

CHAPTER 499

WISCONSIN SOLID WASTE RECYCLING AUTHORITY

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499.01 Definitions. In this chapter:

(1) "Authority" means the Wisconsin solid waste recycling authority.

(2) "Capital improvement" includes any gate, fence, observation well, access road on a solid waste disposal site, utility, building, paved area, or scale; but does not include earthwork to construct the site nor earth materials required to cover solid wastes or provide grading and completion of sites in accordance with department of natural resources standards for operation of solid waste disposal sites.

(3) "Collection" means the aggregating of solid waste from its primary source and includes all activities up to such time as the waste is delivered to a transfer station.

(4) "Energy balance" means the total amount of energy conserved by the reclamation of materials from solid waste and the energy produced by utilization of such solid waste, if any, compared to the energy expended by the recycling process in excess of that which would have been expended if recycling had not taken place.

(5) "Municipal solid waste recycling facility" and "facilities of the authority" mean publicly owned recycling facilities.

(6) "Municipality" includes any state department or independent agency and any county, city, village, town, school district, county utility district, town sanitary district or metropolitan sewage district.

(7) "Person" includes individuals, partnerships, associations, corporations and municipalities.

(8) "Recycling" means the transfer, transporting, processing, marketing and conversion of solid wastes into usable materials or products, and includes the stockpiling and disposal of nonusable portions of solid wastes, but does not include the collection of such wastes.

(9) "Sewage and industrial waste sludge" means the residue material resulting from the treatment of sewage and industrial waste water.

(10) "Solid waste" means garbage, refuse and other discarded or salvageable solid materials, including solid waste materials resulting from industrial and commercial operations and from domestic use and public service activities. Solid waste does not include sand, if used in a poured metal casting process, mining or agricultural wastes, materials privately processed for reuse, or wastes from the burning of fossil fuel, wood residue or paper in electric or steam generating units. Solid waste includes sewage or industrial waste sludge only if agreements are entered into under s. 499.16 (7).

(11) "Transfer station" means a facility, structure or container owned or leased by the authority, to which collected solid wastes are delivered and where possession of such waste is transferred to the authority.

(12) "Transportation" means all transport required from a transfer station or municipal

solid waste recycling facility where possession of such waste is transferred to the authority.

History: 1973 c. 305.

499.02 Wisconsin solid waste recycling authority; creation; organization. (1) There is created a public body corporate and politic to be known as the "Wisconsin solid waste recycling authority". The authority shall consist of 7 members appointed by the governor by and with the advice and consent of the senate for staggered 6-year terms commencing on the dates their predecessors' terms expire. At least one member shall be a person recommended by the Wisconsin county boards association; at least one a person recommended by the league of Wisconsin municipalities; and at least one a person recommended by the Wisconsin towns association. All members shall be reimbursed for actual and necessary expenses, including travel expenses, incurred in the discharge of their duties. Each member shall hold office until his successor has been appointed and qualified. A certificate of appointment shall be filed with the authority and the certificate shall be conclusive evidence of the due and proper appointment of the members.

(2) The powers of the authority shall be vested in the members thereof in office. A majority of the members of the authority constitutes a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies. Action may be taken by the authority upon a vote of a majority of the members present, unless the bylaws of the authority require a larger number or unless otherwise provided by law. Meetings of the members of the authority may be held anywhere within or without the state.

(3) The authority shall elect a chairman and vice-chairman. The authority shall employ an executive director, legal, financial and technical experts and such other officers, agents and employes, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation, all notwithstanding subch. II of ch. 16 except that s. 16.35 shall apply, and except that the compensation of any employe of the authority shall not exceed the maximum of the executive salary group range established under s. 20.923 (1) for positions assigned to executive salary group 3. The authority may delegate to its agents or employes any of its powers or duties. The total number of employes of the authority shall not exceed 40 positions.

(4) The authority shall continue in existence until terminated by law, but no such law shall

take effect while the authority has obligations outstanding.

History: 1973 c. 305, 336; 1975 c. 224.

Legislation creating the Wisconsin Solid Waste Recycling Authority as a public body corporate and politic with authority to coordinate all solid waste recycling activities within specified recycling regions in the state, clearly serves a well-settled public purpose in promoting the health and welfare of state residents, thus justifying the expenditures of public funds. *Wisconsin Solid Waste Recycling Auth. v. Earl*, 70 W (2d) 464, 235 NW (2d) 648.

499.03 Policies. The following are declared to be policies of the authority:

(1) That maximum recycling from solid waste is necessary to protect the public health and quality of the natural environment;

(2) That solid waste disposal and recycling facilities and projects are to be implemented by the authority, in furtherance of these goals;

(3) That effective systems and facilities for solid waste management, disposal and recycling shall be developed, financed, planned, designed, constructed and operated for the benefit of the people and municipalities of the state;

(4) That private industry is to be utilized to the maximum extent feasible to perform planning, design, management, construction, operation, manufacturing and marketing functions related to solid waste disposal and recycling and to assist in the development of industrial enterprise based on recycling;

(5) That long-term negotiated contracts between the authority and private persons and industries may be utilized as an incentive for the development of industrial and commercial enterprise based on recycling within the state;

(6) That solid waste disposal services shall be provided for municipalities and private persons in the state, at reasonable cost, where such services are considered necessary and desirable in order to protect the state's environment, recover resources and provide support for existing systems and facilities;

(7) That provision shall be made for planning, research and development, and appropriate innovation in the design, management and operation of systems and facilities for solid waste management, in order to permit continuing improvement and provide adequate incentives and processes for lowering operating and other costs;

(8) That recycling undertaken pursuant to this chapter achieve a positive energy balance;

(9) That encouragement and support be given to individuals and municipalities to separate solid waste at its source, in order to maximize the value of such waste for reuse; and

(10) That actions and activities performed or carried out by the authority and its contractors in accordance with this chapter shall be in conformity with applicable policies and rules of

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the state, as promulgated from time to time by the department of natural resources and the public service commission.

History: 1973 c. 305.

499.07 Powers of the authority. The authority shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers in addition to all other powers granted by this chapter:

- (1) To sue and to be sued; to have a seal and to alter the same at pleasure; to have perpetual existence; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority; and to make and from time to time, amend and repeal bylaws and rules.
- (2) To accept gifts or loans or other aid.
- (3) To agree and comply with any conditions attached to federal or state assistance.
- (4) To employ such agents, employes, advisors, consultants and counselors as may from time to time be necessary in its judgment, and to fix their compensation, subject to the limitations of s. 499.02 (3).
- (5) To coordinate all solid waste recycling activities within each region established under this chapter.
- (6) To initiate and encourage programs leading to the maximum recovery and reuse of materials and resources from solid waste, consistent with public policy and environmental objectives.
- (7) To prepare plans, surveys, studies, investigations, designs and estimates of cost of systems for the transport, processing and disposal of solid waste in accordance with the objectives of this chapter.
- (8) To acquire, construct, develop, enlarge, improve and operate such public solid waste recycling facilities as are deemed necessary and proper for carrying out the corporate purposes of the authority, and negotiate contracts for the use of public or private facilities where the same are adequate and available for the intended function and are competitive with other means of providing the same services.
- (9) To establish and collect rates and charges for the services provided by the authority or private facilities contracted for by the authority.
- (10) To own and acquire such property as is deemed necessary and proper for carrying out the corporate purposes of the authority, and to dispose of property when the authority has no further need therefor.
- (11) To negotiate contracts with any person as is deemed necessary and proper for carrying out the corporate purposes of the authority for the construction, use, maintenance or operation

of the facilities of the authority, or to provide the services of such facilities.

(12) To incur debts by borrowing money or otherwise, and to give any appropriate evidence thereof.

(13) To issue notes and bonds in accordance with s. 499.25.

(14) To meet the cost of acquiring, constructing, improving or extending solid waste recycling facilities:

(a) Through the expenditure of any funds available for that purpose;

(b) From the proceeds of the sale of notes and revenue bonds, payable solely from the revenues to be derived from the operation of such solid waste recycling facilities;

(c) From any other funds which may be obtained under any law of this state or of the United States; or

(d) From any combination of any or all of such methods of providing funds.

(15) To negotiate agreements with any person for the collection of rates, rentals or other charges levied by the authority for services rendered.

(16) To enter on any lands, waters or premises for the purposes of making surveys, soundings, inspections and investigations commensurate with the functions of the authority. Entry may be made only with permission of the owner or with a court order granting entry, obtained from a court of record after application and hearing.

(17) To require any person capable of being effectively served by the facilities of the authority to make use of such facilities pursuant to s. 499.16.

(18) To establish regions of the authority and provide for the establishment of boundaries therefor.

(19) To establish a program of research and development of processes to effect the recycling of resources from solid waste and of markets and new products for the resources reclaimed thereby.

(19m) To acquire any property for the purposes of this chapter by donation, purchase, exchange, lease or condemnation under ch. 32.

(20) To utilize, sell, contract for the processing or sale or otherwise dispose of all of the products and by-products of the recycling facilities of the authority.

(21) To conduct such hearings, examinations and investigations as may be necessary and appropriate to the conduct of its operations and the fulfillment of its responsibilities. Any member of the authority may administer oaths and take testimony in any matter pertaining to the functions and responsibilities of the authority.

(22) To obtain access to public records and apply for the process of subpoena if necessary to produce books, papers, records and other data.

(23) To appoint such state and local advisory councils as it may from time to time deem advisable, including but not limited to state and local councils on the continuation and utilization of source-separation and recycling efforts to benefit the people of the state.

(24) To sell or lease to any person, all or any portion of a waste management project, for such consideration and upon such terms as the authority may determine to be reasonable, where, in the opinion of the authority, such action is deemed to be in the furtherance of the purposes of this chapter.

(25) To mortgage or otherwise encumber all or any portion of a project whenever, in the opinion of the authority, such action is deemed to be in furtherance of the purposes of this chapter.

(26) To grant options to purchase, or to renew a lease for, any facility of the authority on such terms as the authority may determine to be reasonable, where, in the opinion of the authority, such action is deemed to be in the furtherance of the purposes of this chapter.

(27) To contract for services in the performance of architectural and engineering design, the supervision of design and construction, system management and facility management; and for such other professional or technical services as may require either prequalification of a contractor or the submission by any person of a proposal in response to an official request for proposal or similar written communication of the authority, whenever such services are, in the discretion of the authority, deemed necessary, desirable or convenient in carrying out the purposes of the authority.

(28) To design and operate all facilities of the authority and require all lessees of the authority to operate facilities in an environmentally and aesthetically acceptable manner.

(29) To contract for use of facilities not owned by the authority.

(30) To adopt and publish such rules as are necessary to effectuate the corporate purposes of the authority.

History: 1973 c. 305.

499.072 Condemnation; limitation; lien.

(1) Before commencing condemnation proceedings with respect to any property within a city, village or town, the authority shall first advise and consult with the governing body of the city, village or town having jurisdiction over the property, and such governing body shall either approve or disapprove, in whole or in part, the condemnation proposed by the authority. If a governing body fails to approve or disapprove a

condemnation proposal, or part thereof, within 30 days after it is submitted to the governing body by the authority, the proposal, or part thereof, shall be deemed approved. Property with regard to which condemnation is disapproved by the governing body may not be condemned by the authority, except:

(a) Property to be used for landfill or transfer stations may be condemned if the property is within or adjacent to an area zoned agricultural or industrial.

(b) Property to be used for a recycling center may be condemned if the property is within or adjacent to an area zoned industrial.

(2) Where a person entitled to an award in proceedings to condemn any property for any of the purposes of this chapter remains in possession of the property after title is vested in the authority, the reasonable value of the use and occupancy of such property after title has been vested, or after any other time as fixed by agreement or by a determination of the court, shall be a lien against such award subject only to such other liens of record at the time title is vested in the authority. To secure its lien, the authority may apply to the circuit court to, and the court may, hold a reasonable portion of the award until any liability for use and occupancy is satisfied.

History: 1973 c. 305.

499.073 Limitation; administrative costs.

The annual administrative costs for the authority shall not exceed \$600,000. For the purpose of this section, "administrative costs of authority" means the salaries and wages, fringe benefits, business and operating expenses of the authority staff, office contractual services, special contractual services, office materials and supplies, travel, and the permanent office equipment of the staff of the authority. The term also includes the costs incurred with respect to the meetings and necessary expenses of the members of the authority. "Administrative costs" does not include acquisitions from municipalities under s. 499.12, new sites for construction of facilities of the authority, engineering and design of facilities of the authority, capital construction of facilities of the authority, debt service both principal and interest on facilities of the authority, or operation of facilities of the authority.

History: 1973 c. 305.

499.075 Limitations; motor vehicles.

The authority is prohibited from collecting and from bidding or paying compensation for solid wastes. The title to discarded motor vehicles transported by the authority or by persons contracting with the authority shall be disposed of in accordance

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with ch. 218. The authority or persons contracting with it, before transporting discarded motor vehicles, shall be licensed under ch. 218.

History: 1973 c. 305

499.08 Review of projects. No person shall acquire, construct, alter, reconstruct, or operate a municipal solid waste recycling facility within a recycling region established by the authority without prior consultation with the authority.

History: 1973 c. 305

499.085 Transitional cooperation. The authority shall assist municipalities in solid waste management planning upon the transition from municipal management of solid waste to recycling in regions established under s. 499.10 in order that the transition is accomplished without undue expense and dislocation of existing and proposed systems. The department of natural resources shall coordinate regulatory activities with the authority during the transfer of responsibility for solid waste disposal from those having existing responsibility to the authority. The authority shall also provide assistance to the department of local affairs and development and the department of natural resources in carrying out their statutory responsibility under s. 144.435.

History: 1973 c. 305

499.086 State agency cooperation. The heads of all departments, independent agencies, boards, commissions, councils and committees in the executive branch, and the heads of any subunits thereunder, shall extend their full and unlimited cooperation, including but not limited to the providing of personnel and facilities, to the authority.

History: 1973 c. 305

499.087 Consultation with building commission. The authority shall consult with the building commission before issuing any notes or bonds, constructing any solid waste recycling facilities or contracting for the use of private solid waste recycling facilities.

History: 1973 c. 305

499.09 Department of natural resources; rules and licensing. The authority shall operate its facilities in compliance with all applicable standards of the department of natural resources. Solid waste disposal sites established, maintained or operated by the authority shall be licensed by the department of natural resources under s. 144.44.

History: 1973 c. 305

499.10 Regions. (1) The authority shall establish recycling regions to facilitate the

administration of this chapter. The first 3 regions shall have generally the following boundaries:

(a) Fond du Lac, Outagamie and Winnebago counties.

(b) Lincoln, Marathon, Portage and Wood counties.

(c) Milwaukee, Ozaukee, Washington and Waukesha counties.

(2) The regions under sub. (1) shall be implemented in the order in which they appear under sub. (1), but planning, engineering and design for all 3 regions shall proceed concurrently. Thereafter, the authority may change their boundaries and establish new regions.

(3) Prior to establishment or modification of region boundaries or substantial modification of regional plans under sub. (1) or (2), the authority shall prepare a region plan which describes proposed region boundaries, location of authority facilities, anticipated sources and volumes of solid wastes to be processed and financial projections on the operations of the authority within the region, including capital expenditures, anticipated rates, charges and rentals and revenues from sales of material, or so much of the foregoing as is applicable. Copies of the plan shall be mailed to the department of natural resources, to each regional planning commission having territory within the proposed region, to the clerk of each municipality within the proposed region and to selected public libraries. A class 2 notice, under ch. 985, shall be published in a newspaper or newspapers having general circulation within the proposed region, and shall list the locations at which the plan is available for public inspection.

(4) The authority shall schedule a public hearing or hearings on the plan within the region, and shall give notice of such hearings by mail and publication in the same manner as required under sub. (3).

(5) Decisions of the authority relating to the establishment or modification of region boundaries or to the site of authority facilities shall be based on the following criteria:

(a) Maximum economic benefit to the authority and affected municipalities from the recycling of solid waste.

(b) Maximum enhancement and protection of the land, water and air resources of the state.

(c) Attainment of consistency with adopted plans of regional planning and state agencies.

(6) Any decision relating to the establishment of a region under this section shall be made within 60 days following the hearing.

History: 1973 c. 305

499.11 Finances. (1) FEES; CHARGES; RENTALS AND SALES. (a) The authority shall establish rates and collect charges and rental for the services of its facilities and private facilities contracted by it and may derive revenue from the sale of products or materials resulting from its operations.

(b) The authority shall establish, and may subsequently modify, schedules of rates, rentals and other charges to be collected from all persons served by the facilities of the authority or by the private facilities contracted by it; prescribe the manner in which and the time at which such rates, rentals and charges are to be paid; and collect or enforce collection of same. The staff of the public service commission shall assist the authority upon request in the initial establishment of schedules of rates. Such schedules may be based upon any classifications or subclassifications which the authority may determine to be fair and reasonable. Schedules of rates and modifications of them are subject to approval by the public service commission.

(2) DETERMINATION OF REGIONAL RATES, CHARGES AND FEES. To determine the rates, charges and fees for a region established under s. 499.10, the authority shall estimate the cost of operating the region, the cost of debt retirement in the region, and the revenue to be derived from the sale of recoverable products. The difference between such estimated costs and revenue shall be the basis for determining the rates, charges and rentals to be charged for the authority's services in the region, subject to approval by the public service commission. During the first 3 years of operation in a region, the schedules of rates, charges and rentals initially established by the authority may be reduced but may not be increased.

(3) PAYMENTS TO COMMISSION. Expenses incurred by the public service commission in the performance of its duties under this section shall be paid by the authority pursuant to s. 196.85.

(4) UNIFORM ACCOUNTING. The authority shall develop cost and revenue accounting procedures which shall be applied uniformly to all recycling regions.

History: 1973 c. 305.

499.12 Acquisitions from municipalities. Upon offer by a municipality to the authority, the authority shall acquire by purchase any operating municipal land fill sites, plant sites and capital improvements and equipment which were originally acquired by the municipality in response to department of natural resources orders or licensing requirements relating to solid waste disposal, or which are or were licensed by the department of natural resources, or which

were not required for compliance with department of natural resources' licensing requirements but were approved in advance by the authority. Compensation for land acquired under this section shall be the original purchase price paid by the municipality. Compensation for capital improvements and equipment shall be the original purchase price less straight line depreciation based on useful life or the current market value in municipal ownership as of the date the municipality is included in a region established under this chapter, whichever is less. Acquisition and compensation under this section shall take place at, or as soon as practicable after, the time solid wastes from a municipality are disposed through completed and operating facilities owned, leased or contracted for by the authority.

History: 1973 c. 305

499.13 Sale of materials. The authority 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 authority 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 authority. The authority shall give particular consideration to the needs of purchasers in this state and shall actively promote sales to such purchasers so long as the same can be done at prices, and under conditions which meet constitutional requirements, that are consistent with the authority's goal to be financially self-supporting to the greatest extent possible.

History: 1973 c. 305

499.15 Reporting requirements. (1) ANNUAL REPORT. The authority shall submit to the governor, the chairman of the joint committee on finance, such other committees as the legislature by joint resolution may determine and the secretary of administration within 6 months after the end of its fiscal year a complete and detailed record setting forth:

(a) Its operations, accomplishments, goals and objectives.

(b) A statement of income and expenses for such fiscal year.

(c) An estimate of all revenues and expenses for the current fiscal year.

(d) The net cost per ton of recycling and disposal of solid waste by the authority compared to net cost per ton which would have otherwise been incurred by the disposal of such waste without recycling.

(e) The proportion of materials recovered from total wastes received, the extent to which

the materials recovered alleviated shortages or reduced demands on virgin or irreplaceable raw materials, the energy balance attributable to the authority's activities, measures of environmental improvement attributed to the recycling program and suggested legislation and other measures to reduce the volume of solid waste generated in this state.

(2) **SEMIANNUAL REPORT.** The authority shall file a semiannual report with the joint committee on finance. The report shall include a summary of the authority's financial position to date as well as a projection of anticipated revenues and expenses for the forthcoming 6-month period.

History: 1973 c. 305.

499.16 Required use of facilities. (1) The authority shall require any person capable of being effectively served by the authority to make use of the facilities of the authority or of private facilities contracted for by the authority in any case where the authority finds such use to be in the best public interest.

(2) "Best public interest", for purposes of sub. (1), shall be inferred if:

(a) Required usage will result in reusable materials being recovered rather than being disposed of;

(b) Required use will lessen the demand for sanitary landfill sites;

(c) Required use will result in a positive energy balance or will conserve natural resources; or

(d) Required use is necessary to achieve operational volumes necessary to make the authority financially self-supporting to the greatest extent possible.

(3) Solid wastes produced by a person other than a municipality which are privately processed and reused are not subject to this section. The authority is prohibited from making a finding that required use is in the best public interest if such wastes are privately processed and reused.

(4) The authority shall proceed as follows when requiring usage of its facilities or facilities contracted for by it:

(a) The authority shall notify those persons whom the authority has determined should use facilities of the authority or the private facilities contracted for by it. Notification to municipalities shall be in writing. All other persons shall be notified by publication of a class 3 notice, under ch. 985, in a newspaper having general circulation in the area. The notification shall specify types and quantities of wastes, plans for usage of wastes, the point of delivery of wastes and the fee to be charged for such service. During the 90-day period following the notification, the

authority shall negotiate with any or all of the persons within the areas to be served in order to develop a contractual agreement on the terms of required usage of the authority's facilities or the private facilities contracted for by it.

(b) If a contract has not been made at the end of the 90-day period, or if, in the case of a person other than a municipality, such person has not made adequate arrangements for the processing for reuse of the waste generated by it, the authority shall hold a public hearing to take testimony for and against required usage of facilities of the authority or the private facilities contracted for by it. The hearing shall be preceded by notice similar to that required under par. (a).

(c) If a contract has not been made within 30 days after the public hearing, or if, in the case of a person other than a municipality, such person has not made adequate arrangements for the processing for reuse of the waste generated by it, the authority may order any person given notice of the public hearing to use the facilities of the authority or the private facilities contracted for by it, starting at a specified date which shall be at least 30 days after the order has been issued. The authority shall not terminate, suspend or curtail services provided to any person required to use the services and facilities of the authority under this paragraph, without the consent of such person.

(4m) In the case of a person other than a municipality, all obligations under contract or order under this section may be terminated as to any portion of that person's solid waste by the person upon an adequate showing to the authority that the solid waste generated by the person has value and that adequate arrangements have been made by the person to have such waste processed for reuse either by such person or any other person other than a municipality.

(6) This section does not apply to persons who own or lease and occupy single-family dwellings and surrounding land and who dispose of solid waste from the premises on such surrounding land.

(7) This section does not apply to the recycling of sewage and industrial waste sludge. However, the authority may enter into agreements to process sewage and industrial waste sludge.

History: 1973 c. 305.

499.17 Tax exemption; payments for municipal services. (1) The exercise of the powers granted by this chapter will be in all respects for the benefit of the people of this state, for the increase of their commerce, welfare and prosperity, and for the improvement of their health and living conditions, and since the

operation and maintenance of a project by the authority will constitute the performance of an essential public function, the authority is not required to pay any taxes or assessments, including mortgage recording taxes, upon or in respect of any property owned by the authority under this chapter and the income therefrom shall at all times be free from taxation of every kind by the state and by political subdivisions of the state.

(2) Notwithstanding sub. (1), the authority shall make reasonable payments at established rates for water, sewer and electrical services and all other services directly provided to facilities of the authority which services are financed in whole or in part by special charges or fees.

(3) The authority shall make reasonable payments for other municipal services as defined in sub. (4) (b) directly provided to facilities of the authority by a municipality pursuant to the procedures specified in sub. (5).

(4) In this section:

(a) "Municipality" means cities, villages, towns, counties and metropolitan sewerage districts with general taxing authority.

(b) "Municipal services" means police and fire protection and any other direct general government service provided to facilities of the authority by municipalities.

(c) "Facilities of the authority" means all property owned by the authority.

(5) The authority shall be responsible for negotiating with municipalities on payments for municipal services. Prior to negotiating with municipalities the authority shall establish guidelines for such negotiations. The guidelines shall be established only after consultation with the department of administration. In no case may a municipality withhold services to the authority during negotiations.

History: 1973 c. 305.

499.19 Construction contracts. Any contract for construction valued at over \$25,000 shall be let by the authority pursuant to the process of open or competitive bidding, provided, the authority may determine the format, contents and scope of any contract for construction of facilities of the authority, the conditions under which bidding shall take place and the schedule and stipulations for a contract award. The authority may select the contractor deemed to have submitted the lowest qualified bid, price and other factors considered, when, in the judgment of the authority, such award is in the best interests of the state. The authority may negotiate and enter into contracts with a single source for any of the professional services specified in s. 499.07 (27) and required by or

attendant to the development of facilities of the authority.

History: 1973 c. 305.

499.20 Contracting and purchasing procedures. (1) The authority may purchase, on a negotiated or open-bid basis, heavy solid waste processing equipment to be installed in facilities of the authority, or it may require such purchase and installation as part of a construction contract. The authority shall conduct its contracting and purchasing operations in accordance with its regularly adopted and promulgated procurement policies and specific rules and procedures on purchasing and contracting approved by a two-thirds vote of its members. In procuring services with respect to the establishment, management and operation of transfer stations, and the transportation of solid wastes therefrom to a recycling facility, the authority shall insofar as is practicable give preference to firms based in this state.

(2) The authority may enter into long-term contracts with private persons for the performance of any such functions of the authority which, in the opinion of the authority, can desirably and conveniently be carried out by a private person under contract provided any such contract shall contain such terms and conditions as will enable the authority to retain overall supervision and control of the business, design, operating, management, transportation, marketing, planning and research and development functions to be carried out or to be performed by such private persons pursuant to such contract. Such contracts may be entered into either on a negotiated or an open-bid basis, and the authority in its discretion may select the type of contract it deems most prudent to utilize, considering the scope of work, the management complexities associated therewith, the extent of current and future technological development requirements and the best interests of the state.

History: 1973 c. 305.

499.25 Notes and bonds; issuance; status. (1) The authority may issue its negotiable notes and bonds in such principal amount, as, in the opinion of the authority, is necessary to provide sufficient funds for achieving its corporate purposes, including the planning, engineering and design and the purchase, acquisition, development, enlargement and improvement of solid waste recycling facilities, as provided in this chapter; for the payment of interest on notes and bonds of the authority during construction; for the establishment of reserves to secure such notes and bonds; and for all other expenditures of the authority

incident to and necessary or convenient to carry out its corporate purposes and powers.

(2) The authority may issue renewal notes, issue bonds to pay notes and whenever it deems refunding expedient, refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and issue bonds partly to refund bonds then outstanding and partly for any other purpose. The refunding bonds shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded.

(3) Except as may otherwise be expressly provided by the authority, every issue of its notes or bonds shall be general obligations of the authority payable out of any revenues or moneys of the authority, subject only to any agreements with the holders of particular notes or bonds pledging any particular receipts or revenues.

(4) All notes or bonds shall be negotiable investment securities under ch. 408.

History: 1973 c. 305

499.26 Same; authorization; terms. The notes and bonds shall be authorized by resolution of the members of the authority; shall bear such date or dates, and shall mature at such time or times, in the case of any note, or any renewal thereof, not exceeding 5 years, from the date of issue of such original note, and in the case of any bond not exceeding 50 years from the date of issue, as the resolution provides. The notes and bonds shall bear interest at such rate or rates, be in such denominations of \$1,000 or more, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place and be subject to such terms of redemption as the resolution provides. The bonds may be issued as serial bonds payable in annual instalments or as term bonds or as a combination thereof. The notes and bonds of the authority may be sold by the authority, at public or private sale, at the price determined by the authority.

History: 1973 c. 305.

499.27 Same; resolution authorizing issuance, contents. Any resolution authorizing any notes or bonds or any issue thereof may contain provisions, which shall be a part of the contract with the holders thereof, as to:

(1) Pledging all or any part of the fees and charges made or received by the authority, and other moneys received or to be received, to secure the payment of the notes or bonds or of any issue thereof, and subject to such agreements with bondholders or noteholders as may then exist.

(2) Pledging all or any part of the assets of the authority to secure the payment of the notes or

bonds or of any issue of notes or bonds, subject to such agreements with noteholders or bondholders as may then exist.

(3) Pledging of any loan, grant or contribution from the federal or state government or any political subdivision of the state as provided for in this chapter.

(4) The setting aside of reserves or sinking funds and the regulation and disposition thereof.

(5) Limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and pledging such proceeds to secure the payment of the notes or bonds or of any issue thereof.

(6) Limitations on the issuance of additional notes or bonds; the terms upon which additional notes or bonds may be issued and secured; the refunding of outstanding or other notes or bonds.

(7) The procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent thereto, and the manner in which such consent may be given.

(8) Vesting in a trustee such property, rights, powers and duties in trust as the authority determines, which may include any or all of the rights, powers and duties of the trustee appointed by the noteholders or bondholders pursuant to s. 499.36 and limiting or abrogating the right of the noteholders or bondholders to appoint a trustee under s. 499.36 limiting the rights, powers and duties of such trustee, in which event s. 499.36 shall not apply.

(9) Any other matters, of like or different character, which in any way affect the security or protection of the notes or bonds.

History: 1973 c. 305.

499.28 Same; validity and effect of pledge. Any pledge made by the authority shall be valid and binding from the time when the pledge is made; the moneys or property so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

History: 1973 c. 305.

499.29 Same; personal liability of members of authority. Neither the members of the authority nor any person executing the notes or bonds shall be liable personally on the notes or

bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

History: 1973 c. 305.

499.30 Same; purchase for cancellation.

The authority, subject to such agreements with noteholders or bondholders as may then exist, shall have power out of any funds available therefor to purchase notes or bonds of the authority, which shall thereupon be canceled, at a price not exceeding:

(1) If the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date thereon; or

(2) If the notes or bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption plus accrued interest to such date.

History: 1973 c. 305.

499.31 Same; liability of state. The state shall not be liable on notes or bonds of the authority and such notes and bonds shall not be a debt of the state. All notes and bonds of the authority shall contain on the face thereof a statement to such effect.

History: 1973 c. 305.

499.32 Capital reserve fund. (1) The authority shall establish a special fund to secure the notes and bonds, referred to in this chapter as capital reserve fund, and shall pay into the capital reserve fund any moneys appropriated and made available by the state for the purposes of such fund, any proceeds of sale of notes or bonds, to the extent provided in the resolution of the authority authorizing the issuance thereof and any other moneys which are made available to the authority for the purpose of such fund from any other source.

(2) All moneys held in the capital reserve fund, except as otherwise specifically provided, shall be used solely for the payment of the principal of bonds of the authority as the same mature, the making of sinking fund payments with respect to bonds of the authority, the purchase of bonds of the authority, the payment of interest on bonds of the authority or the payment of any redemption premium required to be paid when bonds are redeemed prior to maturity. Except for the purpose of paying principal of and interest on bonds of the authority maturing and becoming due and for the payment of which other moneys of the authority are not available, and except for making sinking fund payments with respect to bonds of the authority and for the payment of which other moneys of the authority are not

available, moneys in the capital reserve fund shall not be withdrawn at any time in such amount as would reduce the fund to less than an amount, called in this chapter "capital reserve fund requirement", equal to the maximum amount, in any succeeding year, of principal and interest, other than principal and interest for which sinking fund payments are specified in any resolution of the authority authorizing bonds of the authority then outstanding, maturing and becoming due in such year on all bonds of the authority then outstanding plus all amounts specified, in any resolution of the authority authorizing bonds of the authority then outstanding, as payable as a sinking fund payment in such year. Any income or interest earned by, or increment to, the capital reserve fund due to the investment thereof may be transferred by the authority to the general reserve fund or other fund of the authority to the extent it does not reduce the amount of the capital reserve fund below the capital reserve fund requirement.

(3) The authority shall not issue bonds at any time if the capital reserve fund requirement, after such issuance, will exceed the amount of the capital reserve fund at the time of issuance unless the authority, at the time of issuance of such bonds, shall deposit in the capital reserve fund from the proceeds of the bonds so to be issued, or from another available source, an amount which, together with the amount then in the capital reserve fund, will be not less than the capital reserve fund requirement after such issuance.

(4) To assure the continued operation and solvency of the authority for the carrying out of the public purposes of this chapter, the authority shall accumulate in the capital reserve fund an amount equal to the capital reserve fund requirement. If at any time the capital reserve fund requirement exceeds the amount of the capital reserve fund, the chairman of the authority shall certify to the secretary of administration, the governor and the joint committee on finance the amount necessary to restore the capital reserve fund to an amount equal to the capital reserve fund requirement. If such certification is received by the secretary of administration in an even-numbered year prior to the completion of the budget compilation under s. 16.43, the secretary shall include the certified amount in the budget compilation. In any case, the joint committee on finance shall introduce in either house, in bill form, an appropriation of the amount so certified to the capital reserve fund of the authority. Recognizing its moral obligation to do so, the legislature hereby expresses its expectation and aspiration that, if ever called upon to do so, it shall make such appropriation.

(5) In computing the amount of the capital reserve fund for the purposes of this section, securities in which all or a portion of the capital reserve fund is invested shall be valued at par, or if purchased at less than par, at their cost to the authority.

History: 1973 c. 305.

The requirement of (4), that the legislature's joint finance committee introduce a bill to cure deficits in the Authority's capital reserve fund does not constitute an unconstitutional limitation upon the powers of the legislature, since there is no statutory requirement that the legislature pass the bill without amendment; hence, the provision is valid as a mere rule of committee procedure authorized by art. IV, sec. 8. *Wisconsin Solid Waste Recycling Auth. v. Earl*, 70 W (2d) 464, 235 NW (2d) 648.

499.33 General reserve fund. The authority shall establish a special fund, referred to in this chapter as general reserve fund, and shall pay into such fund all fees and charges collected by the authority and revenues from sale of recycled materials and energy under s. 499.11 and any moneys which the authority transfers from the capital reserve fund. Such moneys and any other moneys paid into the general reserve fund, in the discretion of the authority but subject to agreements with bondholders and noteholders, may be used by the authority:

(1) For the repayment of advances from the state in accordance with the repayment agreements between the authority and the secretary of administration;

(2) To pay all costs, expenses and charges of financing, including fees and expenses of trustees and paying agents;

(3) For transfers to the capital reserve fund;

(4) For the payment of the principal of and interest on notes or bonds issued by the authority when the same become due whether at maturity or on call for redemption and for the payment of any redemption premium required to be paid where such bonds or notes are redeemed prior to their stated maturities, and to purchase notes or bonds; or

(5) For such other corporate purposes of the authority as the authority in its discretion determines.

History: 1973 c. 305.

499.335 Repayment to general fund. The authority shall repay the amounts appropriated under s. 20.398 (1) (a) to the general fund from that portion of the authority's surplus, if any, as is determined pursuant to agreement between the authority and the secretary of administration.

History: 1973 c. 305.

499.34 Limit on amount of outstanding bonds and notes. The authority shall not have outstanding at any one time notes and bonds for any of its corporate purposes in an aggregate

principal amount exceeding \$16,500,000, excluding bonds and notes being issued to refund outstanding notes and bonds. The authority shall consult with and coordinate the issuance of bonds with the state building commission prior to the issuance of any bonds.

History: 1973 c. 305; 1975 c. 200.

499.35 Notes and bonds; pledge and agreement of state. The state pledges and agrees with the holders of any notes or bonds issued under this chapter, that the state will not limit or alter the rights vested in the authority to fulfill the terms of any agreements made with the holders thereof, or in any way impair the rights and remedies of the holders until the notes or bonds, together with the interest thereon, with interest on any unpaid instalments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of such notes or bonds.

History: 1973 c. 305.

499.36 Default; trustee. (1) If the authority defaults in the payment of principal of or interest on any issue of notes or bonds after the same become due, whether at maturity or upon call for redemption, and such default continues for a period of 30 days or if the authority fails or refuses to comply with this chapter or defaults in any agreement made with the holders of any issue of notes or bonds, the holders of 25% in aggregate principal amount of the notes or bonds of such issue then outstanding, by instrument or instruments filed in the office of the register of deeds of Dane county and approved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such notes or bonds for the purposes otherwise specifically provided.

(2) The trustee may, and upon written request of the holders of 25% in principal amount of such notes or bonds then outstanding shall, in his own name:

(a) By action or proceeding, enforce all rights of the noteholders or bondholders and to require the authority to carry out any other agreements with the holders of such notes or bonds and to perform its duties under this chapter;

(b) Bring suit upon such notes or bonds;

(c) By action, require the authority to account as if it were the trustee of an express trust for the holders of such notes or bonds;

(d) By action, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such notes or bonds; and

(e) Declare all such notes or bonds due and payable, and if all defaults shall be made good, then, with the consent of the holders of 25% of the principal amount of such notes or bonds then outstanding, to annul such declaration and its consequences.

History: 1973 c. 305.

499.37 Trustee; additional powers. The trustee, in addition to the powers granted in s. 499.36 shall have all of the powers necessary or appropriate for the exercise of any functions specifically set forth in this chapter or incident to the general representation of noteholders or bondholders in the enforcement and protection of their rights.

History: 1973 c. 305.

499.38 Venue. The venue of any action or proceeding by the trustee under ss. 499.35, 499.36 and 499.37 shall be in Dane county.

History: 1973 c. 305.

499.39 Notice before declaration that notes or bonds are due and payable. Before declaring the principal of notes or bonds due and payable, the trustee shall first give 30 days' notice in writing to the governor, the authority and the attorney general.

History: 1973 c. 305.

499.40 System of accounts. Subject to agreements with noteholders and bondholders and the approval of the secretary of administration, the authority shall prescribe a system of accounts.

History: 1973 c. 305.

499.41 Notes and bonds as legal investments. The state, the investment board, all public officers, municipal corporations, political subdivisions and public bodies, all banks and bankers, savings and loan associations, credit unions, trust companies, savings banks and institutions, investment companies, insurance companies, insurance associations and other persons carrying on a banking or insurance business, and all executors, administrators, guardians, trustees and other fiduciaries, may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any notes or bonds issued by the authority. Such notes and bonds shall be authorized security for all public deposits and shall be fully negotiable in this state.

History: 1973 c. 305.

499.42 Records of the authority. All records of the authority shall be open to the public, except those records relating to pending recycling projects which, in the opinion of the authority, must remain confidential to protect the competitive nature of any such recycling project.

History: 1973 c. 305.

499.43 Investment of funds. The authority may invest any funds held in reserve or sinking funds or any moneys not required for immediate use or disbursement at the discretion of the authority in such investments as may be lawful for fiduciaries in the state, if at least 50% of any funds held in any reserve or sinking fund be invested in obligations of the state or of the United States or agencies or instrumentalities of the United States or obligations, the principal and interest of which are guaranteed by the United States or agencies or instrumentalities of the United States.

History: 1973 c. 305.

499.45 Exemption from local ordinances; except zoning. Where any building, structure or facility is constructed for the benefit of or use of the authority, such construction shall not be subject to the ordinances or regulations of the municipality in which the construction takes place except zoning including without limitation because of enumeration, ordinances or regulations relating to materials used, permits, supervision of construction or installation, payment of permit fees, or other restrictions of any nature whatsoever.

History: 1973 c. 305.

499.49 Judicial bonds. The authority shall not be required to give bond in any judicial action, proceeding or appeal.

History: 1973 c. 305.

499.50 Title. This chapter may be cited as the "Solid Waste Recycling Act".

History: 1973 c. 305.

499.55 Construction of chapter. This chapter is necessary for the welfare of this state and its inhabitants; therefore, it shall be liberally construed to effect its purpose.

History: 1973 c. 305.