

No. M-11. An act relating to amendment to the Windham solid waste district charter.

(H.484)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. CHARTER AMENDMENTS

The charter of the Windham Solid Waste Management District is amended as set forth in this act. Proposals of amendment were approved by the district board of supervisors on December 8, 2011.

Sec. 2. 24 App. V.S.A. chapter 417 is amended to read:

CHAPTER 417. WINDHAM SOLID WASTE
MANAGEMENT DISTRICT

Subchapter 1. Creation and Powers

§ 1. CREATION

~~Upon approval of this chapter by the participating municipalities (Brattleboro, Brookline, Dover, Dummerston, Guilford, Halifax, Jamaica, Marlboro, Newfane, Putney, Readsboro, Townshend, Vernon, Whitingham, and Wilmington) as required in chapter 121, subchapter 3 of Title 24, there is created a union municipal district which shall be known as the Windham Solid Waste Management District (the district) and which shall be a body politic and corporate~~ The creation of the union municipal district known as the Windham Solid Waste Management District under Number M-22 of the Acts of 1988 is hereby continued.

§ 2. PURPOSE

~~The district is created and shall exist for the purpose of providing for integrated solid waste management for both solid and unregulated hazardous waste generated by member municipalities and their residents, but nothing herein shall constitute a limit on acceptance of waste from outside the district, provided such outside acceptance is approved by majority vote of the board of supervisors. The means of management shall follow the priorities set forth in 10 V.S.A. § 6604(a)(1), and may include, but are not limited to reduction and reuse activities and programs, recycling, composting, collection, transportation, unregulated hazardous waste collection and transportation, resource recovery, land disposal, or any combination thereof. The District is created, as a body politic and corporate, and shall exist for the purpose of providing a comprehensive system for managing solid waste, recyclable materials, organic material and exempt hazardous waste generated within member municipalities. The principal elements of the management system may include, but are not limited to the following: collection, transportation, processing, citizen information and education, land disposal, recycling centers, intermediate processing facilities, composting facilities, or resource recovery facilities, or any combination thereof, within and outside the District, as well as any other methods allowed by law. The District may accept solid waste and other materials from outside the District.~~

§ 3. COMPOSITION

The ~~district~~ District shall be composed of and shall include all of the lands and residents within those municipalities which vote to approve and enter into this chapter at the time of its creation, and any other municipalities subsequently admitted to the ~~district~~ District, except for those municipalities which may withdraw as provided in this chapter.

§ 4. DURATION

The ~~district~~ District shall continue as a body politic and corporate unless and until dissolved according to the procedures set forth in this chapter.

§ 5. POWERS

~~Except as otherwise provided or limited by this chapter, the district~~ The District shall be a body politic and corporate with the powers incident to a municipal corporation under the laws of the State of Vermont consistent with the purpose of the District and in addition shall have the following powers:

(1) ~~To operate, cause to be operated or contracted, or both, for the operation of any and all facilities for the collection, transportation, resource recovery, recycling, composting, and disposal of solid waste, contract for, and otherwise provide for the collection and transportation of solid waste, and for the operation and maintenance of solid waste facilities, programs, and services of every kind, including but not limited to, sanitary landfills, recycling centers, intermediate processing facilities, composting facilities, or resource recovery facilities, or any~~

combination thereof, and to determine and make proper charges for the cost of such services.

(2) To purchase, sell, lease, own, acquire, convey, mortgage, improve, and use real and personal property in connection with the purpose of the ~~district~~ District, and to construct, develop, and maintain solid waste facilities in accordance with federal and state law.

(3) To hire and fix the compensation of employees.

(4) To sue and be sued.

(5) To enter into contracts for any term or duration.

(6) To contract with architects, engineers, financial and legal consultants, and other experts for services.

(7) To contract with individuals, corporations, associations, authorities, and agencies for services.

(8) To provide solid waste ~~disposal~~ services for the member municipalities, the inhabitants thereof, and the businesses therein, and for such others as its facilities and obligations may allow.

(9) To contract ~~to pay for solid waste disposal services on the basis of guaranteed amounts, whether delivered for disposal and accepted for disposal or not, of solid waste, with payments based on such guaranteed amounts, whether actually disposed or not, which payments may be variable and may be determined by formulae expressed in such contract~~ with the state of Vermont,

the United States of America, or any subdivision or agency thereof for services.

~~(10) To contract with the state of Vermont, the United States of America, or any subdivision or agency thereof for services.~~

~~(11)~~(10) To contract with any member municipality for the services of any officers or employees of that municipality useful to it.

~~(12)~~(11) To promote cooperative arrangements and coordinated action among its member municipalities.

~~(13)~~(12) To make recommendations for review and action to its member municipalities and other public agencies which perform functions within the region in which its member municipalities are located.

~~(14)~~(13) To exercise any other powers which are necessary or desirable for dealing with solid waste problems of mutual concern and which are exercised or are capable of exercise by any of its member municipalities.

~~(15)~~(14) To exercise the power of eminent domain within the District or within any municipality which has withdrawn from the District, provided such property or site to be taken by eminent domain must have been considered, by official action of the Board of Supervisors, as a potential site or sites for a solid waste management facility during the 12-month period immediately preceding the date of withdrawal.

~~(16)~~(15) To borrow money and issue evidence of indebtedness as provided by ~~chapter~~ Chapters 53 and 119 of Title 24 or other provisions of law authorizing general obligations or revenue debt, including Chapter 12 of Title 10.

~~(17)~~(16) To establish a budget and assess member municipalities in accordance therewith.

~~(18)~~(17) To appropriate and expend monies.

~~(19)~~(18) To establish sinking funds for the retirement of bonded or other indebtedness.

~~(20)~~(19) To establish capital reserve funds for ~~public~~ improvements in furtherance of its purpose.

~~(21)~~(20) To regulate by rule, regulation, or ordinance the collection, transportation, processing, resource recovery, recycling, and disposal of solid waste within the ~~district~~ District, and to require that acceptable solid wastes generated within the ~~district~~ District and any member municipality therein shall be disposed of only in and upon facilities ~~operated by or on behalf of the district~~ owned by the District.

~~(22)~~(21) To enact and enforce any and all necessary or desirable regulations for the orderly conduct of ~~the government~~ governance and for carrying out the purpose of the ~~district~~ District.

~~(23)~~(22) To accept and administer gifts, grants, and bequests in trust or otherwise for the purpose of the ~~district~~ District.

~~(24)~~(23) To exercise all powers incident to a public corporation.

~~(25)~~(24) To require that solid waste from commercial ~~activities,~~ agricultural, or ~~from~~ industrial activities ~~and sludge~~ be tested by an entity specified by the ~~district~~ District, and to require that the costs of testing be borne by the generator of the solid waste.

~~(26)~~(25) To enter into contract services with individual nonmember municipalities or other entities to provide services otherwise in the scope of the ~~district's~~ District's powers and purposes.

(26) To appoint law enforcement officers or other agents for the enforcement of ordinances, rules, and regulations of the District.

(27) To enter into siting agreements with municipalities within which a District facility is to be located, which agreements may specify the terms, conditions, and provisions under which a District facility shall be constructed, operated, and maintained. In the event it is impractical or impossible to determine whether damage to the environment is caused by the District facility or from an adjacent property, the District may indemnify and hold harmless the municipality from any such damage, costs, and liabilities.

(28) To enter into cooperative or interlocal agreements with other

municipalities or persons, within or outside the District, providing for the management of solid waste, recyclable materials, organic material, or a combination of solid waste, recyclable materials, and organic material.

(29) To enact policies defining and regulating conflicts of interest of members of the Board of Supervisors, and employees and officers of the District.

(30) To enact policies and regulations with respect to procurement of goods and services.

§ 6. TRANSPORTATION AND COLLECTION SITE

Each member municipality, either directly or through independent parties, shall be responsible for providing one or more collection sites for the solid waste and recyclables generated within such member municipality, and for the transportation of such solid waste to the ~~district~~ District facility, together with all costs incident thereto. In the event that any member municipality does not wish to institute its own collection system for delivery of the solid waste and recyclables to the facility designated by the ~~district~~ District, the ~~board of supervisors~~ Board of Supervisors may provide for collection and transportation as provided in ~~subsection~~ subdivision 5(a)(1) of this chapter.

§ 7. RESPONSIBILITY TO ACCEPT SOLID WASTE

(a) The ~~district becomes~~ District may become responsible for providing a system for solid waste disposal, as delineated in subsection (b) of this section

when the ~~board of supervisors~~ Board of Supervisors declares the disposal system operational.

(b) The ~~district shall~~ District may provide a system for disposal or recycling of all solid waste generated by residential and commercial activities, ~~tires, and metal goods generated~~ within the member municipalities. The ~~district~~ District may provide for the disposal of solid waste from industrial activities within a member municipality. The ~~district~~ District may provide for the disposal of sludge through contract with a member municipality, provided the sludge is disposed of at no cost to the other member municipalities. ~~The district may provide for the disposal of any demolition and construction waste and yard wastes, or both, from any member municipality.~~ Finally, the ~~district~~ District may contract with a nonmember municipality or a private entity for the disposal of solid waste generated outside the boundaries of the ~~district~~ District, provided the contract will not increase the cost of solid waste disposal to the member municipalities.

(c) Each member municipality agrees to act as a host community in the event the ~~district~~ District decides to establish a solid waste ~~disposal or resource recovery facility, or both,~~ transfer, treatment, or disposal facility within that member municipality.

Subchapter 2. Board of Supervisors

§ 8. AUTHORITY

The legislative power and authority of the ~~district~~ District and the administration and the general supervision of all fiscal, prudential, and governmental affairs thereof shall be vested in a governing body known as the ~~board of supervisors~~ Board of Supervisors, except as specifically provided otherwise in this chapter.

§ 9. COMPOSITION

The ~~board of supervisors~~ Board of Supervisors shall be composed of one primary representative and one alternate from each member municipality.

§ 10. APPOINTMENT

Annually, on or before the last Monday in March, the legislative branch of each member municipality shall appoint its representative and an alternate representative to the ~~board of supervisors~~ Board of Supervisors. Appointments shall be in writing, signed by the chair of the legislative branch, and presented to the clerk of the ~~district~~ District. The legislative branch, by majority vote, may remove their appointed representative during the one-year term for stated reasons. The alternate representative shall represent the municipality at all meetings of the ~~board of supervisors~~ Board of Supervisors that the regular representative is unable to attend and shall have all the rights and privileges of a regular representative.

§ 11. ORGANIZATION MEETING

Annually, during its first meeting in April, the ~~board of supervisors~~ Board of Supervisors shall hold its organizational meeting. At the meeting, the ~~board of supervisors~~ Board of Supervisors shall elect from among its membership, a chair and a vice chair, each of whom shall hold office for one year and until his or her successor is duly elected and qualified. The chair and vice chair are eligible to be elected to successive terms without limit. For this election, each ~~member of the board of supervisors~~ member municipality's representative shall cast one vote.

§ 12. REGULAR BOARD MEETINGS

A schedule of regular meetings of the ~~board of supervisors~~ Board of Supervisors shall be established at the organizational meeting.

§ 13. SPECIAL BOARD MEETINGS

Special meetings of the ~~board of supervisors~~ Board of Supervisors may be called at any time by the chair or shall be called by the clerk upon written request of a majority of the members of the ~~board of supervisors~~ Board of Supervisors. Except in case of emergency, each member of the ~~board of supervisors~~ Board of Supervisors shall be given at least 24 hours' notice of any special meeting of the ~~board of supervisors~~ Board of Supervisors by notice in person, by telephone, or by written notice delivered personally, mailed electronically, mailed, or left at such member's usual place of residence.

§ 14. QUORUM

For the purpose of transacting business, the presence of members who represent more than 50 percent of the member towns ~~of the board of supervisors~~ with an appointed representative shall constitute a quorum.

However, a smaller number may adjourn to another date. ~~Any action supported by a minimum of three communities and adopted by a majority of the votes cast at a meeting of the board of supervisors at which a quorum is present shall be the action of the board, except as otherwise provided in this chapter.~~

§ 15. VOTING

Except as otherwise provided in this chapter, each member of the ~~board of supervisors~~ Board of Supervisors shall be entitled to cast one vote for every 3,000 population, or part thereof, in the municipality which he or she represents. ~~In addition, the representative of the host community shall have an additional two votes. As former host community, the town of Brattleboro shall be entitled to retain one of its two host community votes. A host community shall be defined as one that has the district's active landfill. The determination of population shall be made based upon the latest census provided by the State of Vermont. Any member town which is the site of a major District facility shall be entitled to one additional vote.~~ A member or an alternate of the ~~board of supervisors~~ Board of Supervisors may not split his or her votes. ~~The~~

~~determination of population shall be made based upon the latest census provided by the Vermont state office of policy research and coordination.~~ Any action supported by a minimum of three communities and adopted by a majority of the votes cast at a meeting of the Board of Supervisors at which a quorum is present shall be the action of the Board, except as otherwise provided in this chapter. Meetings of the Board of Supervisors or any committee thereof may be conducted by electronic or telephonic means, provided that all participants are able to communicate with one another, that a record of such proceedings is prepared and circulated among all members of the Board of Supervisors within 72 hours of such meeting, and the meeting complies with all requirements of the Vermont Open Meeting Law.

§ 16. TERM

All representatives to the ~~board of supervisors~~ Board of Supervisors shall hold office for one year ~~and until their successors are duly appointed and qualified beginning April 1st.~~ Any representative may be reappointed to successive terms without limit.

§ 17. VACANCY

Any vacancy on the ~~board of supervisors~~ Board of Supervisors shall be filled within 30 days after such vacancy occurs by appointment by the authority which appointed the representative whose position has become vacant. An appointee to a vacancy shall serve until the expiration of the term

of the representative to whose position the appointment was made and may thereafter be reappointed.

§ 18. RULES OF PROCEDURES

Except as otherwise provided in this chapter, the most recent version of Robert's Rules of Order shall govern at all meetings.

§ 19. COMPENSATION OF MEMBERS OF BOARD OF SUPERVISORS

Each member municipality shall pay to its representatives to the ~~board of supervisors~~ Board of Supervisors such reimbursement or expenses as it shall determine reasonable.

Subchapter 3. Compensation of Members of Board of Supervisors

§ 20. OFFICERS

~~The officers of the district shall be the chair and the vice chair of the board of supervisors, the clerk of the district, and the treasurer of the district.~~ The Board of Supervisors annually shall elect from among its members a chair, vice chair, treasurer, and clerk and those other officers as it deems appropriate for the conduct of its business. Upon majority vote of the Board of Supervisors, the treasurer and clerk may be non-Board members. No person may hold more than one office at one time. Any officer vacancy shall be filled at the next regular or special meeting of the Board of Supervisors.

§ 21. BOND

Prior to assuming their offices, ~~officers shall post bond~~ the District shall secure appropriate public official bonds in such amounts as may be determined by resolution of the ~~board of supervisors~~ Board of Supervisors. The cost of such bond shall be borne by the ~~district~~ District.

§ 22. CHAIR

~~The chair of the board of supervisors shall be the chief executive officer of the district.~~ The chair shall preside at all meetings of the ~~board of supervisors~~ Board of Supervisors and shall ~~make and sign all~~ contracts on behalf of the ~~district~~ District upon approval by the ~~board of supervisors~~ Board of Supervisors. The chair shall perform all of the duties incident to the position and office.

§ 23. VICE CHAIR

(a) During the absence of or inability of the chair to render or perform his or her duties or exercise his or her powers, the same shall be performed and exercised by the vice chair and when so acting, the vice chair shall have all the powers and be subject to all the responsibilities hereby given to or imposed upon the chair.

(b) During the absence or inability of the vice chair to render or perform his or her duties or exercise his or her powers, the Board of Supervisors shall elect from among its membership an acting vice chair who shall have the powers

and be subject to all the responsibilities hereby given or imposed upon the vice chair.

§ 24. VACANCY

~~During the absence or inability of the vice chair to render or perform his or her duties or exercise his or her powers, the board of supervisors shall elect from among its membership an acting vice chair who shall have the powers and be subject to all the responsibilities hereby given or imposed upon the vice chair.~~

§ 25. CLERK

~~The clerk of the district shall be appointed by the board of supervisors, shall not be a member of the board and shall serve at its pleasure. The clerk shall have the exclusive charge and custody of the public records of the ~~district~~ District and the seal of the ~~district~~ District. The clerk shall record all votes and proceedings of the ~~district~~ District, including meetings of the ~~district~~ District and meetings of the ~~board of supervisors~~, and shall cause to be posted and published all warnings of meetings of the district. The clerk shall prepare all warnings of meetings of the district as required by subchapter 5 of this chapter. Following approval by the board of supervisors, the clerk shall cause the annual report to be distributed to the legislative branches of its member municipalities Board of Supervisors. The clerk shall prepare and warn all meetings of the District and Board of Supervisors in accordance with Vermont~~

law and shall cause the annual report approved by the Board of Supervisors to be distributed to the legislative bodies of the member municipalities. The clerk shall prepare and distribute any other reports required by the laws of the state of Vermont and resolutions or regulations of the ~~board of supervisors~~ Board of Supervisors. The clerk shall perform all of the duties and functions incident to the office of secretary or clerk of a body corporate.

~~§ 26.~~ § 25. TREASURER

~~The treasurer of the district shall be appointed by the board of supervisors, shall not be a member of the board and shall serve at its pleasure. The treasurer shall have the exclusive charge and custody of the funds of the district and shall be the disbursing officer of the district. When authorized by the board of supervisors, the treasurer may sign, make or endorse in the name of the district all checks and orders for the payment of money, and pay out and disburse the same and receipt therefor. The treasurer shall keep a record of every note or bond issued by the district and of every payment thereon of principal and interest and, if coupons are taken up, shall cancel and preserve them. The treasurer shall keep correct books of account of all the business and transactions of the district and such other books and accounts as the board of supervisors may require. The treasurer shall render a statement of the condition of the finances of the district at each regular meeting of the board of supervisors and at such times as shall be required of the treasurer. The~~

~~treasurer shall prepare the annual financial statement and the budget of the district for distribution, upon approval of the board of supervisors, the legislative bodies of the member municipalities. The treasurer shall do and perform all of the duties appertaining to the office of treasurer of a body politic and corporate. The treasurer shall settle with the auditors within 60 days of the end of the fiscal year, at such other items as the board of supervisors may require, and upon retirement from office. Upon retirement from office, the treasurer shall immediately pay over to the successor all of the funds belonging to the district and at the same time deliver to the successor all official books and papers. The treasurer shall have the custody of the funds of the District and shall be the disbursing officer of the District. The treasurer may perform all of the duties and functions incident to the office of treasurer of a municipal corporation. Such duties and functions shall be determined annually by the Board of Supervisors. During the absence or inability of the treasurer to render or perform his or her duties or exercise his or her powers, the chair shall serve as the disbursing officer of the District.~~

§ 26. ADMINISTRATIVE PERSONNEL

The Board of Supervisors may employ an Executive Director and such other personnel as it deems necessary for the conduct of the business of the District, and the Board of Supervisors shall have the power to prescribe duties, set compensation, and delegate such responsibilities as it deems appropriate.

§ 27. RECORDS

The conduct of all meetings and public access thereto, and the maintaining of all records, books, and accounts of the ~~district~~ District shall be governed by the laws of this state relating to open meetings and accessibility of public records.

§ 28. AUDIT

The ~~board of supervisors~~ Board of Supervisors shall cause an audit to be performed annually by an independent professional accounting firm or a certified public accountant. A copy of the completed audit shall be distributed to each member municipality.

§ 29. EXECUTIVE BOARD

The ~~board of supervisors~~ Board of Supervisors shall have the authority to establish an executive board ~~and grant such powers as it may deem necessary.~~ The Board of Supervisors shall annually grant such powers as it may deem necessary. Additionally, the Board of Supervisors may grant to or remove from the Executive Board such powers as it deems necessary. The members of the Executive Board shall consist of the chair, vice chair, and other members as appointed by the Board of Supervisors.

§ 30. COMMITTEES

The ~~board of supervisors~~ Board of Supervisors shall have the authority to establish any and all committees as it may deem necessary. Each committee

shall elect a chair by majority vote, at a minimum of annually. The Board of Supervisors may appoint non-Board members to serve on a committee but such non-Board members may not serve as chair of the committee.

§ 31. COMPENSATION OF OFFICERS

Officers of the ~~district~~ District shall be paid such compensation or reimbursement, or both, of expenses as shall be determined by the ~~board of supervisors~~ Board of Supervisors.

§ 32. RECALL OF OFFICERS

An officer may be removed by a two-thirds' vote of the ~~board of supervisors~~ Board of Supervisors whenever, in its judgment, the best interest of the ~~district~~ District will be served. For this action, each member of the ~~board of supervisors~~ Board of Supervisors shall cast one vote.

Subchapter 4. Fiscal Affairs

§ 33. FISCAL YEAR

The fiscal year of the ~~district~~ District shall commence on July 1 and end on June 30 of each year.

§ 34. ~~BUDGET APPROPRIATION AND ASSESSMENT~~

PREPARATION OF BUDGET

(a) ~~Proposed budget.~~ Annually, on or before December 4 15th, the ~~board of supervisors~~ Board of Supervisors shall approve and cause to be distributed to the legislative branch of each member municipality for review and comment

~~an annual report of its activities, including a financial statement, and a~~
proposed budget of the ~~district~~ District for the next fiscal year. Included with
the proposed budget sent to each member municipality shall be the previous
fiscal year's financial statement. This proposed budget shall include
~~reasonably detailed estimates of:~~

- (1) Deficits or surpluses, or both, from prior fiscal years.
- (2) Anticipated expenditures for the administration of the ~~district~~
District.
- (3) Anticipated expenditures for the operation and maintenance of any
~~district solid waste~~ District facilities.
- (4) Costs of debt service.
- (5) Payments due on long-term contracts.
- (6) Payments due to any sinking funds for the retirement of debts.
- (7) Payments due to any capital reserve funds.
- (8) Anticipated revenues from tipping fees and other sources, not
including assessments levied on the member municipalities.
- (9) The necessary appropriations to operate and carry out the ~~district's~~
District's functions for the next fiscal year.
- (10) The proposed assessment, if any, to each member municipality.
- (11) Such other estimates as the ~~board of supervisors~~ Board of
Supervisors shall deem necessary to propose.

~~(b) Budget hearing. The board of supervisors shall hold a public hearing on or before December 31 of each year to receive comments from the legislative bodies of member municipalities and hear all other interested persons regarding the proposed budget. Notice of the hearing shall be the same as that specified under section 43 of this chapter, public hearings. The board of supervisors shall give consideration to all comments received and make such changes to the proposed budget as it deems advisable.~~

~~(c) Budget adoption, tipping fees, and appropriations. Annually on or before January 15, the board of supervisors shall adopt the budget, appropriate the sums which it deems necessary to operate and carry out the district's functions for the next ensuing fiscal year, set the tipping fee for the next ensuing fiscal year, and assess each member municipality, if necessary, for its proportionate share of the sums so appropriated, and adopt a schedule designating when such assessments, if any, are due and payable by the member municipalities. It is anticipated that the tipping fees will provide an adequate source of revenue for the district and that assessments will be levied only in the case of unanticipated or unusual expenses incurred in the prior fiscal year or major expenses anticipated for the coming year that cannot be funded without a significant increase in the tipping fees.~~

~~(d) Apportionment of assessments. In the event it becomes necessary to levy assessments on the member municipalities, the assessments shall be~~

~~apportioned among the member municipalities on the basis of trash generation (relative to the tonnage or volume of solid waste generated by or within each of the member municipalities), population or other basis voted by the board of supervisors. If, after the first year of operation of any district facility, the board of supervisors determines that prior assessments were substantially inequitable, it shall retroactively adjust prior year assessments such that municipalities overcharged are given a proportionate credit against future assessments and municipalities undercharged are assessed a proportionate surcharge payable over such period as the board of supervisors determines will be reasonable. Thereafter, the board of supervisors may from time to time (but not more often than once every three years) change the basis of the assessment. The board may adjust the assessments accordingly, but no retroactive adjustments shall be made. Similar estimates and adjustments shall be made for new member municipalities and for the first time use of a new or different disposal facility. In the event of a change in the method of assessment, the board of supervisors shall hold a public hearing on or before the last day of November of each year to receive comments from the legislative bodies of member municipalities and hear all other interested persons regarding the proposed method of assessment. Notice of such hearing shall be the same as that specified under section 43 of chapter 5, public hearings. The board of~~

~~supervisors shall give consideration to all comments received and make such changes to the proposed method of assessment as it deems advisable.~~

§ 35. BUDGET HEARING

The Board of Supervisors shall hold a public hearing on or before December 31 of each year to receive comments from the legislative bodies of member municipalities and hear all other interested persons regarding the proposed budget. Notice of the hearing shall be the same as that specified under section 46 of this chapter, public hearings. The Board of Supervisors shall give consideration to all comments received and make such changes to the proposed budget as it deems advisable.

§ 36. BUDGET ADOPTION, TIPPING FEES, AND APPROPRIATIONS

Annually on or before January 15, the Board of Supervisors shall adopt the budget, appropriate the sums which it deems necessary to operate and carry out the District's functions for the next ensuing fiscal year, and assess each member municipality for its proportionate share of the sums so appropriated, and adopt a schedule designating when such assessments are due and payable by the member municipalities.

§ 37. APPORTIONMENT OF ASSESSMENTS

Assessments may be apportioned among the member municipalities on the basis of population, trash generation (relative to the tonnage or volume of solid waste generated by or within each of the member municipalities), or other

basis voted by the Board of Supervisors. If, after the first year of operation of any District facility, Board of Supervisors determines that prior assessments were substantially inequitable, it may retroactively adjust prior year assessments such that municipalities overcharged are given a proportionate credit against future assessments and municipalities undercharged are assessed a proportionate surcharge payable over such period as the Board of Supervisors determines will be reasonable. Thereafter, the Board of Supervisors may by a vote of members present and representing two-thirds of all the votes entitled to be cast at a regular meeting, or a special meeting called for that purpose, change the basis of the assessment. The board may adjust the assessments accordingly, but no retroactive adjustments shall be made. Similar estimates and adjustments shall be made for new member municipalities and for the first time use of a new or different disposal facility. In the event of a proposed change in the method of assessment, the Board of Supervisors shall hold a public hearing on or before December 7th of each year to receive comments from the legislative bodies of member municipalities and hear all other interested persons regarding the proposed method of assessment. Notice of such hearing shall be the same as that specified under section 46 of this chapter, public hearings. The Board of Supervisors shall give consideration to all comments received and make such changes to the proposed method of assessment as it deems advisable.

~~§ 35.~~ § 38. COLLECTION

Annually, on or before January 20, the treasurer of the ~~district~~ District shall issue and present a warrant to the legislative body of each member municipality requiring that the amount of such assessment, if any, be paid to him or her in accordance with the schedule of payments adopted by the ~~board of supervisors~~ Board of Supervisors. The legislative body of each member municipality shall draw an order on the municipal treasury for the amount of such assessment, and the municipal treasurer shall pay to the ~~district~~ District treasurer the amount of such order in accordance with the schedule for payments adopted by the ~~board of supervisors~~ Board of Supervisors. If any member municipality shall fail to pay when due any assessment against it by the ~~district~~ District, it ~~shall~~ may incur the maximum penalty allowed by law plus interest at the maximum rate allowed by law. Such penalty and interest, together with the amount due, court costs, and reasonable attorney fees of the ~~district~~ District may be recovered by the ~~district~~ District in a civil action under this section, notwithstanding the availability of any other remedy available to the ~~district~~ District.

~~§ 36.~~ § 39. LIMITATIONS OF APPROPRIATIONS

Actions or resolutions of the ~~board of supervisors~~ Board of Supervisors for the annual appropriations of any year shall not cease to be operative at the end of the fiscal year for which they were adopted, except as otherwise provided by

the laws of the state of Vermont. Appropriations made by the ~~board of supervisors~~ Board of Supervisors for the various estimates for the budget, as defined in ~~subsection~~ section 34(a) of this chapter, shall be expended only for such estimates, but by majority vote of the ~~board of supervisors~~ Board of Supervisors, the budget may be amended ~~from time to time~~ to transfer funds between or among such estimates, except as otherwise limited in this chapter. ~~Any balance left or unencumbered in any such budget estimate, or the amount of any deficit at the end of the fiscal year, shall be included in and paid out of the operating budget and appropriations in the next fiscal year~~ At the end of the fiscal year, should actual revenues exceed actual expenditures, the Board of Supervisors may, by a vote of members present and representing two-thirds of all the votes entitled to be cast at a regular meeting or a special meeting called for that purpose, choose to reimburse member communities, add to a reserve fund, make capital purchases, make any improvements needed at that time, or refund members in the manner provided by law. At the end of a fiscal year, should actual expenditures exceed actual revenues, the Board of Supervisors, by a vote of members present and representing two-thirds of all the votes entitled to be cast at a regular meeting or a special meeting called for that purpose, will determine how to pay the deficit in future fiscal years. The amount of any deficit at the end of the fiscal year may be paid out of a reserve fund or may be included in and paid out of the operating budget and

appropriations in the next fiscal year or may be resolved in any other manner by a two-thirds vote of the Board of Supervisors present and voting at a regular or special meeting thereof. For these actions, each member of the Board of Supervisors shall cast one vote.

~~§ 37.~~ § 40. INDEBTEDNESS

(a) Short-term borrowing. ~~The board of supervisors~~ Board of Supervisors may borrow money through the issuance of notes of the ~~district~~ District for the purpose of paying current expenses of the ~~district~~ District. Such notes must mature within one year. ~~The board of supervisors~~ Board of Supervisors may also borrow money in anticipation of grants-in-aid from any source and any revenues other than assessments through the issuance of notes of the ~~district~~ District. Such notes must mature within one year, but may be renewed as provided by general law. ~~The board of supervisors~~ Board of Supervisors may also borrow money in anticipation of assessments ~~to each member municipality~~ in an amount not to exceed 90 percent of the amount assessed for each year, and may issue notes of the ~~district~~ District which must mature within one year. ~~The board of supervisors~~ Board of Supervisors may also borrow money in anticipation of bond proceeds which have been authorized as provided in this chapter. ~~These notes shall be issued as provided in chapter 53 of Title 24.~~ The Board of Supervisors may engage in capital asset financing by any other means allowed by law.

(b) Long-term indebtedness; long-term contracts.

(1) Submission to voters. On a petition signed by at least ~~five~~ ten percent of the voters of the ~~district~~ District, the proposition of incurring a bonded debt or other indebtedness to pay for public improvements or of authorizing a long-term contract shall be submitted by the ~~board of supervisors~~ Board of Supervisors to the qualified voters thereof at a special meeting to be held for that purpose. In the alternative, when the ~~board of supervisors~~ Board of Supervisors, at a regular or special meeting of the ~~board of supervisors~~ Board of Supervisors called for such purpose, shall determine by resolution passed by a vote of a majority of members present and voting that the public interest or necessity demands improvements or a long-term contract, ~~and that the cost of the same will be too great to be paid out of the ordinary annual income and revenue~~, it shall order the submission of the proposition of incurring bonded debt or other indebtedness or of authorizing a long-term contract to the qualified voters of the ~~district~~ District at a meeting to be held for that purpose. A “long-term contract” means a contract in which the ~~district~~ District incurs obligations for which the costs are too great to be paid out of the ordinary annual income and revenues of the ~~district~~ District, in the judgment of the ~~board of supervisors~~ Board of Supervisors. The terms “long-term contract” and “debt” or “indebtedness” shall not include any contract that is subject to annual renewal or extension at the election of the District or any contract

pursuant to which payment by the District shall be subject to annual appropriations in accordance with the annual budget or any contract for services or the purchase or lease of equipment, materials, or supplies needed in the ordinary course of business of the District. The term “public improvements” shall include improvements which may be used for the benefit of the public, whether or not publicly owned or operated. Bonded debt or other indebtedness may be authorized for any purpose permitted by chapter 53 of Title 24, or any other applicable statutes for any purpose for which the ~~district~~ District is organized. ~~The board of supervisors~~ Board of Supervisors may not submit to the voters more than twice in the same calendar year the proposition of incurring bonded or other indebtedness to pay for the same or similar public improvement or of entering the same or similar long-term contract.

(2) Sale of evidence of indebtedness. Any bonds, notes, or other evidence of indebtedness of the District may be sold at par, premium, or discount at public or private sale or to the Vermont municipal bond bank as the District, by a two-thirds vote of the Board of Supervisors, shall determine. For this action, each member of the Board of Supervisors shall cast one vote. Such indebtedness shall constitute a joint and several general obligation of the District and its members.

~~(2)~~(3) Warnings of meeting. The warning calling the special meeting of the ~~district~~ District to incur bonded debt or other indebtedness or to authorize a long-term contract shall state the object and purpose for which the indebtedness or long-term contract is proposed to be incurred or authorized, the estimated cost of the improvements or service, the amount of bonds or other evidence of indebtedness proposed to be authorized, a summary of the terms of any contract proposed to be authorized, and means of raising or apportioning costs entailed thereby for debt service or payments under a long-term contract. The warning shall fix the places where and the date on which the meeting shall be held and the hours of opening and closing the polls. The ~~board of supervisors~~ Board of Supervisors, in cooperation with the board of civil authority of each member municipality, shall determine the number and location of polling places; provided, however, there shall be at least one polling place in each member municipality.

~~(3)~~(4) Notice of meeting. The clerk of the ~~district~~ District shall cause notice of such special meeting to be published in a newspaper of known circulation in the ~~district~~ District once a week for three consecutive weeks on the same day of the week, the last publication to be not less than five nor more than ten days before such meeting. Notice of the meeting shall also be posted in at least ~~five~~ two public places within each member municipality at least 30

and not more than 40 days before the meeting and be filed with the clerk of each member municipality and the clerk of the ~~district~~ District prior to posting.

(5) Informational hearing. The Board of Supervisors shall call, notice, and conduct at least one public informational hearing preceding the date of the special meeting in the manner provided in section 46 of this chapter.

~~(4)~~(6) Authorization. When a majority of all the voters present and voting on the question from all the member municipalities at such special meeting vote to authorize the issuance of bonds or other evidence of indebtedness or to authorize a long-term contract, the ~~district~~ District shall be authorized to issue the bonds or other evidence of indebtedness as provided in chapter 53 of Title 24 or other applicable statutes, or to enter into the long-term contract. The ballots cast in each member municipality ~~shall be commingled and counted by members of the board of supervisors, together with the town clerk from each member municipality, or the clerk's designee~~ shall be counted by the election officials of each member municipality, preserved and secured with the checklist and thereafter the results shall be certified to the District clerk within 48 hours, who shall then certify the aggregate votes in favor and opposed to the proposition. Subchapter 5, sections ~~47~~ 50 (Australian ballot), ~~48~~ 51 (Qualifications and registration of voters), ~~49~~ 52 (Conduct of meetings), ~~50~~ 53 (Reconsideration or recession of vote), and ~~51~~ 54 (Validation of ~~district~~

District meetings) of this chapter shall apply to any ~~district~~ District meeting called to incur long-term debt or to authorize a long-term contract.

~~(5)~~(7) Assessment. The cost of debt service or of payments under a long-term contract shall be included in the annual budget of the ~~district~~ District, and shall be allocated among the member municipalities as provided in ~~subsection 34(e)~~ sections 36 and 37 of this chapter unless otherwise provided by applicable law and in the vote authorizing the same. The applicable provisions of chapter 53 of Title 24, or other enabling law under which debt is incurred, or long-term contracts authorized, shall apply to the issuance of bonds or other evidence of indebtedness by the ~~district~~ District, and for that purpose, the ~~district~~ District shall be deemed a “municipal corporation”, the ~~board of supervisors~~ Board of Supervisors shall be deemed a “legislative branch”, and the ~~district~~ District treasurer shall be deemed a “municipal treasurer” within the purview of that chapter. Bonds or other evidence of indebtedness and long-term contracts shall be signed by the treasurer and chair of the ~~board of supervisors~~ Board of Supervisors of the ~~district~~ District.

~~(6) Special limitation. [Transitional provisions related to initial bonding].~~

~~§ 38.~~ § 41. SINKING FUND

The ~~board of supervisors~~ Board of Supervisors may establish and provide for a sinking fund, however denominated, for the retirement of bond issue or other debt, or to provide security for the payment thereof. When so established, it shall be kept intact and separate from other monies at the disposal of the ~~district~~ District, and shall be accounted for as a pledged asset for the purpose of retiring or securing such obligations. The cost of payments to any sinking fund shall be included in the annual budget of the ~~district~~ District.

~~§ 39.~~ § 42. CAPITAL RESERVE FUND

The ~~board of supervisors~~ Board of Supervisors shall establish and provide for a capital reserve fund to pay for public improvements, replacement of worn-out buildings and equipment, and planned and unplanned major repairs of a ~~disposal~~ facility, in furtherance of the purpose for which the ~~district~~ District was created. Any such capital reserve fund shall be kept in a separate account and invested as are other public funds, and shall be expended for such purposes for which established. The cost of payments to any capital reserve fund shall be included in the annual budget of the ~~district~~ District.

~~§ 40.~~ § 43. DISPOSAL FEES AND SERVICE CHARGES

~~Annually, on or before January 15, the board of supervisors shall establish and adjust a disposal fee structure (tipping fee) for the purpose of generating~~

~~revenues for the district. The board of supervisors shall make every effort to set the tipping fee at a level sufficient to generate enough revenue to enable it to operate and carry out the district's functions for the next ensuing fiscal year without having to levy any assessments upon the member municipalities~~ The Board of Supervisors shall establish and periodically adjust disposal fees and service charges for the district's own facility or facilities for the purpose of generating revenues for the District's services in the management of solid waste from sources other than assessments to member municipalities.

Subchapter 5. Special District Meeting

~~§ 41.~~ § 44. SPECIAL DISTRICT MEETINGS

~~The board of supervisors~~ Board of Supervisors may call a special meeting of the ~~district~~ District when it deems it necessary or prudent to do so, and shall call a special meeting of the ~~district~~ District when action by the voters of the ~~district~~ District is necessary under this chapter or under any applicable law. In addition, the ~~board of supervisors~~ Board of Supervisors shall call a special meeting of the ~~district~~ District if petitioned to do so by not less than five percent of the legal voters of the ~~district~~ District. ~~The board of supervisors~~ Board of Supervisors may rescind the call of a special meeting called by it but not a special meeting called on application of five percent of the legal voters of the ~~district~~ District. ~~The board of supervisors~~ Board of Supervisors shall endeavor to have the time of such special meetings coincide with the time of

annual municipal meetings, primary elections, general elections, or similar meetings when the electorate within the member municipalities will be voting on other matters.

~~§ 42.~~ § 45. PLACES OF MEETINGS

At any special meeting of the ~~district~~ District, voters of each member municipality shall cast their ballots at such polling places within the municipality of their residence as shall be determined by the ~~board of supervisors~~ Board of Supervisors of the ~~district~~ District in cooperation with the board of civil authority of each member municipality.

~~§ 43.~~ § 46. PUBLIC HEARINGS

Not less than three nor more than 14 days prior to any special meeting called by the ~~board of supervisors~~ Board of Supervisors, at least one public hearing shall be held by the ~~board of supervisors~~ Board of Supervisors at which time the issues under consideration shall be presented and comments received. Notice of such public hearing shall include the publication of a warning in a newspaper of general circulation in the ~~district~~ District as least once a week, on the same day of the week, for three consecutive weeks, the last publication not less than five nor more than ten days before the public hearing.

~~§ 44.~~ § 47. WARNINGS REQUIRED

The ~~board of supervisors~~ Board of Supervisors of the ~~district~~ District shall warn a special meeting of the ~~district~~ District by filing a notice with the town clerk of each member municipality and by posting a notice in at least ~~five~~ two public places in each municipality in the ~~district~~ District not less than 30 nor more than 40 days before the meeting. In addition, the warning shall be published in a newspaper of general circulation in the ~~district~~ District once a week on the same day of the week for three consecutive weeks before the meeting, the last publication to be not less than five nor more than ten days before the meeting.

~~§ 45.~~ § 48. SIGNING OF WARNING

The original warning of any special meeting of the ~~district shall be signed by a number of the board of supervisors equal to a majority of the total votes entitled to be cast and shall be filed with the district clerk before being posted~~ District shall be signed by the chair of the Board of Supervisors and shall be filed with the District clerk before being posted.

~~§ 46.~~ § 49. WARNING CONTENTS

The posted notification shall include the date, time, place, and nature of the meeting. It shall, by separate articles, specifically indicate the business to be transacted and the questions to be voted upon.

~~§ 47.~~ § 50. AUSTRALIAN BALLOTS

The Australian ballot system shall be used at all special meetings of the ~~district~~ District when voting is to take place.

~~§ 48.~~ § 51. QUALIFICATIONS AND REGISTRATION OF VOTERS

All legal voters of the member municipalities shall be legal voters of the ~~district~~ District. The member municipalities shall post and revise checklists in the same manner as for municipal meetings prior to any ~~district~~ District meeting at which there will be voting.

~~§ 49.~~ § 52. CONDUCT OF MEETINGS

At all special meetings of the ~~district~~ District, the provisions of chapter 51 of Title 17 regarding election officials (subchapter 1), voting machines (subchapter 3), polling places (subchapter 4), absent voters (subchapter 6), process of voting (subchapter 7) count and return of votes (subchapter 8), recounts and contest of elections (subchapter 9), and jurisdiction of courts (subchapter 10) shall apply except where clearly inapplicable. The ~~district~~ District clerk shall perform the functions assigned to the secretary of state under that chapter. The Windham superior court shall have jurisdiction over petitions for recounts. Election expenses shall be borne by the ~~district~~ District.

~~§ 50.~~ § 53. RECONSIDERATION OR RESCISSION OF VOTE

(a) A question voted on at any special meeting of the ~~district~~ District shall not be submitted to the voters for reconsideration or rescission, except at a

subsequent special meeting duly warned for that purpose, and called by the ~~board of supervisors~~ Board of Supervisors on its own motion or pursuant to a petition requesting such reconsideration or rescission signed and submitted in accordance with subsection (b) of this section.

(b) Where a petition signed by not less than five percent of the qualified voters of the ~~district~~ District requesting reconsideration or rescission of a question considered or voted on at a previous special meeting (except with respect to action taken under section 40 of this chapter, for which a petition shall be signed by ten percent of the qualified voters) is submitted to the ~~board of supervisors~~ Board of Supervisors of the ~~district~~ District within 30 days following the date of that meeting, the ~~board of supervisors~~ Board of Supervisors shall provide for a vote by the ~~district~~ District in accordance with the petition within 60 days of the submission at a special meeting duly warned for that purpose.

(c) A vote taken at a special meeting shall remain in effect unless rescinded at a special meeting called and warned in accordance with this section.

(d) A question voted on shall not be presented for reconsideration or rescission at more than one subsequent meeting within the succeeding 12 months except with the approval of the ~~board of supervisors~~ Board of Supervisors.

~~§ 51.~~ § 54. VALIDATION OF DISTRICT MEETINGS

When any of the requirements as to notice or warning of a special ~~district~~ District meeting have been omitted or not complied with, the omission or noncompliance, if the meeting and the business transacted at it is otherwise legal and within the scope of the ~~district~~ District powers, may be corrected and legalized by vote at a special meeting of the ~~district~~ District called and duly warned for that purpose. The question to be voted upon shall substantially be, “Shall the action taken at the meeting of this ~~district~~ District held on (state date) in spite of the fact that (state the error or omission), and any act or action of the ~~district~~ District officers or agents pursuant thereto be readopted, ratified or confirmed.” Error or omissions in the conduct of an original meeting which are not the result of an unlawful notice or warning or noncompliance within the scope of the warning may be cured by a resolution of the ~~board of supervisors~~ Board of Supervisors of the ~~district~~ District by a vote of two-thirds of all the votes entitled to be cast at a regular meeting or a special meeting called for that purpose, stating the defect was the result of an oversight, inadvertence, or mistake. When an error or omission of this nature has been thus corrected by resolution, all business within the terms of the action of the qualified voters shall be as valid as if the requirements had been initially complied with upon condition, however, that the original action thereby corrected by the ~~board of~~

~~supervisors~~ Board of Supervisors was in compliance with the legal exercise of its corporate powers.

~~§ 52.~~ § 55. PRIORITY

When a special meeting of the ~~district~~ District is called to act upon a proposition to incur bonded or other indebtedness, the special meeting procedures outlined in ~~subchapter 4~~ subsection 40(b) of this chapter shall control over the meeting procedures outlined in this subchapter in the event of conflict.

Subchapter 6. Miscellaneous

~~§ 53.~~ § 56. INDEMNIFICATION

~~Each member municipality agrees it shall protect, indemnify and hold harmless each other member municipality (except for any member municipality at fault) and its respective officials, officers, members, employees, and agents from and against all liabilities, damages, claims, demands, judgments, losses, costs, expenses, suits, actions or proceedings and attorney's fees, and further agrees to defend the indemnified party in any suit, action or proceeding, with respect to any act by or fault of a member municipality arising out of the possible location and operation of a district facility within the boundaries of that member municipality.~~

(a) The District agrees it shall protect, indemnify and hold harmless each member municipality (except a member municipality found by a court of

competent jurisdiction to be at fault) and its respective officials, officers, members, employees, and agents from and against all liabilities, damages, claims, demands, judgments, losses, costs, expenses, suits, actions, or proceedings, and attorneys' fees and further agrees to defend the indemnified party in any suit, action, or proceeding with respect to any act by or default of the District arising out of the location and operation of a District waste disposal facility or the negligent conduct arising from any District activities.

(b) Any member municipality which operates or maintains or has operated or maintained a facility or facilities for the disposal of solid or hazardous waste (except a facility the operation or maintenance of which is, pursuant to express written authorization of the Board of Supervisors, conducted for the District) agrees that it shall protect, indemnify, and hold harmless the District and each other member municipality (except a member municipality found to be at fault) and their respective officials, officers, members, employees, and agents from and against all liabilities, damages, claims, demands, judgments, losses, costs, expenses, suits, actions, or proceedings, and attorney's fees and further agrees to defend the indemnified parties in any suit, action, or other proceeding with respect to any act by or default of such municipality arising out of its operation or maintenance, or both, of such facility.

(c) It is expressly agreed and understood by the District and the member municipalities that neither the District nor any member municipality has

accepted or assumed any responsibility or liability for the past, present, or future operation or maintenance of any solid or hazardous waste disposal facility located within the District or operated by any member municipality, except a facility the operation or maintenance of which is, pursuant to express written authorization of the Board of Supervisors, conducted for or on behalf of the District.

(d) In the event the District is unable to meet any obligation with regard to which the member municipalities are jointly liable, each member municipality shall contribute its proportionate share of such obligations as computed under section 37 of this chapter which are paid by the District to insure that all member municipalities share financial responsibility for these obligations.

~~§ 54.~~ § 57. WITHDRAWAL OF MEMBER MUNICIPALITY

~~A member municipality may withdraw from the district upon the terms and conditions specified in this section.~~

~~(1) Withdrawal prior to the district incurring bonded indebtedness or entering long-term contracts.~~

~~(A) [Transitional provision related to initial bonding]~~

~~(B) No member municipality may withdraw from the district for a period of one year from the date of establishment of the district or after entering into a contract with the town of Brattleboro as authorized in subdivision 37(b)(1) of this chapter, whichever comes first.~~

~~(C) Prior to the district incurring bonded indebtedness or entering into a long term contract, a member municipality may vote to withdraw in the same manner as the vote for adoption of this chapter by such member municipality. If a majority of the voters of a member municipality present and voting at a meeting duly warned for such purpose shall vote to withdraw from the district, the vote shall be certified by the clerk of that municipality and presented to the board of supervisors. Thereafter, the board shall give notice to the remaining member municipalities of the vote to withdraw and shall hold a meeting to determine if it is in the best interest of the district to continue to exist. Representatives of the member municipalities shall be given an opportunity to be heard at such meeting, together with any other interested persons. After such a meeting, the board of supervisors may declare the district dissolved immediately or as soon thereafter as the financial obligations of the district and of each member municipality on account thereof have been satisfied, or it may declare that the district shall continue to exist despite the withdrawal of such member municipality. The membership of the withdrawing municipality shall terminate as soon after such vote to withdraw as the financial obligations of said withdrawing municipality have been paid to the district.~~

~~(2) Withdrawal after the district has incurred bonded indebtedness or entered into a long term contract. After the district has incurred bonded~~

~~indebtedness or entered into a long term contract, a member municipality may vote to withdraw in the same manner as the vote for adoption of this chapter by such member municipality. It shall be a condition that the withdrawing municipality shall enter into a written agreement with the district whereby such withdrawing municipality shall be obligated to continue to pay its share of the debt incurred by the district for the remaining bonding term or contract term. In addition, the withdrawing municipality shall obligate itself to pay the cost of redesigning and rebuilding any facility of the district occasioned because of the reduced volume of solid waste. The cost shall be determined by an independent engineering firm hired by the board of supervisors. These additional costs shall be paid either in a lump sum or in installments at such times and in such amounts as required by the board of supervisors. In addition, in the event there is a resource recovery facility, if the withdrawal of a municipality will reduce the minimum volume of solid waste required to meet the district's long term contractual commitments, no withdrawal of a member municipality shall be permitted during the period of such commitments. A member municipality may terminate its membership in the District by a majority vote of its voters present and voting at a duly warned annual or special meeting voting for such a termination. At such annual or special meeting, a majority of the municipality's voters present and voting must also approve the terms and conditions of this chapter for withdrawal required~~

pursuant to subdivision (1) of this section. Such duly warned meeting must be held no less than 30 days after notice of intent to withdraw has been given to the Board of Supervisors. Said notice shall be in writing and delivered to the board by certified mail, return receipt requested. The termination shall take effect upon a certification of the termination vote by the clerk of the terminating municipality which must be delivered by certified mail, return receipt requested, to the secretary of the District between July 1 and October 31 to become effective the following July 1. Requests for withdrawal received after October 31 shall result in the District requiring full payment of the withdrawing municipality's assessment for the next fiscal year.

(1) The terminating municipality must sign a written agreement with the District to pay, as applicable:

(A) Its share of any financial obligations incurred by the District up to the point of termination, including its share of obligations subject to annual appropriation up to the effective date of withdrawal;

(B) Its share of all existing indebtedness incurred by the District and obligations under long-term contracts, at the time its termination becomes effective, including its share of the debt or obligations incurred by the District for the remaining bonding term or contract term; and

(C) Any direct, incidental, and consequential costs resulting from its withdrawal, including without limitation fixed operational costs and costs of redesigning, relocating, or rebuilding a facility.

~~§ 55.~~ § 58. ADMISSION OF NEW MEMBER MUNICIPALITIES

The ~~board of supervisors~~ Board of Supervisors may authorize the inclusion of additional member municipalities in the ~~district~~ District upon such terms and conditions as it in its sole discretion shall deem to be fair, reasonable and in the best interest of the ~~district~~ District. The legislative branch of any nonmember municipality which desires to be admitted to the ~~district~~ District shall make application for admission to the ~~board of supervisors~~ Board of Supervisors of the ~~district~~ District. The board shall determine the effects and impacts which are likely to occur if such municipality is admitted and shall thereafter either grant or deny authority for admission of the petitioning municipality. If the board grants such authority, it shall also specify any terms and conditions, including but not limited to financial obligations upon which such admission is predicated. ~~The petitioning municipality shall thereafter comply with the approval procedures specified in chapter 121 of Title 24.~~ If a majority of the voters of the petitioning municipality present and voting at a meeting of such municipality duly warned for such purpose shall vote to approve this chapter and the terms and conditions for admission, the vote shall be certified by the clerk of that municipality to the ~~board of supervisors~~ Board of Supervisors.

Thereafter, upon satisfactory performance of the terms and conditions of admission, said municipality shall, by resolution of the ~~board of supervisors~~ Board of Supervisors, become and thereafter be a member municipality of the district.

~~§ 56.~~ § 59. DISSOLUTION OF DISTRICT

(a) Procedure. If the ~~board of supervisors~~ Board of Supervisors receives a dissolution petition from no less than five percent of voters in each member municipality in which votes are verified by the Town Clerk in each municipality, or if the Board of Supervisors, by resolution approved by two-thirds of all the votes entitled to be cast, determines that it is in the best interests of the public, the member municipalities and the ~~district~~ District that the ~~district~~ District be dissolved, and if the ~~district~~ District then has no outstanding debt or obligations under long-term contracts, or will have no such debt or obligation upon completion of the plan of dissolution, it shall prepare a plan of dissolution and thereafter adopt a resolution directing that the question of such dissolution and the plan of dissolution be submitted to the voters of the ~~district~~ District at a special meeting of the ~~district~~ District duly warned for such purpose. If two-thirds of the voters of the ~~district~~ District present and voting at such special meeting of the ~~district~~ District duly warned for such purpose shall vote to dissolve the ~~district~~ District and approve the plan of dissolution, the ~~district~~ District shall cease to conduct its affairs except insofar as may be

necessary for the winding up thereof. The ~~board of supervisors~~ Board of Supervisors shall cause a notice of the proposed dissolution to be mailed to each known creditor of the ~~district~~ District and to the Vermont secretary of state, and shall proceed to collect the assets of the ~~district~~ District and apply and distribute them in accordance with the plan of dissolution.

(b) Plan of dissolution. The plan of dissolution shall:

- (1) Identify and value all unencumbered assets of the ~~district~~ District.
- (2) Identify and value all encumbered assets of the ~~district~~ District.
- (3) Identify all creditors of the district and the nature or amount of all liabilities and obligations of the ~~district~~ District.
- (4) Identify all obligations under long-term contracts.
- (5) Specify the means by which assets of the ~~district~~ District shall be liquidated and all liabilities and obligations of the ~~district~~ District shall be paid and discharged, or adequate provision shall be made for the satisfaction thereof.
- (6) Specify the amount of monies due from each member municipality, if necessary, to extinguish the liabilities of the ~~district~~ District.
- (7) Specify the nature and amount of any liabilities or obligations to be assumed and paid by the member municipalities.
- (8) Specify the means by which any assets remaining after discharge of all liabilities shall be liquidated, if necessary.

(9) Specify that any assets remaining after payment of all liabilities shall be apportioned and distributed among the member municipalities according to the same basic formula used in apportioning the annual assessments of the ~~district~~ District.

(c) Termination. When the plan of dissolution has been implemented, the ~~board of supervisors~~ Board of Supervisors shall adopt a resolution certifying that fact to the member municipalities. Then, this chapter and the ~~district~~ District created hereby shall be terminated.

~~§ 57.~~ § 60. AMENDMENT OF CHARTER

(a) This chapter may be amended by petition of five percent of the voters (certified by each Town Clerk) of the ~~district~~ District under subchapter 5 of this chapter or by the ~~board of supervisors~~ Board of Supervisors under this section. The ~~board of supervisors~~ Board of Supervisors at any regular or special meeting of the ~~board of supervisors~~ Board of Supervisors may, by a majority vote, adopt a resolution stating its intent to amend the chapter. A written copy of the resolution, stating the wording and purpose of the amendment and the date of the meeting scheduled to act on the amendment, shall be delivered to the legislative branches of each member municipality and mailed or left at the usual place of residence of each member of the ~~board of supervisors~~ Board of Supervisors, by the clerk of the ~~district~~ District at least ten business days prior to the meeting scheduled to adopt the amendment. The

amendment may be adopted by ~~majority vote of the board of supervisors at the meeting scheduled to adopt the amendment.~~ The amendment may be adopted by ~~majority vote of the board of supervisors at the meeting scheduled to act on the amendment~~ a vote of members present and representing two-thirds of all the votes entitled to be cast at a regular meeting or a special meeting called for that purpose of the Board of Supervisors, unless ~~a majority~~ two-thirds of legal voters of the legislative branches of the member municipalities request, in writing, the ~~board of supervisors~~ Board of Supervisors hold a special district meeting to vote on the amendment.

(b) If the amendment is adopted by the ~~board of supervisors~~ Board of Supervisors or by the voters of the ~~district~~ District, the clerk of the ~~district~~ District, within ten business days after the vote of adoption, shall certify to the secretary of state each proposal of amendment showing the facts as to its origin and the procedure followed. The secretary of state shall then proceed as with municipal charter amendments under section 2645 of Title 17. The amendment shall become effective upon affirmative enactment of the proposal, either as proposed or as amended by the general assembly. Section ~~50~~ 53 of this chapter, relating to reconsideration and rescission of vote, shall apply to an amendment adopted by a vote of the board or the voters under this section.

(c) This chapter may be amended ~~from time to time~~ in the manner provided in this chapter, but no such amendment shall be made which shall substantially

impair the rights of the holders of any bonds or other notes or other evidence of indebtedness or substantially affect any obligations under long-term contracts of the district then outstanding or in effect, or the rights of the district to procure the means for payment, continuation, or termination thereof.

~~§ 58.~~ § 61. SEVERABILITY

Should any court of competent jurisdiction judge any term, phrase, clause, sentence, or provision of this chapter to be invalid, illegal, or unenforceable in any respect, such judgment shall not affect the validity, legality, or enforceability of the chapter as a whole, or any part of this chapter.

~~§ 59.~~ § 62. DEFINITIONS

As used in this chapter, all terms below shall have the following meanings:

(1) ~~“Solid waste” shall mean any discarded garbage, refuse, septage, sludge from a waste treatment plant, water supply plant, or pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous materials resulting from industrial, commercial, mining, or agricultural operations and from community activities, but does not include animal manure and absorbent bedding used for soil enrichment or solid or dissolved materials in industrial discharges which are point sources subject to permits under the water pollution control act, chapter 47 of Title 10.~~

(2) ~~“Hazardous waste” shall mean any waste or combination of wastes of a solid, liquid, contained gaseous, or semi-solid form, including but not~~

~~limited to those which are toxic, corrosive, ignitable, reactive, strong sensitizers, or which generate pressure through decomposition, heat or other means, which in the judgment of the secretary of the agency of natural resources, or his or her duly authorized representative may cause or contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, taking into account the toxicity of such waste, its persistence and degradability in nature, and its potential for assimilation or concentration in tissue, and other factors that may otherwise cause or contribute to adverse acute or chronic effects on the health of persons or other living organisms, or any matter which may have an unusually destructive effect on water quality if discharged to ground or surface waters of the state. All special nuclear, source, or byproduct material, as defined by the Atomic Energy Act of 1964 and amendments thereto, codified in section 2014 of Title 42 of the United States Code, is specifically excluded from this definition.~~

~~(3) Solid waste from “residential activities” shall include any solid waste generated by a household or apartment, including, but not limited to, food waste, packaging, newspaper and other paper products, glass, cans and plastic.~~

~~(4) Solid waste from “commercial activities” shall include any solid waste generated by retail and wholesale establishments, including but not limited to food waste, corrugated container board, metals, and plastics.~~

~~(5) Solid waste from “industrial activities” shall include any solid, semi-solid, or liquid waste generated by an industry as part of the production process. Solid wastes generated by employees and similar in composition to that generated by residential or commercial activities are excluded from this definition.~~

~~(6) “Sludge” shall mean solids and semi-solids generated by a wastewater treatment plant. Notwithstanding any provision of this chapter, the district shall have the power to impose and collect a surcharge or special assessment for the collection, storage, and disposal of sludge.~~

~~(7) “Tires” shall mean all rubber, belted, and nonbelted automobile and truck tires.~~

~~(8) “Demolition and construction waste” shall mean all solid waste generated in the demolition and construction of buildings, including stumps, brush, plaster, sheetrock, boards, bricks, mortar, concrete, and roofing materials.~~

~~(9) “Yard waste” shall mean grass clippings, leaves, and brush.~~

~~(10) “Metal goods” shall mean discarded appliances and junk automobiles.~~

~~(11) “Resource recovery facility” shall mean a waste-to-energy plant.~~
“Composting” means the controlled biological decomposition of organic matter through active management to produce a stable humus-rich material.

(2) “Conditionally exempt generator” (CEG) means a generator of hazardous waste which is conditionally exempted from certain provisions of the Vermont Hazardous Waste Management Regulations.

(3) “Discrete disposal facilities” means all facilities other than diffuse disposal facilities that are used for the disposal of solid wastes. A discrete disposal facility may include one or more landfill units.

(4) “Hazardous waste” means any waste or combination of wastes of a solid, liquid, contained gaseous, or semisolid form, including those which are toxic, corrosive, ignitable, reactive, strong sensitizers, or which generate pressure through decomposition, heat, or other means which in the judgment of the Secretary of Natural Resources may cause or contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, taking into account the toxicity of such waste, its persistence and degradability in nature, its potential for assimilation or concentration in tissue, and other factors that may otherwise cause or contribute to adverse acute or chronic effects on the health of persons or other living organisms, or any matter which may have an unusually destructive effect on water quality if discharged to ground or surface waters of the state. All special nuclear, source, or by-product material, as defined by the Atomic Energy Act of 1954, is specifically excluded from this definition.

(5) “Recyclable materials” means solid waste which may be reclaimed or processed so that it may be used in the production of materials or products.

(6) “Recycle” means the process of utilizing solid waste for the production of materials or products, but shall not include processing solid waste to produce energy or fuel products.

(7) “Recycling facility” means a facility that accepts, aggregates, stores, or processes recyclable materials.

(8) “Resource recovery facility” means a waste-to-energy facility.

(9) “Sludge” means any solid, semisolid, or liquid generated from a municipal, commercial, or industrial wastewater treatment plant or process, water supply treatment plant, air pollution control facility, or any other such waste having similar characteristics and effects.

(10) “Solid waste” means any discarded garbage, refuse, septage, or sludge from a waste treatment plant, water supply plant, or pollution control facility and other discarded material including solid, liquid, semisolid, or contained gaseous materials resulting from industrial, commercial, mining, or agricultural operations and from community activities but does not include animal manure and absorbent bedding used for soil enrichment or solid or dissolved materials in industrial discharges which are point sources subject to permits under the Water Pollution Control Act, 10 V.S.A. chapter 47. For the purposes of this chapter, solid waste that is also hazardous waste is subject to

further regulation under the Vermont Hazardous Waste Management Regulations.

(11) “Solid waste management” means the activities that result in the storage, transportation, transfer, or treatment of solid waste or recyclable materials or in the disposal of solid waste.

(12) “Transfer station” means a solid waste management facility where solid waste is collected, aggregated, sorted, stored, or processed for the purpose of subsequent transfer to another solid waste management facility for further processing, treatment, transfer, or disposal.

(13) “Treatment” means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous or solid waste so as to neutralize such waste or so as to recover energy or material resources from the waste or so as to render such waste safer for transport, amenable for recovery, amenable for storage, or reduced in volume or, for hazardous wastes, so as to render such waste nonhazardous.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 12, 2012.

Approved: May 2, 2012