

CHAPTER 28G

INTERGOVERNMENTAL SOLID WASTE SERVICES

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28G.1 Purpose.

The purpose of this chapter is to allow two or more local governments to form a public service monopoly when they find that a public service monopoly is an effective means to protect the public health and welfare, and the environment through any of the following:

1. Adequate solid waste collection, transportation, storage and disposal practices which are the only effective means of allowing the construction and utilization of a resource recovery facility for the recycling of solid waste for use as an energy source.

2. The implementation of other solid waste management projects, such as source reduction and recycling, which are part of an approved comprehensive plan required under section 455B.306, and if the formation of a public service monopoly is the only effective means of accomplishing solid waste reduction and recycling. The public service monopoly shall utilize private recycling industries in the service area when possible.

84 Acts, ch 1039, §1; 92 Acts, ch 1215, §1

28G.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. “*Private agency*” means a private agency as defined in section 28E.2.
2. “*Recyclable materials*” means those materials separated by a person from solid waste incidental to the collection of the solid waste for utilization as raw materials to be manufactured into a new product.

3. “*Solid waste management project*” means a project which is part of the comprehensive plan, approved by the director of the department of natural resources pursuant to section 455B.306, to establish and implement the comprehensive solid waste reduction program of a city or county.

84 Acts, ch 1039, §2; 92 Acts, ch 1215, §2

28G.3 Creation of public service monopoly.

If two or more local governments find that the only effective means of allowing the construction and utilization of a resource recovery facility for the recycling of solid waste for use as an energy source or to implement solid waste management projects as defined in section 28G.2 is to create a public service monopoly, a legal entity shall be created pursuant to chapter 28E by agreement of two or more local governments to displace competition with regulation and monopoly of a public service for the collection, transportation, storage, and disposal, or diversion of solid waste to the extent reasonably necessary to carry out these functions. The agreement is subject to approval of the environmental protection commission before it becomes effective.

84 Acts, ch 1039, §3; 89 Acts, ch 83, §14; 92 Acts, ch 1215, §3

28G.4 Powers of entity.

A legal entity created pursuant to chapter 28E and operating under this chapter has all the rights, powers, privileges, and immunities of local governments relating to the purpose for which it is created. A legal entity operating under this chapter may:

1. Engage in, manage, own, operate, and regulate the collection, transportation, storage, and disposal or diversion of solid waste including, but not limited to, the designation of a specific facility which must be used for the collection, transportation, storage, and disposal or diversion of solid waste within its jurisdiction or geographic area.

2. Grant permits, licenses, or franchises, exclusive or nonexclusive, or a combination of exclusive or nonexclusive franchises, to solid waste management services.

3. Enter into contracts for construction and may contract, license, or permit the construction of resource recovery facilities for recycling of solid waste for an energy source or of facilities necessary to implement solid waste management projects as defined in section 28G.2.

4. Require the use of the resource recovery facilities or of facilities necessary to implement solid waste management projects as defined in section 28G.2, by any person who can be effectively served by the facilities. However, this subsection does not prohibit a private agency from dumping or depositing solid waste resulting from its own residential, farming, manufacturing, mining, or commercial activities on land owned or leased by it if the action does not violate any statute of this state or rules adopted by the environmental protection commission or local boards of health or local ordinances.

84 Acts, ch 1039, §4; 92 Acts, ch 1215, §4

28G.5 Revenue bonds.

A legal entity operating under this chapter may issue bonds as provided under chapter 28F for the planning, design, acquisition, construction, reconstruction, improvement, equipping, and furnishing of a solid waste management project as authorized under this chapter.

84 Acts, ch 1039, §5

28G.6 Annual report.

A legal entity created pursuant to chapter 28E and operating under this chapter shall report annually to the department of natural resources. The report shall include information on permits, licenses or franchises granted by the legal entity, contracts entered into, and other information requested by the environmental protection commission.

84 Acts, ch 1039, §6; 88 Acts, ch 1134, §17

28G.7 Obligations not excused.

This chapter does not exempt a legal entity from obtaining any approval, permit or license otherwise required by ordinance or state law.

84 Acts, ch 1039, §7

28G.8 Limitation on powers.

A legal entity operating under this chapter shall not require the incineration of recyclable materials.

84 Acts, ch 1039, §8

28G.9 Nonapplicability.

Chapter 553 does not apply to a legal entity operating under this chapter.

84 Acts, ch 1039, §9