapters 115A and 116; repealing Minnesota Statutes 1980, Section 473.827, Subdivisions 2, 3, 4, 5, and 6.

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

Section 1. Minnesota Statutes 1981 Supplement, Section 115A.06, Subdivision 4, is amended to read:

Subd. 4. **ACQUISITION OF SITES FOR HAZARDOUS WASTE FACILITIES.** The board may direct the commissioner of administration to acquire by purchase, lease, condemnation, gift, or grant, any permanent or temporary right, title, and interest in and to real property, including positive and negative easements and water, air, and development rights, for sites and buffer areas surrounding sites for hazardous waste facilities approved by the board pursuant to sections 115A.18 to 115A.30 and 115A.32 to 115A.39. The board may also direct the commissioner of administration to acquire by purchase, lease, gift or grant, development rights for sites and buffer areas surrounding sites for all or part of the period that the development moratorium imposed by section 115A.21, subdivision 3, is in effect. Money for the acquisition of any real

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property and interest in real property pursuant to this subdivision shall come from the issuance of state waste management bonds in accordance with sections 115A.57 to 115A.59. The property shall be leased to the owner and operator of the hazardous waste facility located thereon at a rate sufficient to pay debt service on the bonds which provided funds used to acquire the property and to evaluate the eligibility of the property for inclusion in the inventory under section 115A.09 or candidacy under sections 115A.18 to 115A.30. Any local government unit and the commissioners of transportation, natural resources, and administration may convey or allow the use of any property for such sites and areas, subject to the rights of the holders of any bonds issued with respect thereto, with or without compensation and without an election or approval by any other government agency. Land owned by the state may be exchanged for land not owned by the state for the purpose of providing a site and buffer area for a commercial hazardous waste facility, in accordance with the provisions of section 94.341 to 94.347 and other law. The commissioner of administration may hold the property for the purposes for which it was acquired, and may lease, rent, or dispose of the property so far as not needed for such purposes, upon the terms and in the manner the commissioner deems advisable. The right to acquire lands and property rights by condemnation shall be exercised in accordance with chapter 117. The commissioner of administration 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. Where the property is acquired through eminent domain proceedings, the land owner's compensation shall be the fair market value of the property. Where the property is acquired by means other than through eminent domain proceedings, as by direct purchase or gift, the land owner's compensation shall be determined by the agreement of the parties involved. An award of compensation in a condemnation proceeding shall not be increased or decreased by reason of any increase or decrease in the value of the property caused by its designation in the inventory of preferred areas under section 115A.09 or as a candidate site under sections 115A.18 to 115A.30 or its selection as a site or buffer area.

Sec. 2. Minnesota Statutes 1981 Supplement, Section 115A.06, Subdivision 13, is amended to read:

Subd. 13. **PRIVATE AND NON-PUBLIC DATA.** Any data held by the board which consists of trade secret information as defined by section 15.1673, subdivision 1, clause (b), or sales information, or any other information which, if public, would tend to adversely affect the competitive position of the subject of the data, shall be classified as private or non-public data as defined in section 15.162, subdivisions 5a and 5c if the subject of the data has certified that the data qualifies as non-public or private data under this subdivision and the chairman of the waste management board approves the classification in writing. When data is classified private or non-public pursuant to this subdivision the board may:

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(a) Use the data to compile and publish analyses or summaries and to carry out its statutory responsibilities in a manner which does not identify the subject of the data; or

(b) Disclose the data when it is obligated to disclose it to comply with federal law or regulation but only to the extent required by the federal law or regulation.

The subject of data classified as private or non-public pursuant to this subdivision may authorize the disclosure of some or all of that data by the board.

Sec. 3. [115A.071] DUTIES OF THE BOARD; SOLID WASTE MANAGEMENT; DESIGNATIONS OF RESOURCE RECOVERY FACILITIES.

Subdivision 1. APPROVAL OF DESIGNATION PROPOSALS. The board shall review and approve or disapprove proposals to designate resource recovery facilities under sections 115A.70 and 400.162. The board may attach conditions to its approval. In approving or disapproving a designation the board shall only determine whether the proposal conforms to the requirements of section 115A.70 or section 400.162, whether the designation will further the state policies and purposes expressed in section 115A.02, and whether the designation is based upon a plan approved pursuant to subdivision 2 and an adequate evaluation of the standards expressed in section 115A.46, subdivision 3.

Subd. 2. PLAN REQUIRED. Before reviewing a proposed designation, the board shall require the completion or, if necessary, revision of a comprehensive solid waste management plan which in the board's judgment conforms to the requirements of section 115A.46.

Subd. 3. BOARD SUPERVISION. The board shall require regular reports on any designation approved pursuant to this section and section 473.827, shall periodically evaluate whether the designation as implemented has accomplished its purposes and whether the designation is in the public interest and in furtherance of the state policies and purposes expressed in section 115A.02, and shall report periodically to the legislature on its conclusions and recommendations.

Sec. 4. Minnesota Statutes 1980, Section 115A.08, is amended by adding a subdivision to read:

Subd. 5a. REPORT ON ASSURANCE OF SECURITY OF HAZARDOUS WASTE FACILITIES. With the report required by subdivision 5, the board through its chairperson shall report and make recommendations to the legislative commission on methods of assuring the security of commercial hazardous waste facilities. The report and recommendations shall be based on the need to assure: effective monitoring and enforcement during operation; effective containment, control, and corrective action in any emergency situation; financial

responsibility of the owner and operator throughout the operating life of the facility, using performance bonds, insurance, escrow accounts, or other means; proper closure; financial responsibility after closure; and perpetual post-closure monitoring and maintenance. The report shall include recommendations on the source of funds, including operator contributions, fee surcharges, taxes, and other sources; the amount of funds; effective protection and guarantee of funds; administration; regulatory and permit requirements; the role of local authorities; and other similar matters.

Sec. 5. Minnesota Statutes 1981 Supplement, Section 115A.11, Subdivision 1, is amended to read:

Subdivision 1. **CONTENTS.** By December 15, 1982, the board shall adopt a hazardous waste management plan. In developing and implementing the plan, the highest priority of the board shall be placed upon alternatives to land disposal of hazardous wastes including: technologies to modify industrial processes or introduce new processes which will reduce or eliminate hazardous waste generation; recycling, re-use, and recovery methods to reduce or eliminate hazardous waste disposal; and conversion and treatment technologies to reduce the degree of environmental risk from hazardous waste. The board shall also consider technologies for retrievable storage of hazardous wastes for later recycling, re-use, recovery, conversion, or treatment.

The plan shall include at least the following elements:

- (a) an estimate of the types and volumes of hazardous waste which will be generated in the state through the year 2000;
- (b) specific and quantifiable objectives for reducing to the greatest feasible and prudent extent the need for and practice of disposal, through waste reduction, pretreatment, retrievable storage, processing, and resource recovery;
- (c) a description of the minimum disposal capacity and capability needed to be developed within the state for use through the year 2000, based on the achievement of the objectives under clause (b).

The plan shall provide for the orderly development of hazardous waste management sites and facilities to protect the health and safety of rural and urban communities. In preparing the plan the board shall consider its impact upon agriculture and natural resources.

The plan shall require the establishment in the state of at least one commercial retrievable storage or disposal facility in the state and encourage the establishment of at least one facility for the recycling, re-use, recovery, conversion, treatment, or storage of hazardous waste. The board may make the implementation of elements of the plan contingent on actions of the legislature which have been recommended in the reports submitted pursuant to section 115A.08.

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Sec. 6. Minnesota Statutes 1980, Section 115A.15, is amended by adding a subdivision to read:

Subd. 1a. DEFINITIONS. For the purposes of this section, the following terms have the meanings given them.

(a) "Recyclable commodities" means materials, pieces of equipment, and parts which are not reusable but which contain recoverable resources.

(b) "Reusable commodities" means materials, pieces of equipment, parts, and used supplies which can be reused for their original purpose in their existing condition.

Sec. 7. Minnesota Statutes 1980, Section 115A.15, Subdivision 2, is amended to read:

Subd. 2. DUTIES OF COMMISSIONER. The commissioner of administration shall develop policies to reduce the volume of waste generated by state agencies. The commissioner shall develop and institute procedures for the separation, collection, and storage of used commodities wherever feasible in state agencies and shall establish policies for the reuse, sale, or disposition of recovered materials and surplus property. The commissioner shall promote and publicize the waste reduction and waste separation and recovery procedures on an ~~on~~ ongoing basis to all state employees. The commissioner shall issue guidelines for the procurement of recyclable commodities and commodities containing recycled materials that include definitions of recycled materials, the percentage of recycled materials to be contained in each commodity and performance specifications. To the extent practicable, the guidelines shall be written so as to give preference to recyclable commodities and commodities containing recycled materials. The commissioner shall inform state agencies whenever recycled commodities are available for purchase. The commissioner shall investigate opportunities for the inclusion of and may include local governments and regional agencies in administrative state programs to reduce waste, and to separate, and recover waste materials recyclable and reusable commodities. ~~The commissioner shall investigate opportunities for the inclusion of local governments and regional agencies in the resource recovery program.~~

Sec. 8. Minnesota Statutes 1980, Section 115A.15, Subdivision 6, is amended to read:

Subd. 6. RESOURCE RECOVERY REVOLVING ACCOUNT. Upon the certification of the commissioner of administration, the commissioner of finance shall establish an account in the general services revolving fund, effective June 30, 1980, for the operation of the state government resource recovery program. The revolving account shall consist of all funds appropriated by the state for the program and, all revenues resulting from the sale of used recyclable and reusable commodities made available for sale as a result of the resource recovery program and all reimbursements to the commissioner of his expenses

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incurred in developing and administering resource recovery systems for state agencies, local governments, and regional agencies. The account may be used for all activities associated with the program including payment of administrative and operating costs.

Sec. 9. Minnesota Statutes 1981 Supplement, Section 115A.21, Subdivision 3, is amended to read:

Subd. 3. **MORATORIUM.** In order to permit the comparative evaluation of sites and the participation of affected localities in decisions about the use of sites, a moratorium is hereby imposed as provided in this subdivision on all development within each proposed or candidate site identified pursuant to this section and in a buffer area identified by the board surrounding and at least equal in area to the site. The moratorium on candidate sites and buffer areas shall extend until the board chooses a final candidate site or final candidate sites pursuant to this article. The moratorium on the final sites and buffer areas shall extend until six months following final action of the board pursuant to sections 115A.18 to 115A.30. No development shall be allowed to occur within a proposed site or buffer area during the period of the moratorium without the approval of the board. No land use control of any political subdivision shall permit development which has not been approved by the board, nor shall any political subdivision sanction or approve any subdivision, permit, license, or other authorization which would allow development to occur which has not been approved by the board. The board shall not approve actions which would jeopardize the availability of a candidate site for use as a hazardous waste facility. The board may establish guidelines for reviewing requests for approval under this subdivision. The guidelines shall not be subject to the rule-making provisions of chapter 15. Requests for approval shall be submitted in writing to the chairperson of the board and shall be deemed to be approved by the board unless the chairperson otherwise notifies the submitter in writing within 15 days.

Sec. 10. Minnesota Statutes 1981 Supplement, Section 115A.24, Subdivision 1, is amended to read:

Subdivision 1. **CERTIFICATE.** Except as provided in subdivision 2, by December 15, 1982, on the basis of and consistent with its hazardous waste management plan adopted under section 115A.11, the board shall issue a certificate or certificates of need for disposal facilities for hazardous wastes in the state. The certificate or certificates shall indicate the types and volumes of waste for which disposal facilities are and will be needed through the year 2000 and the number, types, sizes, general design and operating specifications, and function or use of the disposal facilities needed in the state. The board shall certify need only to the extent that the board has determined that there are no feasible and prudent alternatives including waste reduction, separation, pretreatment, processing, and resource recovery which would minimize adverse impact upon natural resources, provided that the board shall require the establishment of at least one

commercial disposal facility in the state. Economic considerations alone shall not justify certification nor the rejection of alternatives. Alternatives that are speculative and conjectural shall not be deemed to be feasible and prudent. The board shall consider all technologies being developed in other countries as well as in the United States when it considers the alternatives to hazardous waste disposal. The certificate or certificates shall not be subject to the provisions of chapter 15 but shall be the final determination required on the matters decided by the certificate or certificates and shall have the force and effect of law. The certificate or certificates shall not be amended for five years. The board and the permitting agencies, in reviewing and selecting sites, completing environmental impact statements, and issuing approvals and permits for waste disposal facilities described in the certificate or certificates of need, shall not reconsider matters determined in the certification. The board and the permitting agencies shall be required to make a final decision approving the establishment of facilities consistent with the certification. The board and the permitting agencies shall be required to make a final decision approving the establishment of at least one commercial disposal facility for hazardous waste in the state.

Sec. 11. Minnesota Statutes 1981 Supplement, Section 115A.24, is amended by adding a subdivision to read:

Subd. 3. RADIOACTIVE WASTE. The board's certificate of need shall not allow the use of a facility for disposal of radioactive waste, as defined by Minnesota Statutes, Section 116C.71, Subdivision 6.

Sec. 12. Minnesota Statutes 1980, Section 115A.42, is amended to read:

115A.42 ESTABLISHMENT AND ADMINISTRATION.

There is established a planning assistance program to provide technical and financial assistance to political subdivisions of the state for the ~~purpose~~ purposes of encouraging and improving regional and local solid waste management planning activities and efforts and of furthering the state policies and purposes expressed in section 115A.02. The program shall be administered by the agency pursuant to rules promulgated under chapter 15, except in the metropolitan area where the program shall be administered by the metropolitan council pursuant to chapter 473. The agency and the metropolitan council shall ensure conformance with federal requirements and programs established pursuant to the Resource Conservation and Recovery Act of 1976 and amendments thereto.

Sec. 13. Minnesota Statutes 1980, Section 115A.46, is amended to read:

115A.46 CONTENTS REQUIREMENTS.

Subdivision 1. GENERAL. Plans shall address the state policies and purposes expressed in section 115A.02. Plans for the location, establishment, operation, maintenance, and post-closure use of facilities and facility sites, for

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ordinances, and for licensing, permit, and enforcement activities shall be consistent with the rules adopted by the agency pursuant to chapter 116. Plans shall address the resolution of conflicting, duplicative, or overlapping local management efforts. Plans shall address the establishment of joint powers management programs or waste management districts where appropriate. Plans proposing a designation of resource recovery facilities pursuant to sections 115A.70 and 400.162 shall be submitted to the waste management board for review and approval or disapproval. The review shall be based on whether the plans conform to the requirements of this section. The board may require revision of a plan as a condition of its approval. Plans shall address other matters as the rules of the agency may require consistent with the purposes of sections 115A.42 to 115A.46. Political subdivisions preparing plans under sections 115A.42 to 115A.46 are encouraged to shall consult with persons presently providing solid waste collection, processing, and disposal services in the preparation of the plan. Plans prepared by local units of government in the metropolitan area shall conform to the requirements of chapter 473. Plans prepared by political subdivisions outside the metropolitan area with assistance from the program shall conform to the requirements of this section.

Subd. 2. CONTENTS. The plans shall describe existing collection, processing, and disposal systems, including schedules of rates and charges, financing methods, environmental acceptability, and opportunities for improvements in the systems. The plans shall include an estimate of the land disposal capacity in acre-feet which will be needed through the year 2000, on the basis of current and projected waste generation practices. The plans shall contain an assessment of opportunities to reduce the need for land disposal through waste reduction and resource recovery, the alternative degrees of reduction achievable, and a comparison of the costs of alternatives, including capital and operating costs, and the effects of the alternatives on the cost to generators and on persons currently providing solid waste collection, processing, and disposal services. The plans shall, to the extent practicable and consistent with the achievement of other public policies and purposes, encourage ownership and operation of solid waste facilities by private industry. For solid waste facilities owned or operated by public agencies or supported primarily by public funds or obligations issued by a public agency, the plans shall include criteria and standards to protect comparable private and public facilities already existing in the area from displacement unless the displacement is required in order to achieve the waste management objectives identified in the plan. The plans shall establish a siting procedure and development program to assure the orderly location, development, and financing of new or expanded solid waste facilities and services sufficient for a prospective ten-year period, including estimated costs and implementation schedules, proposed procedures for operation and maintenance, estimated annual costs and gross revenues, and proposals for the use of facilities after they are no longer needed or usable. The plans shall describe existing and proposed county and municipal ordinances and license and permit requirements relating to solid waste

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management and shall describe existing and proposed regulation and enforcement procedures. Plans for location, establishment, operation, maintenance, and post-closure use of facilities and facility sites, for ordinances, and for licensing, permit, and enforcement activities shall be consistent with the rules adopted by the agency pursuant to chapter 116. The plans shall address the resolution of conflicting, duplicative, or overlapping local management efforts. The plans shall address the establishment of joint powers management programs or waste management districts where appropriate. The plans shall address other matters as the rules of the agency may require consistent with the purposes of sections 115A.42 to 115A.46.

Subd. 3. PLANS FOR DESIGNATION OF RESOURCE RECOVERY FACILITIES. A plan proposing designation of resource recovery facilities pursuant to sections 115A.70 and 400.162 shall evaluate the benefits of the proposal, including the public purposes achieved by the conservation and recovery of resources, the furtherance of local and any district or regional waste management plans and policies, and the furtherance of the state policies and purposes expressed in section 115A.02, and also the costs of the proposal, including not only the direct capital and operating costs of the facility but also any indirect costs and adverse long-term effects of the designation. In particular the plan shall evaluate:

(a) whether the required use will result in the recovery of resources or energy from materials which would otherwise be wasted;

(b) whether the required use will lessen the demand for and use of land disposal;

(c) whether the required use is necessary for the financial support of the facility;

(d) whether less restrictive methods for ensuring an adequate solid waste supply are available;

(e) all other feasible and prudent waste processing alternatives for accomplishing the purposes of the proposed designation, the direct and indirect costs of the alternatives, including capital and operating costs, and the effects of the alternatives on the cost to generators.

Sec. 14. Minnesota Statutes 1980, 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 manage properly the solid waste generated in the state and, to conserve and protect the 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 or by agreements among subdivisions; 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.

Sec. 15. Minnesota Statutes 1980, Section 115A.69, Subdivision 10, is amended to read:

Subd. 10. **DISPOSITION OF PRODUCTS AND ENERGY.** The district may use, sell, or otherwise dispose of all of the products and energy produced by its facilities. ~~The district may, on a competitive basis, enter into short or long term contracts, make spot sales, solicit bids, enter into direct negotiations, deal with brokers, or use such other methods of disposal as it chooses, provided that the dealings of the district shall be on a competitive basis so as not to create an unfair or unreasonable advantage or restraint of trade on the part of the district. Section 471.345 shall not apply to the sale of products and energy.~~ The district shall give particular consideration to the needs of purchasers in this state and shall actively promote sales to such purchasers so long as this can be done at prices and under conditions that meet constitutional requirements and that are consistent with the district's object of being financially self supporting to the greatest extent possible.

Sec. 16. Minnesota Statutes 1980, Section 115A.70, Subdivision 1, is amended to read:

Subdivision 1. **GENERAL PURPOSE.** ~~A district may be authorized by the order and articles of incorporation establishing the~~ In order to accomplish the objectives of a waste management district, to further the state policies and purposes expressed in section 115A.02, and to advance the public purposes served by resource recovery, the legislature finds and declares that it may be necessary to authorize a district to require that all or any portion of the solid waste that is generated within its boundaries or any service area thereof and is deposited within the state be taken for processing to a resource recovery facility or a transfer station serving a facility designated by the district.

Sec. 17. Minnesota Statutes 1980, Section 115A.70, Subdivision 2, is amended to read:

Subd. 2. **STANDARDS.** ~~In determining whether to designate and require use of resource recovery facilities the district shall consider whether~~

- ~~(a) the required use will result in the recovery of resources or energy from materials which would otherwise be wasted;~~
- ~~(b) the required use will lessen the demand for and use of land disposal;~~
- ~~(c) the required use is necessary for the financial support of the facility;~~
- ~~(d) less restrictive methods for ensuring an adequate solid waste supply are available;~~

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(e) all other feasible and prudent waste processing alternatives for accomplishing the purposes of the proposed designation have been considered and the costs of the alternatives, including capital and operating costs, and the effects of the alternatives on the cost to generators have been compared and evaluated. Any district designation shall be based upon a plan prepared and approved in conformance with section 115A.46, shall be authorized in the articles of incorporation of the district, and shall be submitted pursuant to section 3 for review and approval or disapproval by the waste management board.

Sec. 18. Minnesota Statutes 1980, Section 115A.70, Subdivision 3, is amended to read:

Subd. 3. **EXEMPTION.** The district shall not designate and require use of facilities for materials which are being separated from solid waste and recovered for reuse or recycling by the generator, by a private person under contract with the generator or by a licensed solid waste collector. The district shall not designate and require use of facilities for materials which are being delivered to another resource recovery facility unless the district finds and determines that the required use is consistent with criteria and standards concerning displacement of existing facilities and with the evaluation of resource recovery designation which are required in the solid waste management plan of the district.

Sec. 19. Minnesota Statutes 1980, Section 116.07, Subdivision 4b, is amended to read:

Subd. 4b. **PERMITS; HAZARDOUS WASTE FACILITIES.** The agency shall provide to the waste management board established in section 115A.04, copies of each preliminary and final permit application for a hazardous waste facility immediately upon its submittal to the agency. The agency shall request recommendations on each permit application from the board and shall consult with the board on the agency's intended disposition of the recommendations. Except as otherwise provided in sections 115A.18 to 115A.30, the agency shall commence any environmental review required under chapter 116D within 120 days of its acceptance of a completed preliminary permit application. The agency shall respond to a preliminary permit application for a hazardous waste facility within 120 days following a decision not to prepare environmental documents or following the acceptance of a negative declaration notice or an environmental impact statement. Except as otherwise provided in sections 115A.18 to 115A.30, within 60 days following the submission of a final permit application for a hazardous waste facility, unless a time extension is agreed to by the applicant, the agency shall issue or deny all permits needed for the construction of the proposed facility. The agency shall promulgate rules pursuant to chapter 15 for all hazardous waste facilities, except those addressed in subdivision 4c of this section. After the report of the waste management board required by section 4 has been submitted to the legislature, the agency shall review its rules

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for hazardous waste facilities and shall consider whether any of the rules should be modified or if new rules should be adopted based on the recommendations in the report. The rules shall require:

(1) contingency plans for all hazardous waste facilities which provide for effective containment and control in any emergency condition;

(2) the establishment of a mechanism to assure that money to cover the costs of closure and post-closure monitoring and maintenance of hazardous waste facilities will be available;

(3) the maintenance of liability insurance by the owner or operator of hazardous waste facilities during the operating life of the facility.

Sec. 20. Minnesota Statutes 1980, Section 400.16, is amended to read:

400.16 SOLID WASTE AND SEWAGE SLUDGE DISPOSAL REGULATIONS.

The county may by ordinance establish and revise rules, regulations, and standards for solid waste and sewage sludge management and land pollution, relating to (a) the location, sanitary operation, and maintenance of solid waste facilities and sewage sludge disposal facilities by the county and any municipality or other public agency and by private operators; (b) the collection, processing, and disposal of solid waste and sewage sludge; (c) the amount and type of equipment required in relation to the amount and type of material received at any solid waste facility or sewage sludge disposal facility; (d) the control of salvage operations, water or air or land pollution, and rodents at such facilities; (e) the termination or abandonment of ~~such~~ the facilities or activities; and (f) other matters relating to ~~such~~ the facilities as may be determined necessary for the public health, welfare, and safety. The county may issue permits or licenses for solid waste facilities and may require that ~~such~~ the facilities be registered with an appropriate county office. The county shall adopt the ordinances for mixed municipal solid waste management. The county shall make provision for issuing permits or licenses for mixed municipal solid waste facilities and shall require that ~~such~~ the facilities be registered with an appropriate county office. No permit or license shall be issued for a mixed municipal solid waste facility unless the applicant has demonstrated to the satisfaction of the county board the availability of revenues necessary to operate the facility in accordance with applicable state and local laws, ordinances, and rules. No permit shall be issued for a solid waste facility used primarily for resource recovery or a transfer station serving such a facility, if the facility or station is owned or operated by a public agency or if the acquisition or betterment of the facility or station is secured by public funds or obligations issued by a public agency, unless the county finds and determines that adequate markets exist for the products recovered and that any displacement of existing resource recovery facilities and transfer stations serving such facilities that may result from the establishment of the new facility is

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required in order to achieve the waste management objectives of the county. The county ordinance shall require appropriate procedures for termination or abandonment of any mixed municipal solid waste facilities or services, which shall include provision for long term monitoring for possible land pollution, and for the payment by the owners or operators thereof, or both, of any costs incurred by the county in completing such the procedures. The county may require such the procedures and payments with respect to any facilities or services regulated pursuant to this section. In the event the operators or owners fail to complete such the procedures in accordance with the ordinance, the county may recover the costs of completion in a civil action in any court of competent jurisdiction or, in the discretion of the board, the costs may be certified to the county auditor as a special tax against the land to be collected as other taxes are collected. The ordinance may be enforced by injunction, action to compel performance, or other appropriate action in the district court. Any ordinance enacted under this section shall embody minimum standards and requirements established by rule of the agency.

Sec. 21. Minnesota Statutes 1980, Section 400.162, is amended to read:

400.162 COUNTY DESIGNATION OF RESOURCE RECOVERY FACILITY.

Except The authority granted to counties by this section shall not apply within the metropolitan area, the Western Lake Superior Sanitary District established by Laws 1971, Chapter 478, as amended, and nor within any solid waste management district established under sections 115A.62 to 115A.72, any. In order to accomplish the objectives of county waste management, to further the state policies and purposes expressed in section 115A.02, and to advance the public purposes served by resource recovery, the legislature finds and declares that it may be necessary to authorize a county may to require that all or any portion of the solid waste that is generated within the boundaries of the county or any service area thereof and is disposed of in the state be delivered to a resource recovery facility designated by the county board or a transfer station serving such a facility, provided that the. Any county designation is approved shall be based upon a plan prepared and approved in conformance with section 115A.46 and shall be submitted pursuant to section 3 for review and approval or disapproval by the waste management board. The board may require the county to complete a comprehensive solid waste management plan conforming to the requirements of section 115A.46. In establishing, continuing, and terminating the designation, the county shall be governed by all standards, exemptions, procedures, and other requirements provided in section 115A.70, subdivisions 2 to 6.

Sec. 22. Minnesota Statutes 1980, Section 473.149, Subdivision 1, is amended to read:

*Subdivision 1. **POLICY PLAN; GENERAL REQUIREMENTS.*** The metropolitan council shall prepare and by resolution adopt as part of its

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development guide a long range policy plan for solid waste management in the metropolitan area. When adopted, the plan shall be followed in the metropolitan area. The plan shall address the state policies and purposes expressed in section 115A.02. The plan shall substantially conform to all policy statements, purposes, goals, standards, maps and plans in development guide sections and plans adopted by the council, provided that no land shall be thereby excluded from consideration as a solid waste facility site except land determined by the agency to be intrinsically unsuitable for such use. The plan shall include goals and policies for solid waste management in the metropolitan area and, to the extent appropriate, statements and information similar to that required under section 473.146, subdivision 1. The plan shall include criteria and standards for solid waste facilities and solid waste facility sites respecting the following matters: general location; capacity; operation; processing techniques; environmental impact; effect on existing, planned, or proposed collection services and waste facilities; and economic viability. The plan shall, to the extent practicable and consistent with the achievement of other public policies and purposes, encourage ownership and operation of solid waste facilities by private industry. For solid waste facilities owned or operated by public agencies or supported primarily by public funds or obligations issued by a public agency, the plan shall include additional criteria and standards to ensure that the facilities are operated on a competitive basis so as not to create an unfair or unreasonable advantage or restraint of trade in relation to protect comparable private and public facilities already existing in the area from displacement unless the displacement is required in order to achieve the waste management objectives identified in the plan. In developing the plan the council shall consider the orderly and economic development, public and private, of the metropolitan area; the preservation and best and most economical use of land and water resources in the metropolitan area; the protection and enhancement of environmental quality; the conservation and reuse of resources and energy; the preservation and promotion of conditions conducive to efficient, competitive, and adaptable systems of waste management; and the orderly resolution of questions concerning changes in systems of waste management. Criteria and standards for solid waste facilities shall be consistent with regulations adopted by the pollution control agency pursuant to chapter 116 and shall be at least as stringent as the guidelines, regulations, and standards of the federal environmental protection agency.

Sec. 23. Minnesota Statutes 1980, Section 473.153, is amended by adding a subdivision to read:

Subd. 6a. SUSPENSION OF SITING DURING STUDY. After the certifications required by subdivision 2, there is imposed a suspension until December 31, 1982 on the site evaluation and selection procedure required by subdivisions 1 to 4 and 6. During the period of suspension the council shall evaluate:

(a) methods of reducing to the greatest feasible and prudent extent the introduction of hazardous materials in sewage flows; and

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(b) uses for the commission's waste which will reduce to the greatest feasible and prudent extent the need for commission disposal facilities.

Sec. 24. Minnesota Statutes 1980, Section 473.153, is amended by adding a subdivision to read:

Subd. 6b. CERTIFICATION OF NEED. No new facility for disposing of sludge, ash, and other waste generated by the commission shall be permitted in the metropolitan area without a certification of need issued by the council indicating the council's determination:

(a) that the disposal of waste with concentrations of hazardous materials is necessary; and

(b) that the additional disposal capacity planned for the facility is needed.

The council shall certify need only to the extent that there are no feasible and prudent methods of reducing the concentrations of hazardous materials in the waste and no feasible and prudent alternatives to the disposal facility which would minimize adverse impact upon natural resources. Methods and alternatives that are speculative or conjectural shall not be deemed to be feasible and prudent. Economic considerations alone shall not justify the certification of need or the rejection of methods or alternatives.

Sec. 25. Minnesota Statutes 1980, Section 473.802, is amended to read:

473.802 LEGISLATIVE PURPOSE AND POLICY.

The legislature determines that for the protection of the public health, safety, and welfare of the people of the metropolitan area, for the prevention, control and abatement of pollution of air and waters of the state in the metropolitan area, and for the efficient and economic management of solid waste in the metropolitan area, and for the furtherance of the state policies and purposes expressed in section 115A.02, it is necessary to authorize the metropolitan council to carry on a continuous, long range program of planning with respect to solid waste management, to establish criteria and standards and approve permits for solid waste facilities in the area, and to provide funds for the acquisition of property for solid waste disposal purposes; and to authorize the metropolitan counties if necessary to acquire, construct, operate and maintain solid waste facilities, to plan for and regulate solid waste collection services and facilities, to collect data on solid and hazardous waste management systems and procedures, and to assist state agencies to regulate the management of hazardous waste. The legislature declares that a public purpose is served by the recovery and utilization of resources from solid waste where economically viable and compatible with source reduction. The plans, criteria, standards and regulations of the agency, council and metropolitan counties shall, to the extent practicable, encourage ownership and operation of solid waste facilities by private industry.

Sec. 26. Minnesota Statutes 1980, Section 473.803, Subdivision 1, is amended to read:

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Subdivision 1. **COUNTY MASTER PLANS; GENERAL REQUIREMENTS.** Each metropolitan county, following adoption or revision of the council's solid waste policy plan and in accordance with the dates specified therein, and after consultation with all affected local government units, shall prepare and submit to the council for its approval, a county solid waste master plan to implement the policy plan. The master plan shall be revised and resubmitted at such times as the council's policy plan may require. The master plan shall describe county solid waste activities, functions, and facilities; the existing system of solid waste generation, collection, and processing, and disposal within the county; existing and proposed county and municipal ordinances and license and permit requirements relating to solid waste facilities and solid waste generation, collection, and processing, and disposal; existing or proposed municipal, county, or private solid waste facilities and collection services within the county together with schedules of existing rates and charges to users and statements as to the extent to which such facilities and services will or may be used to implement the policy plan; and any solid waste facility which the county owns or plans to acquire, construct, or improve together with statements as to the planned method, estimated cost and time of acquisition, proposed procedures for operation and maintenance of each facility; an estimate of the annual cost of operation and maintenance of each facility; an estimate of the annual gross revenues which will be received from the operation of each facility; and a proposal for the use of each facility after it is no longer needed or usable as a waste facility. The master plan shall, to the extent practicable and consistent with the achievement of other public policies and purposes, encourage ownership and operation of solid waste facilities by private industry. For solid waste facilities owned or operated by public agencies or supported primarily by public funds or obligations issued by a public agency, the master plan shall contain policies to ensure that the facilities are operated on a competitive basis so as not to create an unfair or unreasonable advantage or restraint of trade in relation criteria and standards to protect comparable private and public facilities already existing in the area from displacement unless the displacement is required in order to achieve the waste management objectives identified in the plan.

Sec. 27. Minnesota Statutes 1981 Supplement, Section 473.803, Subdivision 1a, is amended to read:

Subd. 1a. **PROPOSED INVENTORY OF DISPOSAL SITES.** By October 15, 1981, each county shall adopt, by resolution of its governing body, an inventory of four proposed sites in the county suitable for mixed municipal solid waste disposal facilities and one proposed site in the county suitable for the disposal of demolition debris and shall submit the inventory to the council for approval or disapproval. The council shall evaluate and approve or disapprove each proposed site in accordance with the standards set out in this subdivision. Except as otherwise provided in this subdivision, each site shall satisfy the standards and criteria in federal and state regulations and the council's policy plan for solid waste management. In proposing and approving sites for the

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inventory, the counties and the council shall prefer land which is capable of being returned to its existing use or the use anticipated in a plan of a metropolitan agency, county, or local unit of government use after closure of a disposal facility. Each site shall contain no less than 80 acres and no more than 250 acres. Each proposed site shall be surrounded by a buffer area at least equal to the area of the site. No site shall be adopted by a county or the council as part of an inventory unless the agency certifies its intrinsic suitability for the use intended, based on preliminary environmental analysis and on site surveys and investigations conducted by the county. Notwithstanding any plan, charter provision, law, ordinance, regulation, or other requirement of any state agency or political subdivision, no land shall be excluded from consideration for inclusion in the inventory except land determined by the agency to be intrinsically unsuitable. Each county shall provide to the agency data relating to the intrinsic suitability of the sites to be proposed for the inventory as soon as available but no later than June 15, 1981. By July 1, 1981 each county shall propose at least the number of sites required for the inventory, and the director of the agency shall issue a notice indicating which of those sites the director recommends be certified as intrinsically suitable. Notice of hearings on the director's recommendation shall be published in the state register and newspapers of general circulation in the metropolitan area and shall be sent by mail to the metropolitan council and local government units containing a proposed inventory site. A hearing shall be held in each metropolitan county and shall be conducted by the state office of administrative hearings in a manner consistent with the completion of the proceedings and the hearing examiner's report to the agency in the time allowed by this section. The hearing shall afford all interested persons an opportunity to testify and present evidence on the subject of the hearing. The subject of the hearing shall be limited to information submitted by the county and additional information on the proposed sites which is relevant to the agency's decision on intrinsic suitability. The rulemaking and contested case procedures of chapter 15 shall not apply to this hearing. The report of the hearing examiner shall contain findings of fact, conclusions, and recommendations on the subject of the hearing. The agency shall make a final determination as to the intrinsic suitability of each proposed site and shall certify them accordingly by October 1, 1981. The agency shall not be required to promulgate rules pursuant to chapter 15 on criteria and standards to govern its certification of intrinsic suitability under this section. No action of the agency shall be held invalid by reason of the agency's failure to notify any of the entities listed in this subdivision. The council shall evaluate each site with respect to local land use and land use controls, the protection of agriculture and natural resources, existing and future development patterns, transportation facilities and other services and facilities appropriate to land disposal facilities, the quality of other potential sites, and patterns of generation of solid waste. The council shall notify a county of any site proposed by the county which the council disapproves and shall allow the county 60 days to propose an alternative site. If the county fails to propose an alternative acceptable to the council in the time allowed, the council shall propose a site acceptable to it for

inclusion in the inventory of sites in that county. If in the council's judgment a county does not contain the requisite number of satisfactory sites, the council may reduce the number of sites required of that county. In order to permit the comparative evaluation of sites and the participation of affected localities in decisions about the use of sites, a moratorium is hereby imposed as provided in this subdivision on development within the area of each site and buffer area proposed by a county, pending the council's adoption of an inventory pursuant to section 473.149, subdivision 2b. For sites and buffer areas included in the council's inventory, the moratorium shall extend until October 1, 1983, except that the council may at any time, with the approval of the county in which the site is located, abrogate the application of the moratorium to a specific site or sites or buffer areas. No development shall be allowed to occur within the area of a site or buffer area during the period of the moratorium without the approval of the council. No county, city, or town land use control shall permit development which has not been approved by the council, nor shall any county, city, or town sanction or approve any subdivision, permit, license, or other authorization which would allow development to occur which has not been approved by the council. The council shall not approve actions which would jeopardize the availability of a site for use as a solid waste facility. The council may establish guidelines for reviewing requests for approval under this subdivision. Requests for approval shall be submitted in writing to the chairman of the council and shall be deemed to be approved by the council unless the chairman otherwise notifies the submitter in writing within 15 days.

Sec. 28. Minnesota Statutes 1980, Section 473.803, is amended by adding a subdivision to read:

Subd. 1c. PLANS FOR REQUIRED USE OF RESOURCE RECOVERY FACILITIES. Plans proposing designation of resource recovery facilities pursuant to section 473.811, subdivision 10, shall evaluate the benefits of the proposal, including the public purposes achieved by the conservation and recovery of resources, the furtherance of local, district, or regional waste management plans and policies, and the furtherance of the state policies and purposes expressed in section 115A.02, and also the costs of the proposal, including not only the direct capital and operating costs of the facility but also any indirect costs and adverse long-term effects of the designation. In particular the plan shall evaluate:

(a) whether the required use will result in the recovery of resources or energy from materials which would otherwise be wasted;

(b) whether the required use will lessen the demand for and use of land disposal;

(c) whether the required use is necessary for the financial support of the facility;

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(d) whether less restrictive methods for ensuring an adequate solid waste supply are available;

(e) all other feasible and prudent waste processing alternatives for accomplishing the purposes of the proposed designation, the direct and indirect costs of the alternatives, including capital and operating costs, and the effects of the alternatives on the cost to generators.

Sec. 29. Minnesota Statutes 1980, Section 473.811, Subdivision 7, is amended to read:

Subd. 7. JOINT ACTION. Each metropolitan county and Any local government governmental unit or metropolitan commission may act together with any county, city, or town within or without the metropolitan area, or with the pollution control agency or the waste management board under the provisions of section 471.59 or any other appropriate law providing for joint or cooperative action between government units, to accomplish any purpose specified in sections 473.149, 473.151, and 473.801 to 473.823 and sections 473.827, 473.831, 473.833, and 473.834, 116.05 and 115A.06.

Any agreement regarding data processing services relating to the generation, management, identification, labeling, classification, storage, collection, treatment, transportation, processing or disposal of waste and entered into pursuant to section 471.59, or other law authorizing joint or cooperative action may provide that any party to the agreement may agree to defend, indemnify and hold harmless any other party to the agreement providing the services, including its employees, officers or volunteers, against any judgments, expenses, reasonable attorney's fees and amounts paid in settlement actually and reasonably incurred in connection with any third party claim or demand arising out of an alleged act or omission by a party to the agreement, its employees, officers or volunteers occurring in connection with any exchange, retention, storage or processing of data, information or records required by the agreement. Any liability incurred by a party to an agreement under this subdivision shall be subject to the limitations set forth in section 3.736 or section 466.04.

Sec. 30. Minnesota Statutes 1980, Section 473.811, is amended by adding a subdivision to read:

Subd. 10. COUNTY DESIGNATION OF RESOURCE RECOVERY FACILITIES. The authority granted to metropolitan counties by this subdivision shall not apply within any solid waste management district established under sections 115A.62 to 115A.72. In order to accomplish the objectives of county waste management, to further the state policies and purposes expressed in section 115A.02, and to advance the public purposes served by resource recovery, the legislature finds and declares that it may be necessary to authorize a county to require that all or any portion of the solid waste that is generated within the boundaries of the county or any service area thereof and is disposed of in the

state be delivered to a resource recovery facility designated by the county board or a transfer station serving such a facility. Any county designation shall be based upon an approved master plan and shall be submitted pursuant to section 473.827, subdivision 1, for review and approval or disapproval by the metropolitan council. In establishing, continuing, and terminating the designation, the county shall be governed by all standards, exemptions, procedures, and other requirements provided in section 115A.70, subdivisions 2 to 6.

Sec. 31. Minnesota Statutes 1980, Section 473.823, Subdivision 3, is amended to read:

Subd. 3. SOLID WASTE FACILITIES; REVIEW PROCEDURES.

The agency shall request applicants for solid waste facility permits to submit all information deemed relevant by the council to its review, including without limitation information relating to the geographic areas and population served, the need, the effect on existing facilities and services, the anticipated public cost and benefit, the anticipated rates and charges, the manner of financing, the effect on metropolitan plans and development programs, the supply of waste, anticipated markets for any product, and alternative means of disposal or energy production. No permit may be issued for the operation of a solid waste facility in the metropolitan area which is not in accordance with the metropolitan council's solid waste policy plan. The metropolitan council shall determine whether a permit is in accordance with the policy plan. In making its determination, the council shall consider the area-wide need and benefit of the applicant facility and may consider, without limitation, the effect of the applicant facility on existing and planned solid waste facilities described in a waste control commission development program or county report or master plan. If the council determines that a permit is in accordance with its policy plan, the council shall approve the permit. If the council determines that a permit is not in accordance with its policy plan, it shall disapprove the permit. The council's approval of permits may be subject to conditions necessary to satisfy criteria and standards in its policy plan, including conditions respecting the type, character, and quantities of waste to be processed at a solid waste facility used primarily for resource recovery and the geographic territory from which a resource recovery facility or transfer station serving such a facility may draw its waste. For the purpose of this review and approval by the council, the agency shall send a copy of each permit application and any supporting information furnished by the applicant to the metropolitan council within 15 days after receipt of the application and all other information requested from the applicant. Within 60 days after the application and supporting information are received by the council, unless a time extension is authorized by the agency, the council shall issue to the agency in writing its determination whether the permit is disapproved, approved, or approved with conditions. If the council does not issue its determination to the agency within the 60 day period, unless a time extension is authorized by the agency, the permit shall be deemed to be in accordance with the council's policy plan. No permit may shall be issued in the metropolitan area for a solid waste facility used

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primarily for resource recovery or a transfer station serving such a facility, if the facility or site station is owned and or operated by a public agency or if the acquisition or betterment of the facility or site station is secured by public funds or obligations issued by a public agency, unless the council finds and determines that adequate markets exist for the products recovered without substantially reducing the supply of solid waste available for existing resource recovery operations and that establishment of the facility is operated on a competitive basis so as not to create an unfair or unreasonable advantage or restraint of trade in relation to comparable private facilities existing in the area is consistent with the criteria and standards in the metropolitan and county plans respecting the protection of existing resource recovery facilities and transfer stations serving such facilities.

Sec. 32. Minnesota Statutes 1980, Section 473.827, Subdivision 1, is amended to read:

Subdivision 1. **APPROVAL OF DESIGNATION PROPOSALS.** The council may require that all or any portion of the solid waste that is generated within the metropolitan area or any service area thereof and is disposed of in the state be delivered to a resource recovery facility designated by the council or a transfer station serving such a facility. The council may designate a facility under this section without the approval of the board except that the approval of the board shall be required if the solid waste required to be delivered is generated outside of the metropolitan area shall review and approve or disapprove proposals to designate resource recovery facilities under section 473.811, subdivision 10. The council may attach conditions to its approval. Before approving a designation the council shall determine that the proposal conforms to the requirements of section 473.811, subdivision 10, that the designation will further the state policies and purposes expressed in section 115A.02, and that the designation is based upon a master plan approved by the council and an adequate evaluation of the standards expressed in section 473.803, subdivision 1c.

Sec. 33. Minnesota Statutes 1980, Section 473.827, is amended by adding a subdivision to read:

Subd. 7. **REPORTS.** The council shall report or require reports to the waste management board on designations approved under this section in accordance with the reporting requirements of the board established pursuant to section 3.

Sec. 34. Minnesota Statutes 1981 Supplement, Section 473.831, Subdivision 1, is amended to read:

Subdivision 1. **GENERAL OBLIGATION BONDS.** The council may by resolution authorize the issuance of general obligation bonds of the council to provide funds for the environmental analysis and acquisition of sites and surrounding buffer areas for development as solid waste disposal facilities pursuant

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to this section and section 473.833 and to provide funds for refunding obligations issued under this section. The bonds shall be sold, issued, and secured in the manner provided in chapter 475 for general obligation bonds, and the council shall have the same power and duties as a municipality and its governing body in issuing bonds under chapter 475, except as otherwise provided in this chapter. No election shall be required, and the net debt limitations in chapter 475 shall not apply. The council shall have the power to levy ad valorem taxes for debt service of the council's solid waste bonds upon all taxable property within the metropolitan area, without limitation of rate or amount and without affecting the amount or rate of taxes which may be levied by the council for other purposes or by any local government unit in the area. Each of the county auditors shall annually assess and extend upon the tax rolls in his county the portion of the taxes levied by the council in each year which is certified to him by the council. The principal amount of bonds issued pursuant to this section shall not exceed \$15,000,000.

Sec. 35. Minnesota Statutes 1980, Section 473.831, Subdivision 2, is amended to read:

Subd. 2. **USE OF PROCEEDS.** The proceeds of bonds issued under subdivision 1 shall be used pursuant to section 473.833, by the council, for the purposes provided in subdivision 1 and to make grants to metropolitan counties to pay the cost of the acquisition of all property or interests in property for solid waste disposal sites and surrounding buffer areas required to be acquired by the county, pursuant to section 473.833, by the council's policy plan and development schedule adopted pursuant to section 473.149, subdivision 2e. If the council is required by law or regulation to prepare environmental analyses on one or more solid waste disposal sites and surrounding buffer areas, the council may use the proceeds of the bonds issued under subdivision 1 to contract for consultant services in the preparation of such analyses only upon a finding that equivalent expertise is not available among its own staff.

Sec. 36. **ST. CLOUD SOLID WASTE STUDY.**

The commissioner of energy, planning and development shall conduct or contract with appropriate consultants for the conduct of a study of the design, development, feasibility, and cost aspects of the use of solid wastes generated in the St. Cloud area to provide supplemental heating and electrical energy at the Minnesota correctional facility - St. Cloud. The commissioner shall report the results of the study together with his recommendations thereon to the legislature as soon as practicable after completion of the study, but in no event later than January 1, 1983.

No money may be spent by the commissioner under this section unless one-half of the amount to be spent to conduct or contract for the study has been provided to the commissioner by gift from private persons interested in the study. The commissioner shall consult with those persons concerning the selection of any consultant under this section.

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Sec. 37. [116.082] OPEN BURNING OF LEAVES; LOCAL ORDINANCES.

Subject to sections 88.16, 88.17 and 88.22, but notwithstanding any law or rule to the contrary, a town or home rule charter or statutory city located outside the metropolitan area as defined in section 473.121, subdivision 2, by adoption of an ordinance, may permit the open burning of dried leaves within the boundaries of the town or city. The ordinance shall limit leaf burning to the period between September 15 and December 1 and shall set forth limits and conditions on leaf burning to minimize air pollution and fire danger and any other hazards or nuisance conditions. No open burning of leaves shall take place during an air pollution alert, warning or emergency declared by the agency. Any town or city adopting an ordinance pursuant to this section shall submit a copy of the ordinance to the agency and the department of natural resources.

Sec. 38. APPROPRIATION.

\$25,000 of the amount appropriated by Laws 1981, Chapter 334, Section 11, Subdivision 1, from the state building fund is cancelled and reappropriated to the commissioner of energy, planning and development for the purpose of conducting or contracting for the study directed by section 36. None of the money appropriated in this section shall be spent unless the legislative commission on waste management approves a work program of the department showing that the conditions prescribed in section 36 have been met and showing the scope of the proposed activities of the department in carrying out section 36.

Sec. 39. REPEALER.

Minnesota Statutes 1980, Section 473.827, Subdivisions 2, 3, 4, 5, and 6, are repealed.

Sec. 40. APPLICATION.

Sections 22 to 35 apply in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Sec. 41. EFFECTIVE DATE.

This act is effective the day following final enactment.

Approved March 22, 1982

CHAPTER 570 — S.F.No. 2006

An act relating to gambling; providing an exception for certain nonprofit organizations to the annual limitation on prizes awarded from the conduct of raffles; amending Minnesota Statutes 1980, Section 349.26, Subdivision 9, and by adding a subdivision; and Minnesota Statutes 1981 Supplement, Section 349.26, Subdivision 15.

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