REPORT

OF THE

COMMISSION ON

MUNICIPAL LAWS

(Commission To Study Laws Relating

To Cities, Villages and Urban Towns)

☆

Submitted to

The 1961 Legislature of the

State of Minnesota

COMMISSION ON MUNICIPAL LAWS

MEMBERSHIP

Senators:

WILLIAM B. DOSLAND
Moorhead

DONALD M. FRASER
Minneapolis

RALPH W. JOHNSON
Isanti

JOHN L. RICHARDSON
St. Cloud

LESLIE E. WESTIN
St. Paul

Representatives:

HAROLD R. ANDERSON
North Mankato

CLARENCE G. LANGLEY
Red Wing

RICHARD W. O'DEA
Mahtomedi

ANTHONY L. PODGORSKI
St. Paul

EDWARD J. VOLSTAD
Minneapolis

CONSULTANT:

JOSEPH ROBBIE
EXECUTIVE SECRETARY AND COUNSEL
Attorney
Minneapolis, Minnesota

State of Minnesota

COMMISSION ON MUNICIPAL LAWS

State Capitol - St. Paul 1, Minnesota

TO THE GOVERNOR OF THE STATE OF MINNESOTA AND MEMBERS OF THE LEGISLATURE:

Gentlemen:

The Commission on Municipal Laws herewith transmits its report setting forth research and recommendations resulting from our study of the subjects assigned by the 1959 Minnesota Legislature.

This report includes recommendation for creation of the Twin Cities Metropolitan Sanitary District; enabling legislation to permit the creation of sanitary districts elsewhere in Minnesota; an engineering study to determine future metropolitan water policies and the feasibility of a metropolitan water supply; amplification of the Minnesota Municipal Commission Act; codification and revision of all municipal laws relating to planning and zoning, and other measures.

This Commission was established in accordance with the provisions of Extra Sessions Laws 1959, Chapter 82, SF 42. Soon after our organization, we retained Joseph Robbie, Minneapolis, as Executive Secretary and Counsel to direct Commission research activities and to supervise research and legislative drafting.

We have conducted extensive public hearings, heard testimony from appropriate public officials, contacted municipal officials in the metropolitan area, disseminated information and tentative proposals for discussion, and met with other interested groups. We have worked in cooperation with the Legislative Research Committee.

The Commission on Municipal Annexation and Consolidation reported in 1959, "We are convinced that the metropolitan area problem is one of the most critically important to face the Legislature in the next several sessions. We recommend the continued interim study by the Legislature of all of its complex parts." We renew that recommendation. Metropolitan area problems will become more intense with continued rapid population growth in the metropolitan center. We suggest that this be the subject of separate future study. We recommend that continued study be given to the coordination of planning and zoning authority at all levels of government because of the importance of these activities in a state encountering rapid growth.

Respectfully submitted,

Edward J. Volstad

Edward J. Volstad, Chairman
William B. Dosland, Vice-Chairman
Donald M. Fraser, Secretary

Joseph Robbie,
Executive Secretary

Table of Contents

Commission on Municipal Laws

Created by the 1959 Session
Extra Session Laws, Chapter 82, SF 42

Section 1. Subdivision 1. Commissions of the Legislature to study, investigate, and consider governmental and related problems, existing laws, and the need for additional legislation in connection therewith including law revision and codification where necessary, are established in accordance with the provisions of this section. . .

* * * *

(13) The COMMISSION TO STUDY LAWS RELATING TO CITIES, VILLAGES, AND URBAN TOWNS, to study the laws relating to the incorporation of cities and villages and the annexation of land to and the detachment of land from cities and villages; to study the problems created by the co-existence of separate governmental subdivisions and special districts within metropolitan and rural areas and proposed solutions and the laws granting special powers to so-called urban towns; to make suggestions for changes in the statutes governing such matters. The commission shall further study the statutes authorizing the creation of subdivisions of government within a metropolitan or any urban area including but not limited to municipalities and special service districts with general or specific functions and shall determine the problems resulting from the co-existence of said government subdivisions and proposed solutions.

It shall further study the existing law relative to contracting for services between political bodies and the feasibility thereof.

It shall study means of coordinating municipal services within metropolitan or urban areas containing municipalities with common boundaries.

It shall determine the extent to which functions are duplicated and suggest minimum and maximum sizes in area and population for the expedient and efficient performance of the designated functions. . .

Section 2. Subdivision 1.

* * * *

Name of Commission	Amount
COMMISSION TO STUDY LAWS RELATING TO CITIES, VILLAGES AND URBAN TOWNS	$20,000

Subd. 2. Expenses of each of the interim commissions shall be approved by its chairman or such other members of the commission as it may provide and such expenses shall then be paid in the same manner as other State expenses are paid.

Summary, Findings and Recommendation

SUMMARY

This Commission was created by the 1959 Minnesota Legislature to study laws relating to cities, villages and urban towns. Extra Session Laws 1959, Ch. 82, Sec. 1, §2 (13) provides that this commission is created to

"study the laws relating to the incorporation of cities and villages and the annexation of land to and the detachment of land from cities and villages; to study the problems created by the coexistence of separate governmental subdivisions and special districts within the metropolitan and rural districts and proposed solutions and the laws granting special powers to so-called urban towns; to make suggestions for changes in the statutes governing such matters. The Commission shall further study the statutes authorizing the creation of subdivisions of government within a metropolitan or any urban area including but not limited to municipalities and special service districts with general or specific functions and shall determine the problems resulting from the coexistence of said government subdivisions and proposed solutions.

"It shall further study the existing law relative to contracting for services between the political bodies and the feasibility thereof.

"It shall study means of coordinating municipal services within metropolitan areas containing municipalities with common boundaries.

"It shall determine the extent to which functions are duplicated and suggest minimum and maximum sizes in area and population for the expedient and efficient performance of the designated functions."

The Commission was directed to report to the Legislature convening in January, 1961, as early in the Legislative session as possible and to make additional reports thereafter to the extent that availability of funds permit. The Commission ceases to exist upon final adjournment of the 1961 regular session of the Legislature. $20,000 was appropriated to the Commission.

The Commission employed Joseph Robbie, Minneapolis lawyer, as Executive Secretary and Counsel to direct research and draft proposed legislation.

Public hearings were held at the State Capitol on subjects within the scope of the Commission study. Early in the proceedings, the Commission became aware of a swiftly emerging water pollution crisis in the Twin Cities metropolitan area and elsewhere in Minnesota. It was readily apparent that this crisis touched many elements of the legislative charge since the Commission must consider problems created by the coexistence of separate governmental subdivisions and special districts within metropolitan and rural areas, statutes authorizing the creation of subdivisions of government within a metropolitan or any urban area, existing law relative to the contracting of services between political bodies and the feasibility thereof, means of coordinating municipal services within metropolitan or urban areas containing municipalities with common boundaries, and duplication of functions by governmental units. All of these in some way touch upon water and sewer policies. The purity of the water supply is thus inextricably intertwined with the whole scope of the Commission study as it relates to problems created by the close proximity in which people live in highly urbanized or metropolitan areas, the need for coordination of municipal services and utilities to serve these people, problems of sanitation and public health, and the political structure of government needed to serve the people best.

Mindful of the acute public concern for the challenge posed to the health and welfare of our people by the contamination crisis, the Commission first took extensive testimony on the nature and extent of the water pollution crisis and proposed solutions to meet it.

Expert testimony was heard from representatives of the Departments of Public Health and Conservation, the Twin Cities Metropolitan Planning Commission, the Minneapolis-Saint Paul Sanitary District, and other public agencies. This testimony indicated that of all of the shallow wells tested within the Twin Cities metropolitan area, nearly half were found contaminated. Later tests indicated the same degree of contamination in shallow wells tested in the rural areas. An emergency conference was called by Governor Orville L. Freeman, assisted by the Governor's Advisory Committee on Suburban Problems, attended by Mayors and other public officials of the Twin Cities metropolitan area on September 14, 1959. When those assembled were asked whether or not they would favor a metropolitan sanitary district and a metropolitan water supply, not a single hand was raised in dissent. This Commission continued to develop extensive testimony concerning possible solutions for several months after the Governor first convened the emergency session. Concurrently the Governor had quadrant committees of metropolitan mayors working on the problem.

Most witnesses agreed on the need for the metropolitan approach to the sewage disposal problem. Sidney L. Frellsen, Director, Division of Waters, Department of Conservation, recommended a metropolitan water authority.

After listening to considerable testimony, the Commission directed the Executive Secretary to draw certain memoranda containing tentative proposals for solution of the water pollution problem. (He was also directed at the same time to prepare memoranda as to annexation and other elements of the Commission's study.) As a result, the Executive Secretary presented a memorandum on Water Supply and Sewage Disposal setting forth the principles of a multiple-service district performing the sole function of sewage disposal. He was then directed to implement this suggestion by drawing a tentative legislative proposal. This was submitted in a memorandum dated June 1, 1960, which showed in general terms how a multiple-purpose district could be formed to manage the single function of sewage disposal upon organization of the district but to assume additional functions, where need arises, subject to local consent. The April 14 and June 1 memoranda were then submitted to the Twin Cities Suburban Editors Association and other interested suburban groups. From these deliberations, the 11-point statement of principles embodying the concept of a service district were evolved. These represented the consensus at a meeting of the Suburban Editors and were submitted for consideration to municipal officials throughout the metropolitan area. See Appendices K and L.

An explanation of this proposal was made to the Hennepin County League of Municipalities and to the 1960 regional meetings of the League of Minnesota Municipalities at Hopkins and Maplewood. Municipal governments were requested to comment with the result that the Village Council of Bloomington, largest metropolitan suburb, endorsed the service district concept in principle.

In the meantime, after the April 14th memorandum submitted to the April 18th meeting, the Minneapolis-Saint Paul Sanitary District requested the Twin Cities Metropolitan Planning Commission to coordinate the many groups interested in water and sewer problems. MPC established a water and sewer committee, cutting across its own committee structure, and invited the participation of the Minneapolis-Saint Paul Sanitary District and other affected organizations. Continuous deliberations have taken place within the MPC water and sewer committee. During this period, MPC issued its own water and sewer reports, recommending in each case that these important problems, being metropolitan in scope, should be dealt with by a metropolitan agency or agencies.

After completion of the 1960 regional meetings of the League of Minnesota Municipalities, the League started weekly committee meetings to tackle such important and controversial problems as the geographical area to be included within a metropolitan sanitary district and the representation on the board of control. These meetings are still in process, as are meetings of the MPC water and sewer committee, at which the League is represented. The water and sewer committee appointed a CORE Committee to consider legislation and make recommendations to the full committee.

There has been remarkable coordination of all points of view through all of these separate deliberations. Where some had earlier favored enlargement of the bonding authority and plant capacity of the present Minneapolis-Saint Paul Sanitary District to serve a larger area by the contract method or had expressed suspicion of any metropolitan agency (although the present Minneapolis-Saint Paul Sanitary District, serving the two major cities and 24 of their suburban customers, is already metropolitan in character) the discussion of the service district concept quickly brought persons of varying viewpoints to fairly common agreement that, if provision for the water study and the assumption of other metropolitan functions by local consent were not included, they would agree on enlargement of the Sanitary District to include the metropolitan area.

The North Suburban Sewerage Committee, facing an emergency sanitary problem in their area, conducted engineering and legal studies. They are represented in the deliberations of the MPC water and sewer committee. This group drafted legislation for permissive authority to organize sanitary districts anywhere in Minnesota but indicated that, if they could be served by a metropolitan water district as quickly as they could obtain service from organization of a district of their own, they would be satisfied. Similar legislation, recommended by the Department of Health, which resulted from an earlier recommendation of the Interim Commission on Water Pollution created by the 1957 Minnesota Legislature, had already been recommended by the Executive Secretary to this Commission. It is apparent that the creation of a metropolitan sanitary district does not preclude legislation of the kind offered by the North Suburban Sewerage Committee because all of our studies have indicated the necessity of enabling legislation for the organization of sanitary districts outside the boundaries established for a metropolitan sanitary district.

A sub-committee of the League of Minnesota Municipalities recommended enlargement of the Minneapolis-Saint Paul Sanitary District to cover the metropolitan area. Engineering studies which have been underway for nearly five years by the Minneapolis-Saint Paul Sanitary District were speeded for issuance in November and December, 1960. These indicated the logic and feasibility of enlargement of the present system to include the metropolitan area. (The study area which the

Minneapolis-Saint Paul Sanitary District found it feasible to serve includes portions of six counties within the metropolitan area.)

After it was suggested that a service district be established to assume only the sewage disposal function at the outset, but with a built-in mechanism to accept additional functions subject to local consent of the major and suburban cities, sentiment quickly crystallized that the critical sewage disposal problem should be handled immediately. In its consideration of the service district concept, this Commission always emphasized enlargement of the Minneapolis-Saint Paul Sanitary District as the problem of immediate urgency, separate of any complicating factor, with separate consideration of an engineering study to consider metropolitan water policies and the feasibility of a metropolitan water supply. This was consistent with the concern expressed by interested public officials that enlargement of the Minneapolis-Saint Paul Sanitary District should be dealt with separately.

Since enlargement of the Minneapolis-Saint Paul Sanitary District does not create a new single-purpose taxing district; since agreement has been reached in this vital area by the discussions of the water and sewer problems which have been engendered by the earlier hearings and deliberations of this Commission; since enlargement of the Sanitary District is consistent with the concept that no new special-purpose district should be created and is a progressive step urgently needed to help solve the water pollution crisis; since an extensive engineering study as to state-wide and metropolitan water policies and the feasibility of a metropolitan water supply is needed before legislative action is taken; and because the Legislature can deal with the service district concept when any future requests are made for the establishment of additional coordinated metropolitan services, the Commission concluded that enlargement of the present Sanitary District to a Twin Cities Metropolitan Sanitary District with adequate suburban representation added should be accomplished by the 1961 session of the Minnesota Legislature. The Department of Conservation and the Metropolitan Sanitary District should be provided funds to conduct a study of statewide water resource policies and an engineering study as to future metropolitan water policies, including the feasibility of metropolitan water supply, in cooperation with the United States Geological Survey or other appropriate federal agencies. This study will furnish the basis for future legislative attention.

The League of Minnesota Municipalities, the local branch of the American Institute of Planners and other interested organizations requested the Minnesota Legislature to establish an interim commission and to appropriate $25,000 to revise and codify the laws relating to municipal planning and zoning in Minnesota. While this request was not approved, the broad charge to the Commission on Municipal Laws led us to consider the necessity of such revision and codification, with the result that in cooperation with the planning committee of the League of Minnesota Municipalities, we have completely codified and revised the laws relating to municipal planning and zoning in a statute which will permit, perhaps during this session, provision in the Municipal Code to enlarge its scope to include the state, regional, county and township planning functions. This will include permissive legislation to authorize organization of other regional planning commissions outside the Twin Cities metropolitan area. This will assist in dealing with planning problems where population has grown beyond the boundaries of existing cities and villages throughout Minnesota and will permit cooperative planning for an entire population area regardless of political boundaries.

The Commission study of water contamination led into many other avenues besides the necessity for a metropolitan sanitary district and authority to organize sanitary districts elsewhere in Minnesota. Lack of adequate enforcement of standards for private wells, septic tanks or private sewer systems is a source of grave concern. We append legislation providing for licensing of well drillers, sewerage contractors and scavengers and regulation by codes of state-wide application issued by the Department of Health and enforced locally with technical assistance by professional sanitarians from other agencies.

Recurring difficulty in obtaining authority to establish central water systems in communities throughout the state highlighted the anomaly in present law that permits establishment of sewer systems without a public vote but requires an election to authorize water systems. The Commission agreed that this situation should be remedied by eliminating the election requirement to establish a water system except for the issuance of general obligation bonds.

FINDINGS

I

A serious water contamination crisis exists in Minnesota, intensified in the Twin Cites metropolitan area, which endangers public health, permanently threatens the purity of the water supply, jeopardizes the value of family residences and other real estate, and is inimical to the interests of our people. This crisis has already been taken into account by the Federal Housing Administration which has ruled that home loans will not be guaranteed in areas not establishing a central water system. Aside from the grave peril to public health posed by shallow wells and private septic tanks and sewer systems in close proximity in

areas of heavy population density, investment in homes in areas improperly served can be partially wiped out.

II

There is an urgent need for creation of a metropolitan sanitary district covering the entire area which can be feasibly served by a central sewage disposal system.

III

There is an urgent need for the authority to establish sanitary districts elsewhere in Minnesota in any area not included within such metropolitan sanitary district.

IV

Present laws are inadequate for the regulation of private septic tanks and sewer systems and for the drilling of shallow wells. Legislation of state-wide application is needed to properly control the situation. The enforcement problem is aggravated by the inadequacy of certain governmental units, particularly townships and small villages hiring few or no personnel within the metropolitan area, to enforce such ordinances or regulations as are presently in force. Professional sanitarians are needed to give technical assistance to local officials in enforcing private well and private sewer regulations.

V

Present laws relating to municipal planning and zoning in Minnesota are complex and specialized, lack uniformity, and contain needless confusing duplication. Minnesota municipalities can be better served by a municipal planning and development code providing for zoning, official maps, subdivision regulations and other controls.

VI

Need exists for state-wide planning and development and for greater assistance to local communities in their planning and development activities.

VII

Because population has grown beyond municipal or county boundaries throughout Minnesota, statutory authority is needed to permit creation of regional planning districts with administrative review in the public interest in establishing their proper boundaries.

VIII

Border areas need authorization to enter into joint planning districts with adjoining areas in other states.

IX

There is no adequate representation of the public interest in building, subdivision or plat control, land development in all of its aspects, and related fields, outside municipal limits, particularly within the Twin Cities metropolitan area, or on the fringe development of any of our cities. Builders, developers and subdividers have been permitted to leap-frog or skip-distance in order to avoid adequate subdivision and development control. This situation has not been true in our established cities and villages, but these municipalities have been prejudiced by lack of adequate regulations in the fringe areas immediately beyond their boundaries. We find that several hundred homes have been constructed in single developments in fringe areas without adequate planning or zoning. The only effective influence that has been exerted in these situations, other than economic factors, has been the standards established by the Federal Housing Administration before loan guarantees will be made in the sale of the residential structures in these developments. We find a need for local control to protect the integrity of home and building values, public health and sanitation, and other elements of the public interest, including orderly urban development and growth and proper land use patterns.

X

Provision for elections in establishing central water systems in our cities and villages is a needless requirement and should be removed consistent with present law which permits sewer systems to be built without public vote where general obligation bonds are not involved.

XI

The proliferation of single purpose taxing districts is unwarranted, uneconomic, contrary to sound principles of taxation, representation and political science, and confusing and contrary to principles of good government.

XII

The comprehensive code relating to municipal incorporation and municipal boundary changes subject to administrative review by the Minnesota Municipal Commission which was enacted by the 1959 Minnesota Legislature substantially achieves its purpose of discouraging the incorporation of uneconomic villages and of permitting the orderly development of municipalities by the process of annexing unincorporated property as it becomes developed and approaches urban character. We note that there have been only two applications to incorporate villages within the Twin Cities metropolitan area since the effective date of this law, April 24, 1959, and the number of municipalities within the metropolitan district has remained constant during that period. This is a complete reversal of the trend since World War II. (45 villages were incorporated in the metropolitan area during the preceding decade.) Within the Twin Cities metropolitan area orderly urban growth would be promoted by permitting annexation of unincorporated fringe areas which are the normal extension of the growth of our suburban cities and villages without

requiring a public vote. Permissive machinery should be established to enable the smaller metropolitan villages to merge more readily where local agreement is obtained. In strictly limited circumstances, relating only to those villages which did not meet the proper test for incorporation when they were organized because they were not suitably conditioned for municipal government, now having less than 1,000 population, and existing on the border of another municipality or municipalities, merger should be permitted with a larger municipality upon local consent by the village governing bodies without requiring a public vote. Authority should be provided to permit a municipality to annex any territory, whether incorporated or unincorporated, which is completely surrounded by its boundaries, upon proper notice and public hearings before the Minnesota Municipal Commission and a proper finding that the public interest will be thereby best served.

XIII

There is a necessity to provide for appeal from the decisions of the Minnesota Municipal Commission by writ of certiorari to the District Court and to give continued consideration to direct appeal from such commission to the Minnesota Supreme Court because of the vital public interest involved in incorporation or annexation or other municipal boundary changes. Confusion results in the division of revenue and the determination of jurisdiction and in other important matters if incorporation or annexation decisions become the source of lengthy litigation. We find that because political boundaries are involved, and appeal is available to virtually everyone living in the affected area, annexation proceedings, particularly, become a fruitful source of litigation, some of it for the purpose of delaying the completion of the annexation. While such proceedings are on appeal, tax revenue is collected without an answer as to whom it will ultimately belong. Planning to extend water and sewer mains and other vital services is interrupted until such appeals can be finally determined.

RECOMMENDATIONS

I

We recommend that the 1961 Minnesota Legislature enlarge the Minneapolis-Saint Paul Sanitary District to include the Twin Cities metropolitan area. We append legislation for this purpose drafted in cooperation with the League of Minnesota Municipalities, the Twin Cities Metropolitan Planning Commission, the Minneapolis-Saint Paul Sanitary District and other interested organizatons. (Appendix A.) We recommend that the provisions of the legislation to enlarge the present district include, among other things, the following:

(1) The legal name of the district is the Twin Cities Metropolitan Sanitary District.

(2) The members of the present board of trustees of the Minneapolis-Saint Paul Sanitary District are continued without interruption to serve their terms of office as members of the governing body of the Twin Cities Metropolitan Sanitary District. Their successors shall continue to be chosen in the same manner as provided under the present law. Six of these members now represent the executive and legislative branches of the two major cities. The seventh member appointed by the Governor from outside the metropolitan area should be continued until the end of his next term which expires in 1965. Thereafter, this member is elected at large from the entire metropolitan area.

(3) Four suburban members should be added to the governing body of the Twin Cities Metropolitan Sanitary District. They should be elected by public vote by eligible electors living outside Minneapolis and St. Paul.

(4) The geographical boundaries of the Twin Cities Metropolitan Sanitary District include the study area described in the **Report on the Expansion of Sewage Works in the Minneapolis-Saint Paul Metropolitan Area,** published by the Minneapolis-Saint Paul Sanitary District, Toltz, King, Duvall, Anderson and Associates, Inc., Consulting Engineers, St. Paul, Minnesota.

(5) The investment of the cities of Minneapolis and St. Paul in the existing plant and facilities of their present sanitary district, is to be repaid over a period not to exceed 30 years based upon present worth as determined by reproduction cost less obsolescence and depreciation and less 30% contributed by federal grants. This amount is approximately $18,000,000. Minneapolis and St. Paul are to be repaid for their interceptor sewers based on the same formula and are to return amounts indirectly paid to them by contracting suburbs for construction of interceptors.

II

We recommend that enabling legislation be enacted to permit any area in Minnesota not included in an enlarged Twin Cities Metropolitan Sanitary District to organize a sanitary district to exercise powers and perform functions similar to those now exercised and performed by the Minneapolis-Saint Paul Sanitary District. (Appendix B.)

III

We recommend that the 1961 Minnesota Legislature adopt laws licensing private well drillers, private sewer contractors and scavengers and authorize the Department of Health to issue regualtions governing the drilling of shallow wells, the installation of private septic tanks or sewers, and the cleaning and servicing of private sewers; such codes to be of state-wide application, to be enforced locally with technical assistance in enforcement of such regulations by professional

sanitarians and other experts, and with all local governments retaining concurrent authority to adopt and enforce ordinances and regulations relating to private wells and private sewer systems. (Appendices C, D, E, F, G and H.)

IV

We recommend that all municipalities in Minnesota be authorized to establish central water systems without approval by public vote except for the authorization of general obligation bonds to finance construction of central water systems. (Appendix I.)

V

We recommend that the 1961 Minnesota Legislature adopt the codification and revision of municipal planning and zoning laws in Minnesota prepared by this Commission in close consultation with the Planning Committee of the League of Minnesota Municipalities and with the American Institute of Planners. (Appendix J.)

VI

We recommend that all planning and zoning for unincorporated areas be related in the statutory structure to the municipal planning and development code. We recommend that permissive authority be provided to organize a regional planning commission in any area not included within jurisdiction of the Twin Cities Metropolitan Planning Commission. We recommend that the state planning function be materially strengthened and that the state provide greater professional and technical assistance to local communities in planning and zoning activities. We urge that the Legislature give continued study to means of improving the exercise of proper control over land use development and proper direction of urban growth in the public interest including these provisions if they are not enacted by the 1961 sessions.

VII

We recommend that means be provided by the Legislature for appropriate planning, zoning, and land use control by the next effective level of government wherever a unit of local government is unable to effectively exercise planning and zoning authority. No legislation is appended. We suggest continued legislative study in cooperation with representatives of affected levels of government.

VIII

We recommend that the Legislature adopt a policy against the future creation of single purpose taxing districts. We recommend that further study and consideration be given to the political and administrative structure necessary to manage any functions, metropolitan in character, where the Legislature or the local communities decide such function should be assigned to a metropolitan agency.

IX

We recommend a complete, comprehensive and closely coordinated water resources study involving national, state and regional water policies. This study should involve close liaison among the United States Geographical Survey, the Corps of Engineers, the Division of Waters of the Minnesota Department of Conservation and the Twin Cities Metropolitan Planning Commission. The inter-relation of water policies at each level of government should be considered. Reservoir controls and water allocation policies should be reviewed in the context of a unified approach which properly weighs the equities of every water use and all water users. We recommend a comprehensive engineering study to determine the available water supplies, the feasibility of a metropolitan water supply or correlated community water systems under coordinated metropolitan management and the mechanism of government best suited to administer water distribution.

X

We recommend that provision be made for the adoption of a building code of state-wide application to all buildings and structures except privately owned dwelling houses providing residences for not more than two families. Legislation will be presented to the 1961 Minnesota Legislature sponsored by the League of Minnesota Municipalities to accomplish this purpose. The proposal will provide for a state building code commission which shall have authority to promulgate rules and regulations for the construction, reconstruction, alteration and repair of regulated buildings and recommending advisory codes for adoption by county and town boards as to buildings and structures to which the state building code is inapplicable.

XI

We recommend that the Minnesota Municipal Commission Act (Minnesota Statutes Annotated, Chapter 414) be amended:

(1) To permit annexation of unincorporated territory within the Twin Cities metropolitan area, upon proper notice and public hearings, and complete findings consistent with MSA414.03 that the public interest will be thereby best served, without a public vote in the area to be annexed;

(2) To permit annexation of any area completely surrounded by a municipality, whether incorporated or unincorporated, by resolution of the governing body of the annexing municipality, upon proper notice and public hearings before the Minnesota Municipal Commission, and upon the affirmative finding that the public interest will be thereby best sreved;

(3) To permit local consent for merger to be obtained by affirmative action of the village governing bodies of any village within the

Twin Cities metropolitan area containing less than 1,000 in population where it is proposed that such village or villages be merged with a large municipality with which it shares a common boundary; and

(4) To permit appeal to the District Court by writ of certiorari.

We will give continued examination to the Minnesota Municipal Commission Act during the course of the 1961 Legislature and may recommend additional changes to clarify and strengthen the law. The amendment containing these proposed changes is not appended to this report but will be drawn and introduced after further consideration of additional proposals to amplify and strengthen this law.

Report of Commission on Municipal Laws

INTRODUCTION

The Commission on Municipal Laws was established by the 1959 Minnesota Legislature. (Extra Session Laws 1959, Chapter 82). Five members from the Senate and five members from the House of Representatives were appointed to serve.

PURPOSE

The Legislature assigned the Commission the following functions:

"Section 1. Subdivision 2. The interim Commissions established by subdivision 1 are : . . .

(13) The COMMISSION TO STUDY LAWS RELATING TO CITIES, VILLAGES AND URBAN TOWNS, to study the laws relating to the incorporation of cities and villages and the annexation of land to and the detachment of land from cities and villages; to study the problems created by the co-existence of separate governmental subdivisions and special districts within metropolitan and rural areas and proposed solutions and the laws granting special powers to so-called urban towns; to make suggestions for changes in the statutes governing such matters. The commission shall further study the statutes authorizing the creation of subdivisions of government within a metropolitan or any urban area including but not limited to municipalities and special service districts with general or specific functions and shall determine the problems resulting from the co-existence of said government subdivisions and proposed solutions.

It shall further study the existing law relative to contracting for services between political bodies and the feasibility thereof.

It shall study means of coordinating municipal services within metropolitan or urban areas containing municipalities with common boundaries.

It shall determine the extent to which functions are duplicated and suggest minimum and maximum sizes in area and population for the expedient and efficient performance of the designated functions."

SCOPE OF THIS STUDY

The 1959 Legislature had in mind the recommendation of the *Commission on Municipal Annexation and Consolidation* created by the 1957 Legislature (Laws 1957, Chapter 833) when it created the Commission on Municipal Laws. The *Report of the Commission on Municipal Annexation and Consolidation* submitted to the 1959 Legislature recommended the "continued study by the Minnesota Legislature and by the cities and villages within the Twin Cities metropolitan area and other interested parties of means to accomplish metropolitan coordination in providing municipal services, including the administration and regulation of transportation and mass transit, in an efficient, economical and effective manner." (p. 6)

In response to this recommendation, the 1959 Legislature included in the broad charge to this Commission the study of problems created by the co-existence of separate governmental subdivisions and special districts within the metropolitan and rural areas and proposed solutions and the laws granting special powers to so-called urban towns. They also directed us to study the problems which result from the increasing multiplication of local units of government within the metropolitan area and in the fringe areas surrounding our other cities and villages as their population extends past existing boundaries. In connection with these problems, this Commission was instructed to study the coordination of municipal services within metropolitan or urban areas containing municipalities with common boundaries or the contracting for services between political bodies and the feasibility thereof. Duplication of functions was expressed as a concern of the Legislature and an area for study.

This extensive legislative mandate was very quickly pinpointed by the menace to public health and welfare posed by results of tests by the Department of Public Health of the degree of contamination in shallow wells in communities within the metropolitan area. These tests showed the existence of a grave water pollution crisis. It is obvious that the 1959 Legislature was acutely aware of the impending danger to public health and welfare that must inevitably come from swift urban growth spreading beyond existing municipal boundaries without adequate provision for municipal services and utilities which culminated in contamination of our water supply. Implicit in the entire legislative mandate is the recognition that unplanned urban growth can be a menace instead of a benefit. As the Commission on Muni-

cipal Annexation and Consolidation stated in its 1959 *Report:*

"Urban growth can be either a blessing or a curse to a metropolitan area depending crucially upon the existence of sound public policy established by the Legislature for the incorporation of new cities and villages or the amendment of existing municipal boundaries by annexation, consolidation or detachment.

"It is impossible to study the standards which should be met before a new village or city can be incorporated without considering the social, economic and other community aspects involved or without a thorough understanding of the need for municipal services by those living within the affected area. It is equally impossible to decide if the standards for incorporating a new municipality are met without considering the impact on the surrounding metropolitan complex when the proposed new city or village lies within the metropolis or on the suburban fringe.

"Where uneconomic villages arise, the problem of furnishing municipal services to their people aggravates intelligent planning and all other aspects of government. Multiplying villages like rabbits can out-distance all progress achieved by otherwise intelligent planning. These uneconomic villages may be costly to people living in the adjacent area who must assist in paying for the required municipal services for the village which is not self-reliant." (p. 9)

The water crisis was foreseen in the absence of metropolitan coordination in the 1959 *Report.*

In the Summary in the 1959 *Report* the Commission on Municipal Annexation and Consolidation divided the problem into two aspects:

(1) Development of an intelligent, forward looking statutory system for the future incorporation of new municipalities and changes in existing municipal boundaries in Minnesota. This involves complete revision and recodification of all existing laws under one chapter in the Minnesota Statutes adopting modern techniques to administer the rapid urban growth which is expected to accelerate in the future with a population increase of 600,000 anticipated in five metropolitan counties by 1980;

(2) Consideration of the future necessity of coordination of municipal services within the metropolitan area where past procedures relating to incorporation, annexation, consolidation and other boundary changes have, for example, led to the development within the Twin Cities Metropolitan Area of the largest number of governmental subdivisions in any metropolis in America. Thus there are 104 municipalities in five metropolitan counties and approximately 250 subdivisions of government. (p. 6)

The first aspect was dealt with by the 1959 Legislature which enacted the Minnesota Municipal Commission Act (Laws 1959, Chapter 686) creating the Minnesota Municipal Commission and providing administrative review in the public interest of petitions for incorporation, annexation, detachment and all municipal boundary changes. As a result, only two petitions for new incorporations have been filed since the effective date of the Act, April 24, 1959. One of these was denied. The merger of two villages (Mound and Island Park) was accomplished in the process of approval of the only incorporation which has occurred. This legislation has gained favorable attention nationally. It is discussed later in this *Report.*

The second aspect—what to do about the problems already existing as a result of the multiplicity of local units of government—was assigned for later legislative study. It is the heart of the legislative mandate to this Commission. It is the hallmark of the real problem of which the water contamination crisis is only a symptom.

In view of the purpose of our Commission (Extra Session Laws 1959, Chapter 82, Section 1, Subdivision 2) we have studied and now report on the following subjects:

(1) The Water Contamination Crisis: We have considered the needed mechanism to provide proper sewage disposal within the Twin Cities metropolitan area and elsewhere in Minnesota. We have studied the necessity of an enlarged Twin Cities Metropolitan Sanitary District to prevent further pollution and to coordinate sanitation policies. We have deliberated as to the need for enabling legislation permitting organization of sanitary districts in all areas of Minnesota not included within the proposed Twin Cities Metropolitan Sanitary District. We have also considered the urgent necessity of state codes relating to private water supplies and private sewer systems of state-wide application to be locally enforced. We have studied the basic problem underlying these proposed solutions. *This is the problem of artificial geographical boundaries criss-crossing through single population areas with no coordination of water supply, sewage disposal and other vital utilities to protect public health and welfare.* Disease does not respect geographical boundaries and can quickly spread through an entire population area whether it be the Twin Cities metropolis or Rochester, Mankato or our other cities where the population has spread past present municipal boundaries.

(2) Municipal boundaries; planning; contracts for services: We have studied the present incorporation and annexation practices embodied in the Minnesota Municipal Commission Act adopted at the last session. We have considered the revision of all planning, zoning and development laws. In connection with water and sewer we have discussed the existing laws relating to contracting for services between political bodies. This is the mechanism now used by the Minneapolis-Saint Paul Sanitary District to sell sewage disposal service to 24 suburbs.

Yet the problems assigned us for study are so broad, complex and vital to the future well-being

of our people that our study could only explore present urgencies and suggest some solutions to the most pressing problems. The Legislature must continue intensive interim study of the whole breadth of the subjects assigned to us the past interim.

We separately report upon each aspect of our study in this Report.

Twin Cities Metropolitan Profile

We consider for the purpose of this report that the Twin Cities metropolitan area includes seven counties: Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington. These seven counties are all within the jurisdiction of the Twin Cities Metropolitan Planning Commission and parts of six are included within the study area considered in the engineering reports to the Minneapolis-St. Paul Sanitary District.

Within these seven counties are approximately 130 cities and villages and 76 townships, most of them in five counties (excluding Scott and Carver). The political subdivisions range in area from 40 acres to 37,630 acres with 50 containing over 20,000 acres each, about half the size of Minneapolis or St. Paul. Forty-five municipalities were created within Anoka, Dakota, Hennepin, Ramsey and Washington counties in the decade following the 1950 decennial census. Of these, 22 contained less than 1,000 population. One has only 43 residents.

The Twin Cities metropolitan area ranked tenth in rate of growth in the decade of the 50's of 24 metropolitan areas with one million or more inhabitants and now ranks 14th in size of metropolitan centers of the United States. The metropolitan population has doubled since 1920, and 44%, or 336,000, of this growth occurred in the past 10 years. The consulting engineers to the Minneapolis-St. Paul Sanitary District comment that "this is an average of about 10,000 potential sewer connections per year," which is one specialized way of looking at it, and does furnish a dramatic illustration of the service requirements which come with a swiftly expanding population.

The prediction is that the Twin Cities metropolitan area will encounter continued population growth and will have more than two million inhabitants by 1980.

The Metropolitan Dilemma

The wires of United Press International carried the story January 6, 1960, of the judge who threw out a widow's suit against two fire departments accused of bickering over the right to put out the fire while her house burned down.

"With smoke and flames billowing from the house, members of both departments, their equipment standing idle in the street, pored over maps while arguing over jurisdiction. . . . The argument raged between the new Hyde Park and Garden City volunteer departments for 30 minutes before Garden City won. By then . . . the house, belonging to Mrs. Agnes Mattlock, mother of three, was doomed."

What report could more dramatically illustrate the continuing crisis of local government in the provision of services to their residents within our large population centers than the quandary of the widow whose home burned while rival fire departments argued jurisdiction?

Or, for that matter, what could better demonstrate the local citizens' quandary in the jurisdictional jungle in our metropolitan areas of the 1960's than the widow's plight when competing fire departments argued over which side of their common boundary her house was located, while the house burned, and the Court later ruled that there is no law requiring a municipality to provide fire protection, and none holding it responsible when fire protection fails?

It is in the nature of the metropolitan crisis that while principalities argue over mutual boundaries or imperialist goals to expand, or jealously guard their jurisdiction, they sometimes fiddle while the citizens of their common areas burn—figuratively as to their persons—sometimes literally as to their property.

We quoted the president of the University of Colorado, Quigg Newton, in the *Report of the Commission on Municipal Annexation and Consolidation* to the 1959 Minnesota Legislature, who commented that "unless dealt with soon, the (metropolitan) problem will become so out-of-hand as to be virtually unsolvable." His reference was to the economic and social upheaval taking place in all of our urban areas, which he designated as one of our nation's most serious problems, having deep significance with the future of billions of Americans.

In an editorial in the February, 1961, *National Civic Review*, entitled, "Is There a Way Out?", the publication of the National Municipal League reprinted the comments of Catherine Bauer Wurster in *Goals for Americans*, Chapter 10, "Framework for an Urban Society." In this report of the President's commission on National Goals and Chapters, the cogent question is raised as to whether or not the metropolitan problem has already become unsolvable.

The most relevant portions clearly define the metropolitan dilemma nationally and in the Twin Cities metropolitan area.

"For the past decade a rising tide of articles, speeches, and reports has been calling for some form of metropolitan area unification, but are we getting any closer? In most of the large complexes, at least, there will never be a single supergovernment taking over all the local functions.

"But it is increasingly obvious that city and county planning are not enough, that 'voluntary' regional planning is ineffective, and that the multiplication of single-purpose authorities for such functions as metropolitan transportation is creating a new kind of anarchy. What seems to be shaping up in many places is a loose but formal federation of local governments which will have a limited tax base sooner or later, engage in regional planning, wield considerable influence, and ultimately exercise some qualified authority over land use.

"If suburban governments continue to become better organized through large incorporations, city-counties or other means, the federation will thereby be greatly strengthened. A few relatively strong agencies can cooperate far more effectively than an elderly giant and a hundred wayward infants. Our basic goal, a multi-centered region with a network of strong balanced cities, would help to solve the perennial issue of metropolitan unification. These cities could also cope with the local responsibilities which are now being handed on to higher levels of government by default.

"In the shifting metropolitan picture, state and federal governments can exercise a great deal of influence by making various aids contingent on effective metropolitan planning and better integration. All current proposals for federal housing and renewal policy emphasized this point, and it is coming to be recognized in state highway, water and recreational programs. The move here and there towards statewide physical plans may even stimulate local governments to do their own metropolitan planning, if only in fear of getting something worse from the State Capitol. We are painfully learning that metropolitan chaos is no victory for 'self-determination': It merely results in the continuous transfer of local responsibility to the states and Washington."

These terse comments, reported to the President's Commission on National Goals (Copyrighted 1960 by the American Assembly of Columbia University), effectively summarize the research and the observations of the *Commission on Municipal Annexation and Consolidation* created in 1957 and the *Commission on Municipal Laws* established in 1959 by the Minnesota Legislature. They define the metropolitan crisis. *They emphasize what ought to be apparent to everyone living within our metropolitan areas, which soon will be almost everybody, that unless we accomplish sensible metropolitan area unification, the problems will be taken out of our hands and handled by the state and national governments.*

We suggest that residents of the Twin Cities metropolitan area give particular, thoughtful consideration to the observation that metropolitan chaos is no victory for self-determination but merely leads to greater transfer of local responsibility to the states and Washington.

For it should be apparent by now, in an area splintered, riddled and proliferated by numerous villages with a handful or but a few hundred of population existing on the borders of our major cities and important suburban communities, strangling their growth, standing in the way of proper extension of water mains and sewer interceptors, and depending for their law enforcement, tax assessment and collection, and other local services on the heavily burdened taxpayers who do not live within these villages, that the surest and simplest way of protecting local autonomy, [illegible]serving the identity of local units of governm[illegible], and economically and effectively furnishing utilities and services to our people is to accomplish that degree of metropolitan unification which assures adequate protection of public health and property values by assuring a pure water supply, adequate treatment and disposal of sewage and waste and effective handling of other problems which are metropolitan in character, so that existing cities and villages may continue to manage those functions which are purely local in character. This kind of metropolitan federalism is the ultimate salvation of the local identity and autonomy of the smaller communities within the metropolitan area. This cooperative metropolitan approach is likewise the salvation of the harassed metropolitan taxpayer, for there can be no promise of tax relief or even of freedom from more excessive residential property taxes within our major cities or suburbs until there is a more efficient and economical means of providing the services which people expect and must receive from the urban governments under which they live.

The *Commission on Municipal Annexation and Consolidation* which reported to the 1959 Legislature was confronted with local boundary chaos exemplified by the existence of 130 municipalities in seven counties within the Twin Cities metropolitan area. This resulted from using procedures in the incorporation of new villages handed down from a predominantly agricultural age where population growth occurred mainly within existing local boundaries.

But the spectacular post-World War II population growth in the large urban centers was marked by the organization of 45 new villages in five counties within the Twin Cities metropolitan area (Anoka, Dakota, Hennepin, Ramsey and Washington) within a decade. Of these, nearly one-half, or 22, contained less than 1,000 population upon their incorporation. More significantly, seven of them contained less than 200 people when incorporated and one has only 43 residents. (How this one got past even our former standards for incorporation, we do not profess to know.) The Municipal Commission Act adopted by the 1959 Legislature (Laws 1959, Chapter 686, now MSA Ch. 414) provided administrative review before incorporation of any municipalities within the metropolitan area or within those counties containing cities of the first or second class. As a result, only one incorporation has occurred since the effective date of the law, April 24, 1959. One consolidation on the boundaries of this new municipality (Mound with Island Park) has kept constant the number of municipalities in the metropolitan district.

But this study by the *Commission on Municipal Laws* was precipitated by the problem of what to do, now that we have 130 municipalities in the seven-county metropolitan area, which cannot be cured by exercising more sensible controls over urban growth and creation of new municipalities in the future. *It is clear to us from all of our deliberations that the answer is sensible unification of municipal services within the metropolitan area, while preserving the identity and autonomy of local suburban communities, and observing strictly the principle of local consent.* Readier means should be provided for merger of smaller villages within the heart of the metropolis, containing less than 1,000 population, with their neighbors with whom they share common boundaries.

If this be termed the metropolitan approach, which it is, then let us catalog metropolitan functions already exercised by special purpose taxing districts within the Twin Cities metropolitan area:

(1) **The Minneapolis-Saint Paul Sanitary District,** financed and operated by the two major cities, serves Minneapolis, St. Paul, 24 suburban communities, and three federal agencies, encompassing 134 square miles and a population in excess of 1,000,000.

(2) **The Twin Cities Metropolitan Airports Commission,** which governs the international airport at Wold Chamberlain and has the territorial jurisdiction of a municipality. This airport, now under an immense expansion program costing in the area of 40 million dollars to keep pace with the air-age and to establish it as one of the outstanding airports of the world, serves the entire metropolitan area. It is supported by Minneapolis and St. Paul

(3) **The Twin Cities Metropolitan Planning Commission,** which includes seven counties within its jurisdiction and has taxing authority. It is advisory to the region.

(4) **The Metropolitan Mosquito Control District,** which is comprised of six counties, including all of the counties within the jurisdiction of the Twin Cities Metropolitan Planning Commission except Carver.

(5) **The Metropolitan Area Sports Commission,** which manages Metropolitan Stadium, most of its members designated by the Minneapolis City Council but with representation of Richfield and Bloomington. The stadium bonds are now the obligation of the City of Minneapolis except for the series issued to the public.

From this inventory of present metropolitan organizations, we observe that few have common political boundaries, some have their own taxing authority, others look to the two major cities to assess their taxpayers to support the district, some serve the entire metropolitan area but are limited to Minneapolis and St. Paul in their financial support and their control, and the differences outweigh the similarities in structure. Yet they are all based on the same concept that the district now managing the assigned function can more effectively serve the area than to have the service performed by an individual city. In short, the creation of each district recognizes the existence of a problem which is metropolitan in character. Indeed the facility or service managed by some of these agencies could not exist without the metropolitan agency involved.

Since most of these agencies are of long standing, we may infer that there was an early recognition of the necessity of the metropolitan approach, even as we slept during the 50's while tiny villages continued to multiply to the present 130 municipalities in the Twin Cities area.

And some of these agencies came into being in the context of a more complete awareness of the necessity for metropolitan unification than the final form of the district would indicate. For example, in 1929, 1931 and 1933 the *Metropolitan Drainage Commission,* which sponsored creation of the Minneapolis-Saint Paul Sanitary District, provided for a metropolitan approach rather than the present limited sanitary district. This was recognized by George J. Schroepfer, advisory consultant, in a review September 15, 1957, of a series of progress reports dated October 1, 1956, to July 1, 1957. (This was part of the program of investigation of the Minneapolis-Saint Paul Sanitary District into the sewage works problem.) We cite Mr. Schroepfer's attention to the recommendation three decades ago that a metropolitan sanitary district be created instead of a more limited Minneapolis-Saint Paul Sanitary District for the insight it gives into the purpose of the half million dollar five year research and investigation project of the Minneapolis-Saint Paul Sanitary

District. It seems obvious to us that the purpose was to furnish the necessary research, engineering and financial data to enlarge the Minneapolis-Saint Paul Sanitary District to become the Metropolitan Sanitary District.

In addition to the above inventory of metropolitan agencies now managing governmental functions on a broader base than that of any individual municipality, and the emphasis that the Metropolitan Drainage Commission preferred a metropolitan agency rather than one limited to the two major cities, the following items and events of recent occurrence emphasize the continuing demand that some major services be administered on a metropolitan basis:

(1) **Air pollution**—Bills have been introduced at the 1961 session of the Legislature to deal with air pollution. This is an obvious example of a problem which cannot be met by the individual action of any single community, or, for that matter, exclusively by the metropolitan community. The University of Minnesota School of Public Health and the Minnesota Department of Health, in cooperation with the U. S. Public Health Service, conducted a two day air pollution conference, November 28 and 29, 1960, at the University of Minnesota.

(2) **Mass transit and transportation**—Governor Elmer L. Andersen proposed a mass transportation study for the metropolitan area as an urgent need in his Inaugural Address. Included in the study, he said, should be whether a metropolitan transit authority should be established. Senators John T. Davies, Donald M. Fraser and Karl F. Grittner have introduced SF 542 in the present session to create a metropolitan transit commission.

(3) **Public service commission**—Governor Anderson called for a review of adequate regulation of public utilities in the metropolitan area including consideration of a new agency that would have the metropolitan area as its special concern during the 1960 campaign and in his Inaugural Address.

(4) **Metropolitan water agency**—Sidney L. Frellsen, Director of Division of Waters of the Department of Conservation, recommended establishment of a metropolitan water authority to the Commission on Municipal Laws. Governor Andersen, in his Inaugural Address, expressed the belief that "we need to coordinate the different water studies that have been made in the metropolitan area" and suggested that the Metropolitan Planning Commission extend its work in this area with the help of special appropriation, if necessary, to develop the recommendation for long-range plans for the water needs of the region.

(5) **Probation service**—City-county merger of the Minneapolis Probation Department and the Hennepin County Department of Court Services was recently recommended by the six Minneapolis Municipal judges. The Minneapolis Municipal Court has county-wide jurisdiction.

(6) **Public health**— Creation of a suburban public health service, including facilities for mental health, was recommended December 15, 1960, to suburban officials by Dr. Ellen Z. Fifer, Public Health Director for Bloomington and St. Louis Park. She suggested that a health center should serve Bloomington, Richfield, Edina, St. Louis Park, Hopkins and Golden Valley at a cost of approximately $285,000 per year or about $1.50 per person.

(7) **Court Consolidation**—The subcommittee to study the County Court problem has recommended to the Hennepin County delegation to the Minnesota Legislature that a Circuit Court of Hennepin County be established with county-wide jurisdiction of civil actions for amounts not exceeding $3,000, unlawful detainer actions, and prosecutions for violations of statutes or municipal ordinances committed within Hennepin County which carry a penalty not exceeding $100 fine or 90 days confinement in a jail or workhouse. An alternative recommendation is that a county court of Hennepin County be established with the same jurisdiction. Judge Tom Bergin, Senior Minneapolis Municipal Judge, recommended by letter dated April 19, 1960, to this Commission, "that all traffic violations in the County, particularly relating to Hennepin and Ramsey, should be tried in one forum." He suggested that this would eliminate the great variety of sentences which are now imposed for the same or similar violations in the various courts in these counties. He added that a revision of the Courts in Hennepin and Ramsey Counties might envision the substitution of one court for all of the courts in the respective counties, namely, a District Court with proper subdivisions.

(8) **Parks**—The 1959 Minnesota Legislature created the Hennepin County Park Reserve District. The Minneapolis City Council has rejected joining the District. This has been labeled a slap in the face of the suburbs by Vern Johnson, Executive Director of the Greater Minneapolis Citizens League, and has been criticized by Larry Haeg, Chairman of the County Park Board. This 1959 law permitted Minneapolis to join the Hennepin County Park Reserve District, subject to approval of the Hennepin County Board, the County Park District, the Minneapolis Park Board and the City Council. The first three agencies approved joining the Park District. This agency might have been listed in our inventory of metropolitan organizations as a limited metropolitan agency. In any case, it indicates within the suburbs of Hennepin County disquiet with the City of Minneapolis for failure to cooperate in a limited metropolitan project and leaves a problem open for the future.

This enumeration of problems which have been the subject of recent study or recommendation for limited or complete metropolitan approach is but tentative and incomplete. This list merely emphasizes the numerous problems relating to the performance of services within the metropolitan area where responsibility is diffused among hundreds of units of local government. Political discussion within the Twin Cities metropolitan community is bound to continue to center around which services can be more economically and effectively furnished on an area-wide basis. It appears that our alternatives are few:

(1) The ultimate creation of a **single metropolitan agency,** operated on a partnership basis by all of the component municipalities of the metropolitan community, to exercise those functions which are determined by the Legislature or by the included municipalities to be metropolitan in character and to require the concerted action of municipalities within the metropolitan area.

(2) Continuation of the **contract service plan** which is now in use by the Minneapolis-Saint Paul Sanitary District to furnish sewage disposal to 24 suburban cities and villages and three federal agencies and which is presently in use by the Ramsey County Sheriff to sell law enforcement service to the municipalities within Ramsey County. This system is widely used within the Los Angeles metropolitan area and is known as the Lakewood Plan from the City of Lakewood which incorporated after first contracting with Los Angeles County to furnish all of its municipal services.

(3) Use of the **joint powers act**, MSA471.59, to permit clusters of suburban communities to perform services jointly that any one of them could have performed separately. Suburban municipalities seem cautious to use the joint powers act and sometimes request special legislation to permit joint exercise of governmental functions. Nevertheless, the joint powers act is a useful instrument to retain on the statute books.

(4) Creation of additional **special single-purpose taxing districts** each time that demand is made within the area for assumption of another service or function of government at a level beyond any individual municipality. Following the pattern of the Metropolitan Airports Commission, the Metropolitan Mosquito Control District, the Twin Cities Metropolitan Planning Commission and the Metropolitan Area Sports Commission, this could eventually lead to the proliferation of special-purpose agencies which has been criticized in the Los Angeles area as constituting taxation without representation. This is the system which was described as potential anarchy in the editorial reprint quoted from the **National Civic Review** for February, 1961.

We do not list the individual exercise of every service function by each municipality as an alternative because this is neither possible for the future nor is it the status quo. The present system is to continue as is with each particular service until an emergency arises. From such an emergency, where complaint is heard (as it was that effluent was flowing on the surface of the earth in seven places within one North Suburban village) request is then made to the Legislature for a stop-gap measure to cure this vital problem of sanitation and public health. Or the Ramsey County Sheriff asks for special legislation to contract to furnish law enforcement to the villages within his county. Or the Hennepin County Sheriff testifies that there are six different radio frequencies within Hennepin County law enforcement so that there is not instantaneous communication between the law enforcement officers and bank robbers may have escaped traps which otherwise could have been set in time to apprehend them and adds that there is a need for total law enforcement coordination within Hennepin County. Or the Anoka County Attorney testifies (as he now has before Interim Commissions prior to both the 1959 and 1961 sessions) that there are new villages within Anoka County which hire no law enforcement personnel and depend on the Sheriff and County Attorney to enforce their laws at county-wide tax expense, an unfair burden on those not living within the incorporated municipality who do not provide their own police protection. Or one suburb wishes to sell incinerator service to its neighbors or several suburbs wish to organize a water shed or hospital district.

This enumeration, too, is merely illustrative without being comprehensive or complete.

The point is that the status quo is hardly the performance by each municipality of every function of municipal government. Instead the present system is to live with the problem of performing a function which actually calls for cooperative or area-wide performance until the problem becomes so grievously acute that legislation is requested or some interim solution sought. In short, the status quo is to move sidewise or backwards into the metropolitan approach so that it will not appear that such an approach has been made like the man who backs out of the room so he isn't seen to leave.

We do not inventory the many recent suggestions for creation of a metropolitan water authority, a metropolitan transit commission, a metropolitan public service commission or any of the other proposed area-wide agencies for the purpose of recommending any of them. *We do not say that any of them specifically are needed. Neither do we say that they are not needed.* We simply, at this moment, take recognition of the fact that discussion within the Twin Cities metropolitan area indicates that some or all of these functons may very quickly become accepted by the public as problems which must be met beyond the scope of individual municipal action. We proceeded to enumerate these recent proposals or these recently pinpointed problems to illustrate that the metropolitan approach is nothing new, is indeed already here, and is consistantly being suggested as to additional functions.

We are concerned that if each problem is treated separately by the people and their local governments in the metropolitan area and by the Legislature, and if a separate, unrelated agency with taxing power is established to cope with each problem where agreement is reached that the metropolitan approach is required, the result will be waste, duplication, confusion and anarchy. The confusion which has come from creation of 130 municipalities in seven counties can only be compounded if the solution we seek is to create a large number of single-purpose agencies, none of

them directly responsible to the people, with widely varied jurisdictional lines and separate taxing authority.

The failure to understand that boundary chaos is the hallmark of the metropolitan crisis is standin the way of its alleviation or solution.

The *Council of State Governments* says that the metropolitan problem unquestionably is one of the most critical domestic difficulties facing an increasingly urban United States. "Local governments are increasingly incapable of satisfying the public needs that extend beyond individual governmental boundaries or range of authorized functions." The Council recommends that each state should establish l e g a l authorization for the creation of general metropolitan units that will be adequate in functions, financing ability and structure.

The Council recommends three types of metropolitan government—*the multiple-purpose metropolitan district,* the *federation* arrangement, and the *comprehensive urban county* form. A multiple-purpose metropolitan district operated by the component municipalities would be a federation; hence, the suggestion for the multiple-purpose district considered by this Commission would combine the best advantages of the first two alternatives recommended by the Council of State Governments. The third is hardly available to the Twin Cities area which contains seven counties.

Governor Edmund G. Brown of California appointed a ten member commission on metropolitan area problems. He directed the group to make a serious study of local government within metropolitan areas. "Explosive growth," he said, "knows nothing about manmade boundary lines. The role of the commission will be to give statewide study and thought to the problems before they overwhelm us all." (Significantly, this commission studied the Minnesota Municipal Commission Act by which we govern municipal incorporations and annexation and recommended the same approach to the California Legislature.) Governor Brown listed five areas of inquiry for his metropolitan study commission:

(1) Transportation, Freeways, Rails and Streets, "How best can we move millions of men to and from work?"
(2) Housing, Redevelopment and Land Use Planning, "How best can we keep the central areas of cities from becoming slums?"
(3) Maximum economy in handling the tax dollar, "Do we have to pay overlapping jurisdictions?"
(4) Prevention of air pollution and water contamination, "What new measures are necessary to prevent poisoning of air in metropolitan regions?"
(5) Larger governmental structures or districts, "What are the values and limitations of supergovernmental agencies?"

The *Government Affairs Foundation,* Inc., reported in 1958 that a total of 112 general metropolitan surveys have been made in the United States since 1923. Of these, 79 were initiated between the ten year period from 1948 to 1957. A review of these surveys by the Foundation showed four results which universally occur as the aftermath of mushrooming metropolitan growth. These are very revealing in the context of the present problems in the Twin Cities metropolitan area:

(1) The serious consequences of the absence of any area-wide instrumentality to cope with area-wide needs and problems are probably the greatest point of agreement upon the survey findings. **The question is how a multitude of local governments of varying size and competence can cope with area-wide problems.**
(2) **Inequities in financing local government services in the metropolitan area also are the concern of most surveys.** An example of this is city services and public facilities financed from city taxes which benefit the non-tax paying suburbanite.
(3) The **inadequacy, or absence, of certain governmental services in parts of metropolitan communities.** (Central water or sewage disposal in many Twin Cities suburbs.)
(4) The **existence of barriers to democratic control of government in metropolitan communities.** Complexity, duplications, and overlapping jurisdictions have caused loss of citizen control of government. This again stresses the point that a metropolitan agency to perform those functions which cannot be economically or effectively performed by individual municipal units is the best, if not the only, method to protect and preserve the identity and the autonomy of those suburban communities.

(See **Congressional Record,** "Goals for America—Metropolitan Problems," Extension of remarks of Charles A. Vanik of Ohio, House of Representatives, April 28, 1960, p. 5)

The *Committee for Economic Development,* pointed out that in 1900 metropolitan areas included only one-third of our population, now include almost two-thirds, and will contain 140,000,000 people by 1975, 80,000,000 of them outside the central cities. CED devoted searching study to the problem of conflicting jurisdictions within metropolitan areas and the need to enable them to carry out more efficiently and effectively those public responsibilities which are clearly metropolitan in scope. Commenting on this report, the *Minneapolis Star* said editorially, the "CED study should help focus national attention on the growing plight of our metropolitan areas. Unless it is recognized as a national problem, there is little chance that the metropolitan areas alone will be able to handle such issues as their revenue needs, their growing welfare and health loads, the spreading of blight and obsolescence, the control of air and water pollution, improvement of area-wide transportation systems and broad land-use planning."

Noting that 192 metropolitan areas are governed by 16,000 local jurisdictions, CED warned that these governmental units cannot plan, budget and program ahead for the entire metropolitan area. "Waste and gradual loss of local control with regard to area-wide problems" are the outgrowth of this dilution of local governing power within metropolitan areas."

Dr. Luther Gulick, President of the *Institute of Public Administration*, observed that "our system of local government in America was set up in the 1700s and 1800s to fit the then conditions. And it was a marvelous and brilliant invention. But the conditions have changed. The living city is no longer within the old city limits. The problems we are askng local governments to wrestle with sprawl all over the map. Take any problem, like water or traffic, not only does the problem reach beyond the lines of any one organized governmental body, but it falls in several independent and often competing jurisdictions. Thus you have problems which cannot even be thought about except on a comprehensive and unitary basis, fractionated among a score of separate political action units."

Dr. Gulick then cited the number of governments involved at the local level in our major metropolitan regions. He credited New York with 1,074, Minneapolis with 222. Even the District of Columbia, governed by the Congress of the United States, has 67. Dr. Gulick makes the point that while "we have great vitality at the center . . . a lot of people who caused that vitality live in the suburbs, pay their taxes in the suburbs, and do not contribute to the political leadership or the political responsibility at the center." He says that they may well be the "slumified suburbs of the future, and they too may be separately incorporated municipalities." And then this remark which is at the crux of the difficulty of dealing in an over-all manner with area-wide problems in a metropolitan area:

"Political leaders inherently become leaders of the population within the jurisdiction which is laid out as the basis of their election. They are not working for people that lie beyond. They seek solutions within their own town, their suburb, or their city, and they look with a great skepticism upon the demand that they join hands with others in finding a solution until the situation gets so bad that the community as a whole rises up and says, 'Look, there isn't any solution on the basis of these small bits and pieces. The solution must be broader in character.'"

Dr. Gulick may as well have been discussing the present water pollution plight of the Twin Cities metropolitan area when he added, "You can't meet the transit problem of any major city solely within the boundaries of the city. *You can't meet the water problem, sewer problems, air pollution problems, solely within existing jurisdictional lines.* This is gradually forcing a new leadership to come forward which is looking at the broader problems in a broader way." He implies that unless local government is equal to the task, action at other levels, including the federal government is imminent.

Dr. Gulick says that "the great thing that is needed in this country now for modernizing our sprawling urban settlements is not money. It is not cement, steel and labor. These things we have in abundance now. What we need is awareness; deep concern by the well informed; local governmental structures laid out for action. But *above all, we need leadership for action.*" And the heart of his analysis is that boundary chaos resulting in split-jurisdictions as to common problems is the crux of the metropolitan crisis. (See *Council for Economic Development, The "Little" Economies, Problems of U. S. Area Development,* papers delivered at the semi-annual meeting of the Board of Trustees, Council for Economic Development, May 29, 1958, Chapter 3, "Have we outgrown our local governments?" by Dr. Luther Gulick, President, Institute of Public Administration, p. 19-23.)

How do these comments relate to the problems in the metropolitan and growing urban areas in Minnesota? The tough problems they pose become more dramatic each day. Recently the Minneapolis City Council suggested a gross earnings tax. Immediately there was an outcry from the suburbs that this would tax wage earners working within the Minneapolis city limits but living in the suburbs. Whatever the merit of this contention, under the headline "Austerity may darken city, delay garbage collections," the Minneapolis Star, November 17, 1960, conveyed the news that "Dimmed business area street lights and delayed garbage collections may accentuate the bleak financial situation of Minneapolis government this winter." These economies are designed to reduce city services by one million dollars until a solution can be found to the city's tax revenue problem, possibly during the 1961 legislative session. Other service reductions may come in Minneapolis before a financial solution is found. Movement to the suburbs caused the Minneapolis population to drop below a half million in 1960 which will reduce a return of allotted taxes from the state.

Whatever is the answer to the Minneapolis revenue problem, it points up another difficulty which arises from the diffusion of local political authority within a single metropolitan area causing one set of problems in the major cities and a different set in the suburban satellites.

In Minneapolis it ironically means the highest property tax rate in history while the police and fire departments operate below authorized strength, garbage collections are cut further and city personnel is trimmed.

In the suburbs it expresses itself in the pollution crisis. Even if the 1961 Legislature creates a metropolitan sanitary district, the suburbs face the cost of constructing mains to convey sewage to the interceptors. This can well be a back-breaking cost to many of the tiny villages numbering but a few hundred people which were created for such reasons as to make available a liquor license to the promotor who fostered incorporation petitions.

Mass transportation is one of the most critical of all problems within the metropolitan areas. Governor Brown posed the problem this way, "How best can we move millions of men to and from work?" In the Twin Cities Metropolitan area, passenger traffic on the buses of the Twin City Rapid Transit Company has dropped from the 200 million mark annually to about 67 million, a drastic reduction of approximately two-thirds of all passengers previously carried. Now we spend millions to speed automobile drivers to the loop area, which can only place greater strain on parking facilities in the future. We have an impending population which will double our numbers by the year 2000. In Los Angeles, rapid mass transit is under consideration to try to stitch back together the city which has been hyphenated by the freeways.

Boyd T. Barnard of Philadephia, President of the Urban Land Institute, has said that "the big city faces stagnation if its number one problem, public transportation, is not solved. The frontiers of America are unquestionably our metropolitan communities, and nothing is so serious in the affairs of these areas as public transportation." Mr. Barnard listed coordinated action by local governmental bodies as the greatest need in transportation. "The countless scores of governmental units that are a part of a sizeable metropolitan economic area are appalling—cities, counties, townships, towns, buroughs." He pointed to the Greater Philadelphia area which includes portions of New Jersey and Delaware and contains 457 separate governmental bodies. "This complexity tends to make it impossible to get concentrated action on metropolitan a f f a i r s so urgently needed."

Mr. Barnard emphasized that projected growth of 90 million more people by 1980 means that in the next ten years cities must expand as much as they did from 1630 to 1900, a span of almost 300 years. "The growth in the use of the automobile has created problems which appear to be almost insoluble." Saying that the needed expressways mean more and more land out of productive use and reduction of tax base, he said that mass transit, which will continue to get a smaller percentage of the total metropolitan transportation, while the number of riders will no doubt increase, must be given additional stress.

Mr. Barnard pointed out that in Toronto *"property values within two blocks of the subway soared three to seven times those values before the subway was built, and within three years the increase in realty values exceeded the fixed charges on the subway by one-third."* It is obvious that metropolitan coordination is needed to approach the problem of mass transportation—getting people to and from work, and bringing them to the shopping centers and places of worship, education, commerce and culture.

There is acute local recognition of the vexatious problems resulting from the multiplicity of local jurisdictions.

This fragmentation of metropolitan areas stultifies planning on an area-wide basis even where public opinion has crystalized strongly behind a particular project. A primary example is the effort to make the Hennepin County Park Reserve District an effective instrumentality and the whole problem of parks and open space. An interesting proposal is the proposed state park in the Fort Snelling area. Without doubt this project could be more effectively advanced if there were fewer units of government involved.

Every analysis leads to the conclusion that either the local municipalities within our metropolitan areas will take intelligent, constructive action to solve their own problems, or those problems will pass by forfeit to the state or federal levels. This session of Congress will probably create a Department of Urban Affairs at Cabinet level for the purpose of integrating federal programs dealing with the complex urban and metropolitan problems. This is a natural outgrowth of the shift of population from the agricultural age when but one-third of our population lived in the large urban centers to the present industrial age when two-thirds live in the metropolitan concentrations.

The new cabinet department, recommended by President John F. Kennedy in his campaign, represents an impression of neglect felt by our trouble-stricken cities beset by blight and decay, sometimes provincially expressed, as by H. Bruce Palmer, President of the Mutual Benefit Life Insurance Company: *"The federal government has paid more subsidy on a single farm crop, potatoes, than it has on its entire housing, slum clearance and urban redevelopment project."*

Mr. Palmer said that with the help of federal loans and capitol grants, communities can acquire, clear and prepare for redevelopment of slums and blighted areas which heretofore were untouchable financially. His striking statement about the comparative cost of subsidizing potato growers and clearing the slums is symptomatic of a deep-seated feeling among urban residents that the federal government has a watchdog over the farmers' interest in the Department of Agriculture with no corresponding cabinet department looking out for the interest of the city dweller.

In view of the present cost-price squeeze in agricultural America, we make no comment about justifying a Department of Urban Affairs because there is a Department of Agriculture.

We do stress that existence of the feeling among our urban population that we must look to Washington for help should be a red-light signal to every proponent of local government that our urban people are more acutely conscious of the water, sewer, transportation and other problems which arise from metropolitan living than are some of their political leaders. We must recognize this restlessness as a recognition by the people that if we cannot act effectively locally the state or federal governments will step in and fill the vacuum as they have so many times in the past. *The answer to retaining the maximum of local autonomy is to operate effectively at the local level.*

Robert E. Merriam, Deputy Assistant to President Eisenhower, told the 37th Annual Congress of the American Municipal Association in New York City in November, 1960, "Suburbs are the new neighborhoods of an enlarged economic city —the political city hasn't, and, in my opinion, won't expand to include these new neighborhoods as it used to do. This, to use the popular phrase of the moment, is the urban gap." He said that the net result of the urban gap has been a dangerous lag in our ability to meet the expanding demands for public services. "Perhaps more importantly, it has seriously impeded our ability to plan for the future. This applies particularly to public transportation and the movement of people generally, the provision of adequate school facilities, policing, and the development of water and sewage facilities."

Then turning to federal action, the former Presidential advisor on urban problems concluded, "the federal government could not, and should not, be the planning agency for 216 metropolitan areas. It can help, but it can't decide. Obviously, despite all the obstacles—the whims of population shifts, uncoordinated and impulsive decisions by industry to relocate, and the caprice of national and state actions—the only answer lies in creation of some workable planning machinery at the local level. . . Somehow we must break through the barriers of tradition, artificial political boundaries, local rivalries and political jockeying, to find that answer. This is the major urban problem of the sixties. Its solution is going to require a massive effort by bold leaders."

Minnesota's Congressman, John A. Blatnik, indicates the keen federal interest in solving one area of the metropolitan crisis. He is embodying a sharply stepped-up program to rid the nation's streams and rivers of pollution in a bill to be introduced as a solution to the water pollution problem. Senator Hubert H. Humphrey is proposing the companion measure in the Senate. Congressman Blatnik's bill based on President Kennedy's campaign proposals on water pollution, would more than double the size of the federal grant-in-aid program to help states and cities clean up pollution. It would provide a ten-year, $1,250,000,000 program, of grants to help construct sewage treatment and pollution abatement works. This would mean $125,000,000 per year instead of the present $50 million annual program.

Congressman Blatnik also proposes that the maximum allowable federal contribution to a single project be raised from $250,000 to $600,000 with a maximum of 30% federal contribution to any project. His bill would tighten federal enforcement procedures for requiring cities and industries to clean up pollution-producing activities, establish a $25 million fund to help financially hard pressed communities that are ordered to clean up pollution situations under the federal enforcement procedures, and provide for broad research programs on water pollution, including regional laboratories, and for a special study of the Great Lakes. His proposal would establish a new agency within the Department of Health, Education and Welfare but outside the public health service, to administer anti-pollution activities. At present the public health service handles the program. Conceivably, if a department of urban affairs is created and the Blatnik bill is subsequently passed, it might be amended to place the proposed agency within the new department.

If urban areas do not deal quickly with the air pollution problem, state and federal action is likely. F. L. Woodward, Director of the Division of Environmental Sanitation of the Minnesota Department of Health, estimates that perhaps 50% of the Minnesota communities with populations of 1,000 or more have recognized sources of air pollution." *Minnesota's Health,* April, 1960 (publication of the Minnesota Department of Health) emphasizes that "since air pollution does not respect political boundaries, there is need for cooperative action on the part of the affected local units of government." Air pollution as a problem is usually different in smaller communities. The Department of Health is currently determining from a state-wide survey in cooperation with the U. S. Public Health Service the degree to which air pollution is an actual or potential problem in Minnesota. Local enforcement at a regional level must certainly be a part of any ultimate control program.

We earnestly suggest enlightened discussion by all elements of the population and political leadership within the Twin Cities metropolitan communities as to the governmental mechanism which is required for the future to assume any metropolitan functions which are assigned by the Legislature or are called for by comomn agreement among the metropolitan communities. The pro-

posal to this Commission by its Executive Secretary that a multiple purpose service district be formed (Appendix L) comprising a federal plan for the metropolitan area which preserves the identity and autonomy of all local municipalities, reserving to them all municipal powers which they can properly exercise, and giving them a hand in the partnership control of the metropolitan service district, has served as the focus for past discussion. We have perceived no articulate opposition to this suggestion, only a suspicion that it may lead to metropolitan government (which is already here in several separate situations) or that it is not timely until the metropolitan sanitary district has been created.

This proposal was editorially described by the *Minneapolis Star* as "an intelligent framework for consideration of the metropolitan approach with its emphasis on local consent, representative government, preservation of local autonomy in fields other than those which call for coordinated action and elimination of single-purpose taxing districts." The *St. Paul Dispatch* labeled this plan as "one that deserves consideration and discussion," and succinctly added, "this may not be the only answer to these complex questions, but it provides an excellent starting point for discussion."

We say to the Twin Cities metropolitan area, and to the other rapidly urbanizing areas of Minnesota which may soon encounter the same problems, if in a less aggravated way, that the time is now to give concentrated study and objective consideration to the mechanism required to manage any functions in a metropolitan or urban area composed of dozens or hundreds of units of local government which cannot be economically or effectively exercised by individual municipalities.

We suggest that the preservation of the right of self-determination, the protection of local identity and autonomy, the effective provision of water, sewage disposal, transportation, and the essential services to our people, the retention of property values, the promotion of human values, and relief from the burden of excessive property taxes depends upon the ingenuity of the leadership of our metropolitan areas to construct a federal system of local government which reserves to the local governments those powers which they can properly exercise and permits them to operate in partnership those functions which are metropolitan in character.

If anarchy seems a strong description of what occurs within a metropolitan area because of fragmentation of authority, consider the recent report in the Minneapolis Star that representatives of six north suburbs seeking to build a sewage disposal plant on the Mississippi River in Fridley said that they are going ahead in spite of a State Health Department ruling against it. We do not comment on the merits of the dispute, merely that it exists.

We have recommended creation of a metropolitan sanitary district and authority to grant sanitary districts elsewhere in Minnesota to furnish alternative means of alleviating the north suburban problem.

Water Contamination Crisis

Our first subject of study was the problem of water contamination in the Twin Cities metropolitan area. When the executive secretary was designated at the Commission meeting September 28, 1959, he informed us that Governor Orville L. Freeman had convened an emergency session of mayors and other municipal officials of the metropolitan area on September 25th at which the State Health Department reported that a spot check of shallow wells in six suburban communities indicated a degree of contamination between 37 to 83 per cent of nitrate and detergents. Health Department representatives ventured the opinion that these results did not indicate danger to adults, but said that this degree of contamination is dangerous to infants. One village within the metropolitan area suffered lead contamination as a result of a gas supply seeping into the water. The Governor requested a show of hands if any mayors or municipal officials present opposed a metropolitan sewage disposal system or a metropolitan water supply. He found no objectors.

The Commission then invited officials of the Division of Waters of the Department of Conservation and the State Health Department to appear and testify. At the meeting held October 26, 1959, Sidney A. Frelsen, Director of the Division of Waters, representing Dr. George Selke, Conservation Commissioner, gave an excellent factual background of the water and sewer problem and the close relationship of water supply and sewage disposal. Notably, Mr. Frellsen suggested expansion of the Minneapolis-Saint Paul Sanitary District to include water supply as well as water treatment. His testimony is included here because it places in focus the direction of the legislative study:

". . . The Division of Waters is now studying the Twin City Metropolitan Area from the water supply standpoint. As you know, we published at the close of of the Legislative Session a hydrologic atlas of Minnesota in which we divided the state into 39 watershed units and have discussed each one of those in detail, and among which was what we call the Metropolitan area. Then it was the intention after the atlas was published to continue study on each individual area and the first one we selected was the Metropolitan area, because of the expansion that is and will be taking place

within this region. Our principal concern is with water supply. I believe the Minneapolis-St. Paul Sanitary District has made the statement that the Metropolitan area will have an increase in population of about a million persons by the year 2000. One idea might be to have the Twin City Sanitary District expanded so as to include water supply as well as water treatment. A central authority of that kind could take over the municipal systems within the metropolitan area and manage them from the standpoint of allocation and use. The water supply system of the Twin Cities is largely from the Mississippi River at the present time. Some water is taken from the Mninesota by various applicants and much water is being taken from underground sources. We believe that there is ample water in the metropolitan area to meet the needs of one million increase in population by the year 2000, provided that there is reasonable control of the allocation and proper record is kept and that the system eventually could be balanced so that industrial users now who are using water for, say, air conditioning, where the quality of the water is the main consideration, and probably using it for other uses, might be changed so that the primary use of cool water would be limited to air conditioning and the others might be allocated to river water.

"Our thought is that the present plant would be taken over by the authority and managed but from a control and record standpoint the cities of course would build and operate them. The combination of present well supply and plants on the Minnesota and Mississippi would be coordinated and managed. There are undoubtedly some well supplies that might have to be discontinued. There are others that might be enlarged, but again it would have to be on a coordinated basis after proper study of the total water supply in the area and balancing the system. It was thought that the water supplies in existence, even ground water, could be taken over, but brought up to the same standards as far as quality is concerned. **We don't know our total ground water resources, nor do we know just exactly what's available from surface water sources.**

"The adequacy of the water supply depends on other factors. We have in this state six navigation reservoirs and they are presently managed by the Corps of Engineers, largely for recreational purposes. They are Winnebigoshish, Leech, Pine River, Sandy, Gull and Pokegama. These reservoirs would be controlled jointly by the state and federal government and would be used for other purposes than recreation. At the present time the reservoirs are used for storage for about 27% of their potential capacity. There are about 2.2 million acre feet of storage available if they were operated by fluctuating their levels within the rights that were originally acquired by the federal government when the reservoirs were built between 1884 and 1912. We foresee that Minnesota sooner or later has got to recognize that the Twin Cities Metropolitan area needs water to a greater extent than they now receive it from these reservoirs and the only way that can be accomplished is by changing the operation plan of fluctuating the level of the reservoirs to a greater extent than is now practiced. For example, Winnebigoshish Reservoir, the largest reservoir of the system, can be fluctuated by 18 feet. At the present time, it is within a very narrow range, probably about a foot, so it is not usable. Leech and the other reservoirs are operated within a fixed level of three niches up or down fluctuation. It is obvious that you can't have a stable level and utilize storage from there.

The problem is not solely a Twin Cities problem There is the problem of taconite water supply on the western end of the range which would require a substantial amount of water which is not now available in that area. The expansion of industry in the surrounding area might require diversion of water from these reservoirs to supply industrial, agricultural and commercial needs in addition to the fact that there are flood control values to some extent that will have to be continued.

"This all points out decision-making that will have to be undertaken by the Legislature and the people to utilize the resources we now have in the way of these fixed reservoirs. Incidentally, these reservoirs were built in a period of time when land was cheap, labor was cheap and settlement was sparse and they cover a substantial area and have great potentiality for storage. They were used in the beginning for logging operations, later for navigation, supplementing water for navigation in the Mississippi River below St. Paul, and in recent years down a chain of locks down to Alton, Illinois. That situation is being corrected so that the uses for navigation will be diminishing. The Corps of Engineers has indicated that they are willing to cooperate with the state so long as they retain their right to use the water for navigation purposes when it is required, and for flood control, principally above Aitkin, whenever that might be required.

"Storage of water in these resrevoirs is the only way we have of overcoming the vagaries of precipitation as to location and time. We are trying to work out just how we would recommend these reservoirs be modified as to their operation. It is true that some of them are so largely built up and such large investments involved that it would probably be difficult to change their operating range to any great extent. Winnebigoshish, on the other hand, only has 16 resorts and has full potentiality of rain using the range the army has rights for. It might even pay to buy out the resorts and fluctuate it through the full range. But at any rate, it's a situation where a decision has to be made, and probably by the Legislature as far as declaration of policy is concerned, to get the water down to the municipalities here in the metropolitan area, supplemented by some authority that could combine the two problems of water supply and disposal.

"The question has been raised which should come first, sewage treatment or water supply, in these areas where there is difficulty now. By all means, we believe that the water should come first. One thing about it is that when you draw water from the ground you naturally lower the water table; by introducing a centralized supply

you would at least maintain the water table in the area. Theoretically, you can't drill any well without lowering the water table in the area to some minute extent. **So I would like to leave the suggestion with the committee that thought be given to what can be done with the Minneapolis-St. Paul Sanitary District to give it authority over water supply as well as sewage treatment and disposal.** (Commission on Municipal Laws, **Minutes**, October 26, 1969, pp. 11-14.)

After Mr. Frellsen had completed his testimony and answered questions, Mr. F. J. Kilpatrick, Assistant Director of the Division of Environmental Sanitation of the Department of Health, presented an excellent discussion of the background of the sewage disposal problem in which he reviewed incidents leading up to the tests by the Department of Health to determine if there is contamination of private wells in the Twin Cities metropolitan area. Mr. Kilpatrick's testimony is reproduced here as a concise exposition of the water contamination crisis:

"Basically, the problem involves the mass use of the individual sewage disposal system and the individual water supply in the suburban communities. The spectic tank system and private well were basically intended for isolated establishments, rural locations, where you could put the private water supply and sewer system far enough apart so there wasn't the hazard of sewage flowing across from the sewer system to the well without enough change in character so it wouldn't cause any damage when it got there. You also had the situation where a normal amount of contamination existed on the surface of the ground and the rain water that fell and recharged the ground formation would be purified and you could demonstrate this by the quality of the ground water. It showed no significant signs that would indicate any degree of contamination.

"When the building boom commenced to take place and literally hundreds of thousands of establishments sprung up on small parcels of land, each with a well and sewer system, people began to become alarmed about this; that you just couldn't continue to pump the water supply for the community from the ground beneath the community by hundreds of private wells and then turn around and return this same water to the ground in the form of sewage without some sort of circulation taking place sooner later. The predictions were that first signs of it would be the build up of chemicals of sewage origin in the water and ultimately this would be followed by bacteria of sewage origin.

"Now in the Metropolitan area, beginning about the 1st of April, we received notice from a householder that they had illness in the family, and that the doctor thought that the water supply was related to it, and that there were changes in the character of the water that would indicate that there was something wrong with it. One of the things mentioned was that there was a change in taste and there was a sign of foaming on top of the water. In previous years there had been bits of information that had come out from all over the country to indicate that some of this recirculation was showing up in the form of laundry detergent and some of the water supplies were showing significant build-up of these detergents in the ground water. So we went looking for laundry detergent in this case, and we found it. We also found it in a neighboring water supply that we used as a control. Because the water supply here looked so much like all the water supplies in the community we suggested to the city fathers that a survey be conducted to see to what extent this was going on in the community.

"To make a long story short, we found that about 60% of the water supplies in the community (it had 3300 homes) were affected by recirculation of sewage in the ground water to the extent we had substantial build-ups in the nitrate content of the water, above what you normally find in ground water in this part of the state, and about 23% of them had measurable quantities of laundry detergent. Nitrates do normally occur naturally in ground water. In this part of the state they do not normally occur over one part per million. Detergents don't ever occur naturally in water. They are a synthetic compound, perhaps weren't even in existence 25 years ago. When you find them in a water supply you can presume only one thing: that they are coming out of the sewer system. The amount of materials we found meant that recirculation was all the way from moderate to complete. In some extreme cases it would look like the material had been through the sewer system a number of times.

"As I said earlier, in a normal situation where the normal purification factors of the ground clean up the usual amount of material from a surface run-off and an isolated sewer system or two, you don't find very much, and the point at which you begin to believe that people are becoming insecure in the use of their water supply is the point where you commence to see substantial amounts of material from sewer systems appearing in water supplies over and above what is normal. Certainly you become highly concerned when it commences to build up to the extent we have indicated here.

"After the original survey we conducted five more. These indicated from about one-third of the wells in the communities being affected in this fashion. Since that time we have completed six more surveys and three of these communities have shown little if any contamination (one has shown none, two others have shown only a moderate amount; but three others fell right into the pattern of the original six, and they are seriously affected.) We have four more surveys under way and are continuing on this at the rate of about two a week. Generally speaking, with two exceptions as we pointed out, we expect that within any community that has been developed for any length of time using a private water supply and private sewer system, what we have found is what we can anticipate. This is not necessarily true only of the metropolitan area. We can be quite sure that other communities around the state are in the same situation.

"There are three factors that have influence on

how severe this is going to be. The first is the depth of wells involved. As this goes on it is a matter of time before this material will go lower and lower into the ground and affect successive layers of water bearing formations. In communities of a given age the deeper the well the purer the water. The second is population density because population density governs the load of sewage that is put into the soil and this is going to determine how fast and how far it goes. The third is the nature of the soil itself, that is, the character of the various layers of ground that lay between the layers you put the sewage into and take water out of, and if these are relatively impervious to fluid flow you would expect that they would interfere with the downward movement of contamination. This is the one that has fooled us about as badly as anything. The other two have proven out pretty well, although we find quite a number of wells over 100 feet deep contaminated, we found several over 200 feet contaminated, and we found at least one over 300 feet that has been contaminated. The ones that are the worst contaminated of course are the shallow wells. Where there is dense population there are more wells contaminated and they are more severely contaminated. But we have found situations where wells have penetrated not one but several layers of clay or hard pan and the only thing we can conclude is the barrier is not continuous or has been disrupted in some way or other, perhaps by the hundreds of well casings that have been driven through it.

"I'd like to come to the point about whether or not provision of public water supply would enable us to continue private sewer systems. If the sources of public water supply are deep wells that are developed in formations that we know now are immune or not affected by this problem, it may be only a matter of time before sewage will ultimately get into the formations that are now considered safe."

At this point, Mr. Kilpatrick entered discussion with the Commission:

Rep. Langley: "Is there a probability that faulty construction of wells themselves could be a factor in the penetration of seepage to such depths as 300 feet as you mentioned? Are there any regulations as far as your department is concerned as how wells are constructed?"

Mr. Kilpatrick: "Nothing in so far as private wells are concerned, unless it would be on a local ordinance basis. There are on public wells, but not on private wells."

Rep. Langley: "We have a suburban development near Red Wing, called Burnside. Hundreds of homes were built on what is mostly silt, near the riverbank. Is there any regulation as to how those wells can be put in?"

Mr. Kilpatrick: "Not unless there is a local ordinance governing it."

Rep. Langley: "It's an unincorporated township."

Mr. Kilpatrick: "By and large insofar as unincorporated townships are concerned, there may be serious question as to whether townships have authority to carry out that kind of a regulation. I've had a good deal of occasion to work with township governments and municipal governments in trying to guide them with setting up local controls to protect themselves against this type of thing. Its not difficult when dealing with a municipality because their powers seem to be ample to adopt local ordinances of government. The only problem involved is that the administration of those ordinances sometimes is quite technical and requires personnel that can't be used full time in municipalities below a certain level in size, and they can't hire these people part time, so they have difficulty in administering the ordinances. This points to the need where we must at least temporarily use these private systems for effective local control perhaps on an area basis. The County Board of Health act has been one thing proposed for this purpose, but some people have been opposed to that. What Mower County attempted to do in this respect was to set up an independent sanitation program in the county, and they got special legislation to do this. But the townships are another matter. I've seen a good many townships that feel that on the basis of certain statutes that are on the books they have a right to enter into the regulation of sanitaion maters of this kind. This needs to be scrutinized very carefully as to just what powers they have in this respect. In the absence of townships that have specific powers in the way of providing central facilities, by and large you will find that township governments have no authority to establish public sewer systems or public water supply."

"As a development mushrooms in a township it may be several miles and maybe a number of political subdivisions separated from an urban center they might do business with. Out in their area they had no place to put sewage if they had any notion of putting in a public sewer system. They would either abuse the right of other people in water courses they would have to send their sewage to or there would be no outlets for them. So the problem is how do they get the sewage from the area with all the troubles requiring easements to an outlet, if, in the first place, they could afford it because of the terrific expense of constructing a main sewer. We had one situation where in the first place the homes had been built in an area that should never have been considered for development with private sewer systems because the ground conditions were entirely unsuitable for soil absorption of sewage. The ground water was high. They had perhaps ten feet of sand over hard pan and then maybe 60 feet of sand under that before they hit water again. Sewer systems augmented the water table situation and sewage commenced to flow over the surface of the ground creating a frightful nuisance to the community and they had five or six miles that they would have to go to pipe the sewage out of this territory to get it into a water course where it could be disposed of decently after treatment. This was out of the question for them. The people out in the political subdivision beyond them had no interest in the problem, a sewer going through wasn't going to benefit them any, they weren't interested in paying for it. What was the proposal?

The proposal was to punch a hole in the clay barrier below the ground and drop the sewage into the sixty feet of sand below. This was the layer at which all the water was drawn. This is the kind of thing that aggravates the problem.

Mr. Robbie: "Would you suggest a state law of general application enforcing standards as to cesspools in those areas not covered by ordinance, leaving local rule where there is an ordinance to cover it?"

Mr. Kilpatrick: "I hadn't given that any serious thought; probably enforcement would be difficult. These communities to do a good job of controlling sewage disposal systems need a professional sanitarian, a man who knows the sewer business inside out and knows what the problems are caused by and this is difficult for a community of two or three thousand population."

Mr. Robbie: "In other words, you are suggesting about the same thing as Mr. Frellsen in the way of area wide sewage disposal and a water system in the metropolitan area. Do you agree that they should run hand in hand as one operation?"

Mr. Kilpatrick: "I think they are related and there might be advantages to this."

Mr. Robbie: "Do you think its necessary that they cover the same identical area geographically?"

Mr. Kilpatrick: "I think they could well be identical in area."

Mr. Robbie: "Are you saying that in an expanding urban area where population is swiftly increasing the fundamentally rural nature of township government is making it extremely difficult and contributing to the acuteness of this problem?"

Mr. Kilpatrick: "Yes, the fundamental nature of the township government as I understand it is intended to handle agricultural problems. This is no longer agricultural, it is urban. I don't believe township government was designed for this purpose at all."

Mr. Robbie: "Is it probably true that the conditions of contamination came in some of these villages before they actually became villages and incorporated?"

Mr. Kilpatrick: "A community doesn't have to be developed more than a couple of years before this would show up, so undoubtedly this is true."

Mr. Robbie: "Does it seem to you to argue for some rapid possible extension of municipal powers to the entire territory within the metropolitan area? I'm speaking now of the municipal ordinances that control septic tanks, wells and al these things."

Mr. Kilpatrick: "I see a warning bell, because to the extent that extending powers without implementing the ability to administer those powers might mean serious trouble."

(Minutes, October 26, 1959, pp. 16-22.)

Dr. R. N. Barr, Executive Officer, Department of Health, and F. L. Woodward, Director of Environmental Sanitation, Department of Health, also participated in the October 26th hearing. Mr. Woodward indicated the need for legislation to license and regulate well drillers. Mr. William F. Kelly, Village Attorney for the Village of Tonka Bay, cited the health hazard arising from close proximity of private water and sewer systems:

"Dealing with various municipalities in the Lake Minnetonka area, I can assure you that the people who live in the area are very concerned with the health problem arising out of the private water and sewer systems. Primarily, the municipalities are faced with this problem. You have defective sewer systems, and no way to stop them. There should be some way to bring the user of a defective system to stop using that system, and immediate action should be available. It's that problem that these communities are faced with and if there is any way you can give authority to the Health Department or to Health officials to simply go out and say to the owner of the system that he can no longer use that system until it has been fully approved by proper authority you will once more give people a sense of security they just don't have now.

"There is a great need for licensing on some basis other than a municipal license. It would appear that too many people are going into the business of putting in a septic tank or drainfield. They don't know how to do it or take care of it, but they have the equipment and they go ahead and do it. They may put them in correctly, or they may not, depending on how good the investigation of the municipality in checking the work is. The same would apply to well drillers."

(Minutes, October 26, 1959, p. 27.)

Mr. Kelly was invited to testify in response to his letter addressed to the Commission in which he succinctly said,

"There are more laws on the books in Minnesota protecting the health of pigs and cows than there are protecting the health of humans. I have just this past week as the attorney for the Village of Tonka Bay experienced the frustrations of the inadequacies of the now existing statutes governing pollution by defective private sewage plants. Even with the help of the Attorney General's office we were unable to get an affirmative action from the State Health Department. Our failure was not because of the lack of desire on the part of the State Health Department. We need specific laws which give the villages or the State Health Department authority to issue orders which will prohibit the use of private sewage systems when they are condemned by the State Health Department or village health officer. They must not be loaded with red tape but must be designed for quick action. We should not have to wait until wells become contaminated and people become sick in order to close down the sewage systems."

Mr. Kerwin Mick, Chief Engineer and Superintendent of the Minneapolis-St. Paul Sanitary District, was then invited to appear at the November 23, 1959, meeting to testify. Mr. Mick gave the background of the engineering studies then being conducted, and since published, on the metropolitan sewage disposal problem. He said,

"The District started a study of this problem on a metropolitan area basis back in 1956 and

programmed it as a five year study. In 1958 interest seemed to be aroused to the point where we should attempt to shorten that study by a year in order to have some findings ready for the 1961 Session of the Legislature. The last few months we've attempted to bring this study to the attention of officials and people in the area, by having meetings with various groups and issuing little mimeographed statements on the problem. The problem, however, has come to the public's attention the last few months due to this well-water pollution discovery."

Mr. Mick, speaking individually and not on behalf of the Board of Trustees of the Minneapolis-St. Paul Sanitary District, said at this hearing,

"I do feel there is a need for a metropolitan authority on sewage disposal. . . . If it was left to these various areas to solve the problem alone, it would mean a number of individual sewage plants built in this area, each of which would require a suitable water course outlet." (Emphasis supplied.)

Mr. Mick then proceeded to delineate why each community cannot go it alone in the construction of sewage disposal systems:

"Sewage treatment is not 100% effective. The best is 95%. Therefore, there has to be suitable water courses for the effluent from the treatment works. It appears that there will not be such suitable water courses in this metropolitan area if all the municipalities were left to solve the water problem on their own. Building a sewage system to serve an area this large has to be designed for a period of at least 40 years in the future, because of the expense and difficulty of selling the sewers and enlarging them more frequently than that. Sewers have to follow more or less the drainage courses of the area. Those are some of the reasons I feel we need a metropolitan approach to sewage disposal problems. Eventually we might need a comparable authority on water supply. . . . It is my personal feeling that we have here two problems that are more urgent than any others for immediate solution and should proceed without delay. I feel the water problem can proceed immediately towards solution; the sewage problem will come at the 1961 Session at the earliest."

Mr. Mick was indicating that in his opinion the water problem should be immediately attacked by the individual municipalities, leaving separate consideration of the sewage disposal problem for the 1961 Legislature.

Mr. Mick then reviewed the limitations of the present sanitary district and the need for the metropolitan approach:

"The Minneapolis-St. Paul Sanitary District is not truly metropolitan in that its boundaries are the two cities. There is a clause in the act creating it, however, permitting either city to contract with ouside areas to receive sewage from that outside area into the city sewers. Both cities have done this over the years and there are a number of suburbs connected to this system now. It's been fairly satisfactory except that it has been done on a piecemeal basis without adequate planning for the ultimate future load of those communities and those that will be coming up. A need exists to develop a master plan to serve those areas because the inadequacies of the city sewers are rapidly reaching a critical point. We can no longer continue to take the suburbs in one by one as they apply. This study we are making is attempting to develop a master plan for interceptor sewers to serve the entire area, either bringing it to a central sewage plant such as we have on Pig's Eye Island which already needs enlargement, or having two or three regional plants in addition to the large plant. The organization that would be needed to accomplish this is being studied by our engineers, one of whom is a professor of Sanitary Engineering at the University, George J. Schroepfer, former Chief Engineer of the Sanitary District, who is recognized as an outstanding expert on engineering economies. One of the biggest problems that is going to affect the problem and how it is handled is the method of financing. People of the entire area have a right to expect that the costs will be proportionate in accordance with the benefits received. The central cities don't want to pay more than their share. We are now serving a little over a million people in the cities and the suburban areas connected, and we expect at least another million people in the area before the year 2000.

"We are also studying the problem as it affects other cities around the country, and we will have a report on that ready for printing by the end of this year. This wealth of experience should be very helpful to us. From data already collected the cities are roughly 50-50 divided in their basic approach to the problem. About half are doing it on a contract basis such as we've been doing here and the other half are doing it by physically enlarging their boundaries to form a special district for sewage disposal.

"The third report we are getting out is an analysis of our local situation in relation to experience elsewhere and recommendations of one or several alternative ways of approaching the problem here. We hope that study will serve as a guide for those who have the job of drafting legislation.

"If we were to consider first the contract method of approaching the problem, that is, continuing to serve the area by making contracts, the central cities might continue to contract with all suburban areas even though they are not adjacent; all contracts would be with one of the central cities. The difficulty of that is that some of these interceptor sewers hardly even pass through the central cities, they go around. Another way would be to continue the present contract with the present suburbs connected and make all future contracts with the second belt directly with the sanitary district. That would have the disadvantage of having three different agencies dealing with the suburbs, the two central cities and the sanitary district. The third way would be to have all contracts made directly with the sanitary district.

"Enlarging the sanitary district boundaries and giving it enough authority to take over sewage disposal in the metropolitan area should just apply to the main trunk sewer system and treatment works and should not apply to the individual

network of lateral sewers in the municipalities. They should be retained within the municipal governments.

"Whichever method is used, I believe the Sanitary District should be given the authority to issue bonds and construct new interceptor sewers which serve the entire area, because they will go through a number of different suburbs and no one of those agencies would be able to construct them.

"Talking about interceptor sewers, we have our area divided up into regions. For example, the interceptor sewer that would be contemplated to serve the southwest region, the west side of Minneapolis, would be a 22 or 23 million dollar sewer and if it were to be brought down to a central plant at Pig's Eye, there again the question of whether a regional plant on the Minnesota River would be better.

"I would like to endorse Mr. Frellsen's remarks of the last meeting in regard to the operation of the upper Mississippi reservoirs. One of the most important factors in the economical solution of both the water supply and sewage disposal problem in this area would be obtained by the proper operation of these reservoirs. They have been originally constructed for navigation and flood control. Navigation has been solved by dams but they are still used to some extent for flood control. In times of low flow in the river this metropolitan area is going to be hard put to solve both their water and sewer problems, unless this low flow is augmented by flow from the reservoirs."

(Minutes, November 23, 1959, pp. 33-35.)

Sidney A. Frellsen, Director of the Division of Waters, again testified at the November 23rd Commission hearing. He warned that uncontrolled and uncoordinated water withdrawals from all sources, when expanded to meet the needs of predicted metropolitan population growth, may eventually result in serious shortages. Withdrawal of water from the Mississippi River has at times approached the maximum which it is feasible to take from that source at times of very low flow. Heavy pumping from the Jordan sandstone has made it necessary for pumps to be lowered in the loop area, and this condition is periodically aggravated by sudden concentrated increases in withdrawals for air conditioning in hot weather. Mr. Frellsen observed that recent discovery of contamination of shallow wells in the drift has brought public attention to the need for central water supply in all suburban communities. Pumping from the artesian aquifers can be maintained and increased without excessive draw-down provided wells are properly spaced and regulated. Large economies can be effected by elimination of wasteful practices such as wasting good quality water after use for air conditioning.

Suggesting the required planning, coordination and control of water supply can be attained only through a single agency responsible for distribution of water supplies to all municipalities in the entire metropolitan area, Mr. Frellsen then recommended that a metropolitan water authority be established with consideration of the following aspects:

1. The authority should include the same territory as the proposed expanded Minneapolis-St. Paul Sanitary District.
2. Consideration should be given to a combined sanitary and water district.
3. The authority would take over and operate all existing raw water facilities, including the intakes on the Mississippi River, pumping installations, pipe lines and raw water storage of both central cities, and all wells and pumps owned by suburban municipalities or by private corporations supplying water to the public under franchise.
4. All water treatment facilities would be owned and operated by the district authority.
5. The district authority would supply finished water as required to all municipalities in the area.
6. Local storage of finished water would be furnished by the municipalities.
7. Local distribution systems would remain the property of the municipalities and would be operated by them but would be interconnected by mains constructed by the district in order to avoid serious disruption of service and to maintain pressure for fire protection.
8. Original costs of construction of the district facilities should be a uniform charge on the entire district, paid for by taxes levied by the district in a uniform manner. Thereafter expenses of the district would be paid from charges made to the municipalities for water delivered.
9. Municipalities should be compensated for water supply facilities already installed and usable in the metropolitan system.
10. The district should be empowered to enter into agreements to supply water to municipalities outside the district.
11. All appropriations of water from ground or surface sources would remain subject to the requirement of obtaining a permit from the Commissioner of Conservation as now provided by law.
12. All existing or future private wells in the artesian aquifers should be required to be operated only under a license by the district authority, subject to limitations, restrictions and conditions imposed by the authority. **(Minutes,** November 23, 1959, pp. 40-41.)

Mr. C. David Loeks, Executive Director of the Twin Cities Metropolitan Planning Commission, when he testified following Mr. Frellsen, admitted a bias in favor of the metropolitan approach. He said:

"I would extend the metropolitan approach to consider how we on a metropolitan level could coordinate activities so we are not only building unified sewage collection works and community water supplies but at the same time looking at the way new developments are being constructed."

(Minutes, November 23 ,1959, p. 41.)

Meanwhile, the Metropolitan Planning Commission had water and sewerage studies underway. Part One of the *Metropolitan Water Study* was published in February, 1960. Part Two followed in July, 1960. The latter publication contained

significant findings and recommendations. It recommended:

"A comprehensive water program . . . involving strengthened research, policy formulation, coordination, and development functions at the federal, state, metropolitan and municipal levels."

MPC then recommended that a single agency within the state government be charged with the coordination of state research, policy, and development activities "to implement this water program at the state level." The study then advocated that the 1961 Minnesota Legislature implement this program at the metropolitan level by creating a metropolitan agency to:

"a. Carry out in collaboration with other levels of government certain coordination, policy, and research activities;

"b. Prepare a plan for the supply and distribution of water to meet the area's existing and future needs. This will necessitate a study to determine the nature and costs of the facilities required and assess the fiscal-legal-administrative factors involved;

"c. Recommend to the Legislature the additional functions that should be assigned to the metropolitan agency to implement the plan."

MPC foresaw the danger that municipalities might wait for a metropolitan agency rather than to do something immediately to solve their own water and sewerage problems. It therefore recommended an action program at the municipal level to extend existing efforts to develop water and sewerage systems. Expert testimony before this Commission indicated that municipalities can move forward with central water systems which can later be integrated into any future metropolitan system. (See Summary of Findings and Recommendations, Twin Cities Metropolitan Planning Commission, *Metropolitan Water Study,* Part II, Metropolitan Planning Report No. 6, July, 1960.) The *Metropolitan Sewerage Study* was published in August, 1960. In the Summary of Findings and Conclusions, Twin Cities Metropolitan Planning Commission, *Metropolitan Sewerage Study,* Metropolitan Planning Report No. 7, August, 1960, p. 3, MPC observed that "the problems of sewage disposal and water supply are closely related components of the larger question of water resource management." These concise findings and conclusions, closely reasoned and supported by extensive data, included a recommendation that "the Area's sewerage needs can best be met through the creation of a metropolitan agency responsible for the coordination of all activities relating to sewage disposal within the metropolitan area and undertaking the development and operation of major collection and disposal facilities."

Findings and Conclusions 1-5 are quoted from MPC's *Metropolitan Sewerage Study*:

"1. Safe sewage disposal in every part of the metropolitan area is important to the health of everyone within the area. Therefore, sewage disposal is a matter of metropolitan-wide concern.

"2. On-site sewage disposal systems and on-site wells are not suitable means of fulfilling the sewage disposal and water supply requirements of areas that are or will be developed at urban densities. Urban areas need both a central water system and a central sewage system.

"3. The areas existing sewage facilities are not adequate to meet either the existing or the future needs of the area.

"4. The area's sewerage needs can best be met through the creation of a metropolitan agency responsible for the coordination of all activities relating to sewage disposal within the metropolitan area and undertaking the development and operation of major collection and disposal facilities.

"5. As pointed out in MPC's **Metropolitan Water Study,** the problems of sewage disposal and water supply are closely related components of the larger question of water resource management. Therefore, the proposed metropolitan agency should be charged with the responsibility of coordinating both functions."

A close reading of paragraphs 4 and 5 of these recommendations indicate that they are tantamount to an MPC endorsement of the service district concept recommended to the Commission by the Executive Secretary in his memorandum, Metropolitan Water Study and Sewage Disposal, April 14, 1960, Appendix K. Serious consideration was given to including the same recommendation that the water and sewer problems be handled by a single metropolitan agency in MPC's *Metropolitan Water Study,* Part II, when final findings and recommendations were considered prior to its publication in July, 1960.

While the water contamination problem was the subject of Commission hearings, the Federal Housing Administration announced that it would process no further loans in suburbs within the metropolitan area not furnishing definite assurance that they would establish central water systems within one year. This action was precipitated by results of the tests conducted by the Department of Health which indicated contamination of approximately 50% of all wells tested. The Commission heard testimony in support of this policy from Wallace Berg, State FHA Director, at its March 28, 1960, hearing. He testified that the normal nitrate count in this metropolitan area is something less than one part per million. He reasoned therefrom that any test showing a greater nitrate concentration means that the nitrate has to come from sewage and that heavy nitrate or surfactant contamination means that people are drinking recirculated sewage. Relating to the dangers implicit in this contamination, Mr. Berg observed that "with babies and young infants it can kill them. If a doctor is called when the baby starts getting blue he can be saved and there is no loss of life, but the nitrates in themselves are harmful from ten parts per million on. The State

Health Department makes the statement that adults preferably should not drink the water or use it for cooking purposes, and that babies should not be given the water. The surfactants, or detergents, come from soap and they, in themselves, are not harmful either, but they can make a person sick, and after a certain point when you draw it out of the tap you'll get a head on it like a glass of beer."

The State Director emphasized that FHA is not demanding anything from anybody, unless they want their mortgages insured, and then they must insist upon assurance of a pure water supply. He listed the retention of property values as another factor in addition to the protection of public health as a reason for imposing safe water supply standards before the federal government takes the risk of insuring a home loan. (*Minutes*, March 28, 1960, pp. 141-157.)

Figures supplied to the Commission on October 19, 1960, by Mr. Kilpatrick of the Department of Health pointed up the extent of water pollution in the area and elsewhere in Minnesota:

"In 39 of the metropolitan communities involving, in round figures, 63,000 plus, individual water supply systems serving a quarter of a million people in the area. We have considerably more to go yet but we are over the half-way mark insofar as population is concerned. Of those 63,000 water supplies, about 47½% of them are showing signs of contamination because of elevated concentration of sewage chemicals. This is some 30,000 plus water supplies. About 21.8% of them, or some 15,812, have measurable quantities of laundry detergent in them. There has been some question raised from time to time by various individuals that the standards used to measure this have been somewhat stretched. We might have chosen standards that were a little bit better and the standard that we are operating on now is on the basis of one part per million of nitrate nitrogen in the water. It was suggested that five parts per million might be more reasonable. So just for the sake of argument, we proceeded to run this out and see what it would do if we used the five part per million standard and if we do this, we still have over a third, or 33.6%, of our water supply affected. Then just for the sake of argument we went to a higher standard of ten parts per million, which is the level at which these water supplies become out and out dangerous as far as nitrate poisoning of infants is concerned. Applying the ten part per million standards, we get very close to a quarter, or 24.1%, of the water supplies containing ten or more parts per million of nitrate nitrogen or laundry detergent or both in supply. In this metropolitan area that's something over 15,000 water supplies affected this way. There isn't anything unique about the Twin Cities area here. The point is we have concentrated on it. But we have had opportunity to do some work of late in communities that are developing on the same basis with individual water supplies and individual sewage systems. They are about in the same situation, except many out-state communities are old communities where this has been going on for a long time, therefore by and large the situation is worse. There is a higher number of supplies affected. I don't have summary figures on these like I do on the metropolitan communities, only examples. I can give some of those to you. I have here three communities in the southeastern part of Minnesota. They are running 77%, 96% and 98.75% of the water supplies affected in the manner I have indicated to you here. We have two communities in the central part of the state. They are affected to the extent of 85% and 91.7%. Rather I should say three communities. We have one community in the central part of the state where every water supply is affected. We have two situations in northwestern Minnesota which are representative here. However they are subdivisions within communities and one was very low, and one was affected to the extent of about 25%. We have two situations in South Central Minnesota including one where the sewage is dumped on the surface of the ground so it is running into swamps and not going into the ground. In that case none of the water supplies can be affected. Another South Central community where there has been extensive survey work accomplished by a local sanitation department down there indicates that well over 90% of the water supply is affected."

To underline Mr. Kilpatrick's testimony, even if the danger signal is reached by using the standard of ten parts per million of nitrate nitrogen in water, approximately one-fourth of all of the wells in 39 metropolitan communities involving 63,000 individual water supplies serving a quarter of a million people are contaminated.

At the meeting of the North Suburban Sewerage Committee on December 14, 1960, municipal officials complained of effluent running on the ground and requested enabling legislation to establish their own sanitary district if they are not assured of early sewerage from a metropolitan sanitary district.

The testimony of the experts of the Department of Health, Department of Conservation and the Minneapolis-St. Paul Sanitary District, and the reports of the Twin Cities Metropolitan Planning Commission were in common agreement as to the necessity of creation of a metropolitan sewage disposal district. All recognized the necessity of immediate action as to water supply. Subsequent testimony before the Commission indicated the necessity of an extensive engineering study to determine the feasibility of a metropolitan water supply and what policies of metropolitan water coordination should be adopted. Anxiety was expressed in many quarters that if the water study were to be assigned to the Minneapolis-St. Paul Sanitary District it might complicate the effort to create a metropolitan sanitary district. Probably for this reason, more than any other, the Minneapolis-St. Paul Sanitary District appeared reluctant to have the water study assigned to that agency. Mr. Frellsen's testimony clearly indicated the need

of a study leading to legislative determination of state-wide policy as to water allocation in addition to a study of metropolitan water supply and policy coordination. Consensus throughout the metropolitan area was that a metropolitan sanitary district should be established as the urgent matter of first importance. But residents at public meetings showed a keen interest and awareness of the necessity of improving their water supply.

This Commission concluded that it is profitless to consider which should come first, enactment of legislation to provide for a metropolitan sanitary district to manage the sewage disposal function or creation of a metropolitan water supply. *The twin problems of water supply and sewage disposal are part and parcel of one and the same thing, the common problem of securing pure water to all of our people.*

This Commission concluded that the 1961 Legislature should create a metropolitan sanitary district based upon the published reports of the engineering studies of the Minneapolis-St. Paul Sanitary District. We also concluded that the 1961 Legislature should provide for a study of state-wide and metropolitan water resources and policy including the engineering feasibility of a metropolitan water supply. These recommendations are made without attempting to assign primary importance either to water supply or sewage disposal. The recommendations are based upon the present availability of engineering evidence from which to create the metropolitan sanitary district and the need for additional engineering data before attempting a solution to the water supply problem.

The Commission considered in detail the possibility of solving the water supply and sewage disposal problems while erecting a governmental structure to assume future metropolitan functions where common agreement may occur within the Legislature or the Twin Cities metropolitan area as to the urgent need for the metropolitan approach to other problems of major metropolitan character such as air pollution or mass transit. When the Executive Secretary was retained at the Commission meeting September 28, 1959, he cited the possible need of a metropolitan administrative agency to assume the water and sewage disposal functions prepared to absorb future functions if the component municipalities in the metropolitan area or the Legislature should agree as to the necessity of additional metropolitan functions. When the Commission directed the Executive Secretary to prepare recommendations to deal with the water and sewage disposal problems, he submitted the Memorandum dated April 14, 1960 (Appendix K). This Memorandum became the subject of wide discussion within the metropolitan area. The Executive Secretary explained the proposal at meetings with the Twin Cities Suburban Editors Association. A committee of editors was appointed to consult with him. An 11-point summary was then prepared setting forth the basic principles underlying the concept of a Twin Cities Service District, charged only with the immediate function of managing the sewage disposal service, to be separately created, with consideration then given to assigning the metropolitan water study to the district thus established and with provision made for the district to assume other functions, subject strictly to local consent. This 11-point statement of principles was presented for discussion at regional meetings of the League of Minnesota Municipalities, the League of Hennepin County Municipalities, and elsewhere. It concisely summarizes the service district concept:

1. The concept must be that the Metropolitan Service District shall be a public service corporation jointly operated by the component municipalities from which they can obtain major services including water study and sewage disposal.
2. The Service District is not to be a new municipality, but is to be a service corporation operated by existing municipalities.
3. No municipality shall lose its identity or autonomy as a result of creation of the Service District.
4. The federal principle must be established. All powers not granted specifically or by implication to the Service District are reserved to the component municipalities.
5. The first service function to be assigned the Service District shall be sewage disposal. This must be separately presented to the Legislature.
6. The District shall be empowered to conduct an engineering water study. The decision as to whether or not there should be a metropolitan water supply should await the result of this engineering and feasibility study. This should be submitted to the Legislature as a separate proposition so that the sewage disposal and water issues may be separately voted upon.
7. No other function shall be assigned to the Service District in the enabling legislation.
8. No function may be assigned to the Service District without adherence to the principle of local consent to be obtained by a majority of the component municipal governing bodies of both the central cities.
9. Only those functions should ever be added which require the performance or distribution of a service which cannot be economically or feasibly performed or distributed by the individual municipalities.
10. Public policy should be declared that whenever in the future the Legislature and the component municipalities of the metropolitan area agree that a service cannot be adequately performed or distributed by the individual municipalities the service should be assigned to the Service District subject to local consent.
11. Representation must be proportional. The two central cities and suburban areas must have an approximately equal voice in governing the Service District.

The discussion of the service district concept

had the effect of crystallizing opinion as to the order in which legislative action should be taken. From this discussion agreement evolved that a metropolitan sanitary district should be created. The service district concept itself provided for this priority. Concern was expressed in many quarters that retention of the provisions in the service district concept for assumption of additional metropolitan functions, subject strictly to local consent, might jeopardize the chance to create a metropolitan sanitary district.

This Commission is of the opinion that there is no valid reason to fear inclusion of a provision that the metropolitan agency managing the sewage disposal function may assume future functions upon verification of the need for the metropolitan approach to such problems by the Legislature or the component municipalities of the metropolitan area. We made clear, in the development of the service district concept, that first priority should be given to assignment of the sewage disposal function to a metropolitan agency. With that single-minded purpose, we agreed that this should not be complicated by any other consideration. We have therefore included in our recommendations the proposed creation of the metropolitan sanitary district and the assignment of the water study as to state-wide application and as to metropolitan water supply and coordination to the Division of Waters of the Department of Conservation in coordination with the Metropolitan Planning Commission.

We have also determined that our same purpose of including an open-end provision in the bill creating the metropolitan district to authorize additional functions, strictly subject to local consent, can as well be accomplished by our recommendation that the Legislature establish as public policy that no future single-purpose taxing districts will be created. The governmental mechanism to handle any future metropolitan functions which are agreed to be metropolitan in character by the Legislature or by local agreement can be decided as those problems are presented. The open-end feature is desirable from the standpoint of political science. Nevertheless, it is not urgently needed until such time as the Legislature is presented with the urgent need for an additional metropolitan function. This matter can be settled on its merits at that time. In the meantime, further study and public discussion should be stimulated.

Proposed Metropolitan Sanitary District

Consensus

We perceive the consensus of this metropolitan area to be that a metropolitan sanitary district should be created. This is not new. The metropolitan approach was recommended by the Metropolitan Drainage Commission which gave rise to the Minneapolis-Saint Paul Sanitary District. The present sanitary district is itself a limited metropoltan approach to managing the sewage disposal function, covering the major population of the entire area within its original jurisdictional limits and now servicing 24 suburban municipalities which extend its service territory to cover most of the area population. The contracts with the 24 suburbs indicate acceptance by them of the need of coordinated sewage disposal in the metropolis.

A metropolitan sanitary district has recently been endorsed by the Minneapolis-Saint Paul Sanitary District, the Twin Cities Metropolitan Planning Commission, the League of Minnesota Municipalities, the Citizens League of Greater Minneapolis and other agencies. No important leader or organization, to our knowledge, opposes the metropolitan approach.

History of the Minneapolis-Saint Paul Sanitary District

It is interesting here to note that the Minneapolis-Saint Paul Sanitary District came into being through much the same process as the steps which have preceded consideration by the 1961 Minnesota Legislature of enlargement of the district to encompass the metropolitan area.

In 1923, the State Board of Health directed official attention to the polluted condition of the Mississippi River in the vicinity of the Twin Cities. In the years that followed, further surveys were conducted to determine the extent and significance of the pollution problem. These reports led to creation of the Metropolitan Drainage Commission in 1927 to study and investigate, on a comprehensive basis, the pollution conditions and to recommend corrective measures. In 1928, the Minnesota Department of Health, in collaboration with the Minnesota Conservation Department and Wisconsin Department of Health, made a comprehensive report on the pollution of the Mississippi River from Minneapolis to LaCrosse. The studies confirmed that the River was polluted from Minneapolis to the confluence with the St. Croix River and was in the recovery stage as far downriver as LaCrosse. Following the completion of the Hastings Dam in 1930, the Mississippi River deteriorated to the point where nuisance conditions prevailed in the pools above the Twin City and Hastings Dams.

The Metropolitan Drainage Commission conducted extensive studies between 1927 and 1932 and presented a series of reports containing rcommendations for the solution of the pollution

problem. These reports were similar in nature to the recent series of reports of the Minneapolis-Saint Paul Sanitary District. They included discussion of alternative sewage works projects, methods of cost apportionment, district boundaries and inclusion of area outside of Minneapolis and St. Paul. These reports culminated in enactment by the Minnesota Legislature in April, 1933, of the act establishing the Minneapolis-Saint Paul Sanitary District, Laws 1933, Ch. 341. Since then, Minneapolis and St. Paul have made special arrangements to handle the sewage flow from 24 suburbs and from large private corporations and federal agencies.

Suburbs now contracting with the Minneapolis-Saint Paul Sanitary District are found at Appendix M of this Report.

Investigation and Research Reports of Minneapolis-Saint Paul Sanitary District

The series of reports recently published by the Minneapolis-Saint Paul Sanitary District are the result of the recognition of potential need for expansion of the major sewage works of the district and the necessity for more complete treatment of sewage. They were authorized in May, 1956, when the Board of Trustees provided for an extensive five-year program of research and investigation.

The extensive engineering studies culminating in these reports was accomplished at a cost approximating a half million dollars. With the additional consideration which has been given to creation of a metropolitan sanitary district by the Commission on Municipal Laws, the League of Minnesota Municipalities, the Twin Cities Metropolitan Planning Commission and other agencies, the 1961 Minnesota Legislature is as well prepared to act on coordinated metropolitan sewage disposal as any Legislature here or elsewhere which has considered this vital problem affecting purity of the water supply and public health.

The series of *Reports* to the Minneapolis-Saint Paul Sanitary District include:

University of Minnesota, Institute of Technology, Department of Civil Engineering, Sanitary Engineering Division, **Pollution and Recovery Characteristics of the Mississippi River,** Volume I, Part 1.

(Parts 2 and 3 have not been published. Volume I, Part 2 will be a continuation of **Pollution and Recovery Characteristics of the Mississippi River.)**

(Volume I, Part 3 will cover the subject of **Research on Methods of Sewage Treatment.)**

Toltz, King, Duvall, Anderson and Associates, Inc., Consulting Engineers, (prepared by Schroepfer, George J., Advisory Consultant), **Present Practice in the Apportionment, Allocation, and Disposition of Sewage Works, Cost in the Minneapolis-St. Paul Metropolitan Area.** Volume II, Part 1, December, 1958.

Toltz, King, Duvall, Anderson and Associates, Inc., **Present Practice in the Apportionment, Allocation and Disposition of Sewage Works Cost in the Metropolitan Areas in the United States,** Volume II, Part 2, December 19, 1959.

Toltz, King, Duvall, Anderson and Associates, Inc., Consulting Engineers, **Analysis of the Affect of Various Methods of Cost Apportionment and Allocation on the Division of Costs of Sewage Works Expansion in the Minneapolis-St. Paul Metropolitan Area,** Volume II, Part 3, November, 1960.

Toltz, King, Duvall, Anderson and Associates, Inc., Consulting Engineers, **Report on the Expansion of Sewage Works in the Minneapolis-St. Paul Metropolitan Area,** Volume III.

Volume IV has not been published. The subject will be the **Expansion of Sewage Treatment Plants.**

(These volumes are now available at the Minneapolis and St. Paul Public Libraries, the Hill Reference Library and the University of Minnesota Engineering Library.)

Future references to these publications are to the above volume numbers.

Organizational Alternatives

The consulting engineers, observing that they deal with the engineering aspects of a plan for sewage works in the metropolitan area on the theory that the method of organizational solution is not a necessity to the investigation of a sound engineering plan, nevertheless presented a brief resume of possible forms that an organizational solution may take. (Volume III, p. 36-1). These include:

(1) Creation of an enlarged sanitary district by the mechanism of:

(a) A single-purpose service district empowered to achieve solution of sewage disposal.

(b) A multiple-purpose district geared to administer other functions in addition to sewage disposal.

(2) Continuation in principle of the present system of contractual ordinances between the central cities and adjacent suburban communities.

(3) The formation of a separate district or districts in the fringe areas. Independent sanitary districts or regions could contract with the Minneapolis or Saint Paul Sanitary District for sewage services much in the same way the individual suburbs contract with Minneapolis and St. Paul at the present time. This is a limited metropolitan approach.

For reasons contained in this Report, this Commission prefers the first method based upon enlargement of the Minneapolis-Saint Paul Sanitary District. It recommends a service district to manage sewage disposal reserving for future decision creation of a multiple-purpose district in the event that additional metropolitan functions are proposed. The organizational requirements

for expanded metropolitan sewage works are also described at Volume III, p. 27-1.

Proposal

We propose that the Minneapolis-Saint Paul Sanitary District be enlarged to become a metropolitan sanitary district. We include recommendations for the important provisions of the bill proposed to accomplish this purpose in the following section.

We append as Appendix A the proposed act to create the Twin Cities Metropolitan Sanitary District.

Geographical Boundaries

The study area considered in the engineering investigation and research of the Minneapolis-St. Paul Sanitary District includes Minneapolis, St. Paul and adjacent urban areas and surrounding rural areas comprising approximately 1,170 square miles of land and water, the central and urbanized portion of the 3,000 square mile seven-county metropolitan area, with population of approximately 1.5 million people.

Consisting of portions of seven counties, this area is shown on the map at Appendix N of this report. While there are many advantages in including the entire area of the seven counties in the Twin Cities metropolitan area within the geographical boundaries of the proposed metropolitan sanitary district, the problem of including territory which has not been included in the engineering feasibility study involves tax differential and other difficult aspects. We, therefore, conclude (somewhat reluctantly because of the division of counties) that the study area which is the subject of the engineering reports of the Minneapolis-St. Paul Sanitary District should comprise the area under the jurisdiction of the metropolitan sanitary district. The Water Pollution Control Commission should be authorized to increase or decrease this jurisdictional area by annexation or detachment to the Metropolitan Sanitary District. The bil which we have proposed (Appendix B) to permit other sanitary districts to be organized elsewhere in Minnesota contains similar boundary adjustment provisions so that any area not included within the metropolitan sanitary district will be eligible for inclusion in another sanitary district. Detachment from an outlying district and annexation to the metropolitan sanitary district, or vice versa, will be possible if both laws are enacted.

This study area, which furnishes the territory proposed for inclusion in the metropolitan sanitary district, contains the heart of the seven-county metropolitan area. Including the Minnetonka sub-area, 82 cities and villages and 21 townships are represented. In addition, there are three independent areas under governmental jurisdiction, the Twin Cities Arsenal, Fort Snelling and the Metropolitan Airports Commission property.

For a discussion of the ultimate limits of a future sanitary district, see Volume III, pp. 16-1 through 16-12. The engineers recommend that the reasonable ultimate limits of the metropolitan sanitary district is the territory included in the study area which is shown on the map at Exhibit K. The approximate dimensions of this area are 35 miles north and south and 30 miles east and west, an area of 1,056 square miles. It contains 748,000 acres including the alternate Minnetonka area.

The consulting engineers project that the 1,077,500 persons accorded sewage service in 1960 within the report study area will increase to 2,068,000 by 1980 and to 2,671,000 by the year 2000. The sewered area is expected to increase from 94,000 acres to 254,000 acres by 1980 and to 347,000 acres by the year 2000. "Summarily stated, sewered population, sewered area, and pollution load are expected to about double in the next twenty years." (Volume III, p. 27-1.)

Alternative Solutions

The engineers observe that "meeting the sewage works needs of the suburban fringe area rank among the most urgent of metropolitan area problems." (Volume III, p. 2-36.) They suggest three alternatives for the two central cities, Minneapolis and St. Paul:

(1) **"Go it alone" approach.** This approach considers a continuation of the existing situation with respect to provision of service by contract and ordinance with suburban communities.

(2) **"Metropolitan" approach.** "The metropolitan approach is one which has been adopted by a number of the country's metropolitan centers as the most advantageous solution to the sewage collection, treatment and disposal problems. It is based on the consideration that the provision of basic sanitary sewerage facilities and the treatment and disposal of sewage is a broad metropolitan problem which can be solved most efficiently and to the best interests of those concerned with long-range solutions engineered and administered by a metropolitan service district. Under such a metropolitan district, the planning, construction, financing, cost apportionment and operation of the sewage works would be considered on an over-all district basis.

"Existing sewage treatment facilities and basic intercepting works would be brought under the control of the metropolitan agency and eventually integrated into the metropolitan sewage works system." (Volume III, p. 2-37).

(3) **"In between" approach.** This embodies certain basic features of the contractual method presently employed by the central cities and the sanitary district to provide sewage service to suburban areas. To effectively fulfill the immediate and potential sewage service needs of the expanding metropolitan area, the approach entails enlargement of the service area of the present sani-

tary district through the adoption of a modified service agreement policy.

The engineers also list alternatives for the suburban communities. They consider whether the metropolitan area should be served by one, two or three principle sewage treatment plants. They conclude that the preferable arrangement for the sewerage system of a metropolitan complex "is one wherein the sewage is conveyed to a relatively small number of locations for treatment and disposal. One down-river location is the most desirable. The advisability of the one plant concept as applied to the Minneapolis-St. Paul area was recognized early in the course of studies by the Metropolitan Drainage Commission during the period from 1927 to 1933, and such a project was constructed and has been in satisfactory operation since 1938." (Volume III, p. 2-38.)

Three alternative projects are suggested:

"A" Projects — one central sewage treatment plant.

"B" Projects — one central sewage treatment plant plus two or more regional plants.

"C" Projects — one central sewage treatment plant plus numerous multi-districts or community treatment plants.

From the comments of the engineers, it appears that they favor "A" or some modification thereof. (See Volume III, pp. 2-44 through 2-46 for description and related maps and tables of sewage works projects "A - 1" and "A - 2".) It must be kept in mind that all of these projects are related to the study area covered by the engineering reports. This includes parts of seven counties: Anoka, Carver, Dakota, Hennepin, Ramsey, Washington, and Scott. The proposed projects would add to the existing system of interceptor sewers constructed from 1934 to 1938 for conditions expected in 1970. "Comprised of 37 miles of principal interceptors, the system includes 9 miles of Minneapolis-St. Paul sanitary district joint interceptors and 28 miles of principal branch interceptors of the central cities. Serving a present net sewered area of 134 square miles and a tributary population of 1,022,000, the system's performance has been satisfactory and the works are in good physical condition." (Volume III, p. 3-1.)

Basically, the A - 1 sewage works project consists of one main treatment plant and one down-river treatment plant at an estimated construction cost of $98.2 million dollars. "A - 2" consists of one main treatment plant and one down-river regional plant at an estimated construction cost of 104.8 million dollars. "B - 1" consists of one main treatment plant, one down-river regional treatment plant and two up-river regional treatment plants at an estimated construction cost of 97.7 million dollars. "B - 2" contemplates one main treatment plant, one down-river regional plant and one up-river regional treatment plant at an estimated cost of 94.8 million dollars and "C - 1" contemplates one main central plant plus community plants at an estimated construction cost of 151.3 million dollars.

It is readily seen that either "A - 1" or "A - 2" are preferable to either "B - 1" or "B -2" because they provide for the discharge of all sewage effluent down-river from the heavily populated area. They have the advantage over "C - 1" of being approximately 50 million dollars less costly, yet preferable from the viewpoint of health and sanitation. This Commission recommends "A - 1" or "A - 2", but this decision does not need to be written into the legislation. It should be left for the later determination of the Board of Trustees of the Metropolitan Sanitary District.

Representation

It is vital that representation on the board of trustees of the Twin Cities metropolitan sanitary district be proportional. It is important that there be continuity in the management of the enlarged sanitary district. This, and practical considerations, suggest that the board of trustees of the present sanitary district remain intact.

We therefore propose that the board of trustees of the metropolitan sanitary district include the seven present members and four members from the suburban communities.

The central cities will continue to be represented by the mayor, a representative of the governing body, and a public member selected by the governing body of each city. The member selected from outside the metropolitan area will continue to serve until 1966 at which time this position will be filled by a member at large selected from either of the major cities or the suburban area. This assures continuity of operation between the present and the enlarged district and satisfies the central cities.

A method of selecting suburban representatives is more difficult to determine. We recommend that the suburban representatives be appointed on a temporary basis by the governor, two from each political party and at least one each from Hennepin and Ramsey Counties. Upon completion of the temporary terms the suburban members can be elected at large or by election districts.

While this method of selecting the suburban members is not ideal, partciularly in view of the difficulty in drawing attention at a general electon to any issues between rival candidates for the board of trustees of a sanitary district, the problems involved in providing other means of representation including election of trustees by suburban mayors stand in the way of other solutions. Appointment by the governor, except for the temporary suburban trustees, involves the

metropolitan area in state political considerations and violates the principle of home rule. One redeeming feature of electing suburban trustees is that it does provide one election where local citizens think in terms of the common urban area in which all of us live.

Purchase of Existing Plant and Facilities

To enlarge the present district to a Twin Cities metropolitan sanitary district, the existing plant at Pig's Eye Lake and the interceptors separately owned by the Cities of Minneapolis and St. Paul must be acquired by the enlarged district.

As a result of the deliberations of the committee of the League of Minnesota Municipalities representing the major cities and the suburban area, and upon full consideration of the equities, we conclude that the new district should purchase the existing plant at present worth computed from reproduction cost less obsolescence and depreciation and less a 30% allowance for the federal WPA grants to Minneapolis and St. Paul to construct the original plant. This involves payment over a period of from three to 30 years of approximately $18,000,000 to Minneapolis and St. Paul. Of this amount, Minneapolis will receive approximately $12,000,000 and St. Paul about $6,000,000. They can either be paid in cash or use their payments as a credit against sewage charges by the district.

Minneapolis and St. Paul should be paid on the same formula for the interceptor sewers they separately own. Each city has provided indirectly for contribution to the cost of constructing interceptor sewers by the suburbs with whom they contract. Provision is made to apportion these contributions to the contributing suburbs.

Apportionment of Cost

The Schroepfer reports to the present sanitary district also provided 18 alternative methods, with variations, for apportioning the cost of construction of plant and interceptor sewers and the cost of operation to the component municipalities.

We favor apportioning the cost of construction of plant and interceptor sewers to the component municipalities for whom the plant and interceptors are constructed. Operating costs should be assessed on a metered basis as to the sewage volume contributed by each component municipality.

These proposals equitably handle the thorny question of allocating costs by providing for payment only on the basis of benefits obtained. The central cities and suburbs have all had expert advice from engineers reporting directly to them. The methods of apportioning costs have undergone close scrutiny by interested agencies including this commission, the Metropolitan Planning Commission, and those who drafted the bill. The methods are based upon selection from the alternatives presented by George J. Schroepfer.

Financing

The proposed district will have adequate bonding authority to provide the funds to construct the plant and interceptors. Repayment of the bonds can be deferred for remote or unsettled areas until sewage disposal is furnished to them. The full faith and credit of the metropolitan area including the district is pledged to the repayment of bonds which will result in substantial savings in interest payments.

Taxation will be resorted to only to make up anticipated deficiencies in repayment of the bonds. This should also reduce interest charges. Any taxes levied for anticipated deficiencies will ultimately be repaid to the municipality in which the taxed property is located.

Continuity

Provision is made for orderly transition from operation of the present district to management of the metropolitan sanitary district. The rights of all present employees are protected. Assets of the present district will be transferred to the successor district.

The proposed act to create a metropolitan sanitary district is drawn in accordance with sound principles of political science. If the Legislature or the people of the area decide that related functions should be added to such a district the provisions for representation and administration will readily accommodate themselves to the assumption of additional functions.

Acknowledgment

The cooperative efforts of all participating agencies are an object lesson to this metropolitan area that public officials and citizens of the central cities and the suburban area can look above their daily problems to the metropolitan area they share and can arrive at a common solution to their problems.

We particularly acknowledge the invaluable technical assistance of Erik Rocks of the Twin Cities Metropolitan Commission staff.

We likewise acknowledge the cooperation and counsel of Orville C. Peterson, Executive Secretary of the League of Minnesota Municipalities; Kerwin Mick, Chief Engineer of the Minneapolis-Saint Paul Sanitary District; C. David Loeks, Executive Director of the Twin Cities Metropolitan Planning Commission; Thomas G. Forsberg, an attorney for the North Suburban Sewerage Committee; the agencies they represent, and Charles B. Howard, Minneapolis lawyer. Mr. Rocks, Mr. Howard and Executive Secretary of this Commission, Mr. Robbie, participated in preparation of the final draft which resulted from the deliberations among these affected agencies.

This Commission coordinated its activities with these organizations to assure public acceptance of the resulting proposal. With the wide-spread endorsement of these component groups, we feel that public acceptance has been achieved.

Proposed Water Study

Although we have cited the reluctance of some to consider assignment of the water resource study to the same service district which manages metropolitan sewage disposal, the reports prepared by the consulting engineers and the special consultant to the Minneapolis-Saint Paul Sanitary District take account of the water problem and point out that "as the urban complex of the Minneapolis-St. Paul area continues to grow, the need for increased water in the river for both water supply and sewage dilution will become more urgent. Even complete sewage treatment will not always suffice unless low river flow augmentation is obtained. The solution to this problem lies in the integrated control of the water resource represented by the upper reservoir water storage capacity for the benefit of the majority of the state's population." (Volume III, pp. 2-5.)

This is in agreement with the testimony to this Commission of Sidney A. Frellsen, Director of the Division of Waters of the Department of Conservation, quoted in this report, and its reasoning supports the recommendation by the Metropolitan Planning Commission that one metropolitan agency coordinate water supply and sewage disposal. *Metropolitan Sewerage Study*, Report No. 7, August, 1960.

The water systems of the two central cities now serve an estimated 842,000 persons.

Despite the present reluctance to relate the water and sewer problems by combining their administration within a single metropolitan agency, resulting mostly from fear that such consideration might jeopardize necessary expansion of the Minneapolis-Saint Paul Sanitary District to include the metropolitan area, the consulting engineers to the sanitary district report that *"a relationship at several levels is apparent between the metropolitan area's sanitation practices and its water resource utilization. Utilization for water supply and utilization for dilution of sewage treatment plant effluent are the two most closely related, and for that reason have been given consideration in this study. Unlike some of the other metropolitan centers where water supply is administered on a metropolitan level, the responsibility for providing and maintaining an adequate public water supply for the inhabitants of the Minneapolis-St. Paul area has been vested with the individual municipalities or villages. In this report's study area no less than 45 independent water utilities operate without an organizational or operational tie, except for the control exercised by the appropriate state agencies. The two largest water supplies are those of Minneapolis and St. Paul. Both obtain water from the surface source. All the other water utilities use the ground water source."* (Volume III, pp. 5-6.)

The engineers agree that limitations of the ground water resource will necessitate deriving an increasing share of metropolitan water supply from surface water sources. They indicate that where about 43% of the present water supply (including commercial and industrial use) comes from the surface, the future requirement may be that 55 or 60% of a nearly doubled water supply must come from surface water sources.

Then the engineers significantly observe that *"in terms of numbers of persons affected, the most important interrelationship of the metropolitan area's water supply and its sewerage and sewage disposal is one which involves protection of the surface water supply of the Twin Cities area from contamination at its source."* (Volume III, pp. 5-9.)

What better evidence is required than the opinion of the consulting engineers employed by the Sanitary District as to the need for close correlation of water and sewer policies to assure a pure water supply.

Minnesota Congressman John Blatnik, designated by Drew Pearson as the Number 1 advocate of cleaning up the rivers and streams in the United States, says that "by 1980 this country will require an increase in the current water supply of 120%. That is equal to the additional supply of 140 New York cities and will require the flow of about 12 Colorado Rivers. Boiled down to the simplest terms, the water resources problem confronting us is that the demand for water per day by 1980 equals the normal water supply available to the entire country. This is a frightening prospect and one we must do something about now before it is too late."

Elmer A. Huset, Jr., head of the municipal water supply division of the Department of Health, recently told the North Central Section of the American Water Works Association that "the only answer (to the pollution problem) is community water systems. In the meantime, we must have strict regulation of well construction." (Appendix C contains the bill drawn for this purpose in cooperation with the Minnesota Department of Health. Appendix D is the Well Code which can then be promulgated by the Department of Health.)

A. W. Bannister, St. Paul Engineer, advised the same conference that current water resources will not meet expanded needs of a growing population and community systems to be added in the next few years, and Congressman Blatnik expressed the opinion that municipalities never did and never could meet the water problem alone.

Congressman Blatnik says that "water supply will be America's number 1 resource problem by 1970. The federal government has a responsi-

bility to cooperate with local authorities in seeking solutions to this terrific problem." The study we recommend by the Department of Conservation and the Twin Cities Metropolitan Planning Commission will cover the state and metropolitan levels. It should, of course, be conducted in close liaison with the federal government because of the joint responsibility involved.

The vital interest in water of those managing the sewage disposal service is shown by the letter of Kerwin L. Mick, Chief Engineer and Superintendent of the Minneapolis-Saint Paul Sanitary District, dated January 26, 1960, to State Senator Val Imm, Chairman of the Upper-Mississippi Reservoir and Minnesota River Valley Development Commission.

Mr. Mick said:

"the following is a statement prepared to stress the importance of considering sanitation, along with the other interests involved, in determining the proper method of operation of the headwaters reservoirs. The existence of adequate stream flow for sanitation and other purposes was a factor in the original location of many communities. Considerable dilution is necessary for the sewage effluent from large concentrations of population even if the sewage is given 'complete treatment' before discharge to the river. It is estimated that more than half of the population of the state will be concentrated in this metropolitan area in the future. Their need for adequate water supply must be recognized.

"As the trend toward urbanization and greater industrialization continues, the use of reservoir discharges as an aid to screen sanitation should be recognized as a major purpose of such reservoirs, with such discharges, however, not to be in lieu of adequate sewage treatment. This need is now receiving national recognition and is being studied by the U. S. Public Health Service."

This reasoning supports the urgency of a state study of operation of the headwaters reservoirs and of state water policy in all of its aspects, coordination of such a study with an engineering study related to water supply and water policies in the metropolitan area, and to the ultimate coordination of the water and sewage disposal functions governmentally within the metropolitan area.

Any study will have to collect and correlate the result of past investigations. *The Report of the Legislative Interim Commission on Water Conservation, Drainage and Flood Control* submitted to the 1955 Minnesota Legislature, for example, recommended creation of a state board of water policy. We quote this recommendation here because of its pertinence to the present discussion:

"Experience establishes the truth of the observation that the point of view of a government department can be destructive of public interest and private right, when the official frame of mind becomes set in zealous furtherance of self-ordained policy. That can be true even though there is complete good faith. Placing state activities in proper relation to each other is one of the difficult, constant and proper tasks of the Legislature.

"This report shows the fundamental interrelationship between water use and control, water pollution, land utilization, soil conservation and protection of wild life; all of these are fields where state supervision is necessary and demanding of coordination that can be accomplished only at the state level. There should be a policy determining board at the state level with authority and responsibility to that end. It should be composed of three or five qualified members who have no other position in government and are capable of approach to any question without official bias. It should be appointed by the Governor and confirmed by the Senate in traditional manner. It would be assumed to be part-time and compensated on a per diem basis, and could be housed with the department of conservation, though not a part of it.

"The functions of such a commission would depend on statutory delegation of legislative power to decide proper application of conflicting policy. In this report examples of matters for its determination can only be suggested, though general recommendations are interspersed throughout. It is clear that as the law is now written, overlapping of functions of agencies created to achieve different results is inevitable and the rule rather than the exception.

"The board would have the functions and duties of the central state agency described in this report among the suggested changes in the procedural aspects of the drainage and conservancy act to decide questions arising in connection with districts created thereunder when state policy in its varied aspects is involved. It would have a similar office in respect to 'judicial ditches' where there is the same unwise imposition of non-judicial duties on courts. Ultimately county ditch problems should be included. In all three kinds of drainage there are the same complex considerations of policy with inherent conflicts which must be resolved in favor of the dominant public need in the particular situation judged in state-wide perspective.

"The board should take over the duties of the water pollution control commission in contested matters. The administrative duties of that commission should remain divided between the state board of health and the state division of waters. These are specific recommendations. Generally speaking, the board should have either original or review jurisdiction whenever decision of a department or agency of government concerned with conservation calls for a course of action which may have an important effect in more than one of such interrelated areas involving waters. In such cases the board should decide which of two inconsistent ends the public interest and policy of the law requires. Conflicts to be resolved by the commission should include interdepartmental jurisdictional questions, disputes between local levels of government and between agencies at the local level and at the state level, and controversy where the question is the balance between public

good and private interest. Conclusions of the commission should be in writing after hearing and appeal on judicial questions should lie to the courts."

This commission likewise recommended that local units of government be given broader authority to regulate development in suburban areas and to withhold permission to plat lands for home building developments in such areas unless adequate provision has been made for water supply and sewage disposal. Many of our present headaches could have been prevented had this recommendation been taken seriously and implemented by legislation and had municipalities then acted with dispatch.

The *Interim Commission on Water Conservation, Drainage and Flood Control* had, as one of its research helps, an extensive report including legislative recommendations by Sidney A. Frellson, Director of the Division of Waters, dated July 15, 1953. This is on file with the Legislative Research Committee.

The close correlation between water and sewerage policies and the necessity for coordinated water policies were covered by C. J. Velz, Chairman of the Department of Environmental Health of the School of Public Health, University of Michigan, in a paper presented before a joint session of the Conference of Municipal Public Health Engineers, the Conference of State Sanitary Engineers, and the Engineering and Sanitation and Mental Health sections of the American Public Health Association in Cleveland, Ohio, November 14, 1957. (See *Water Resources,* Hearings before the Select Committee on National Water Resources, United States Senate, 86th Congress, Part 7, Detroit, Michigan, October 29, 1959, printed for the use of the Select Committee on National Water Resources by the Government Printing Office, p. 1193):

"As a result, development of water resources has been largely on a piecemeal basis—each water use considered pretty much as an isolated problem independent of all other uses in the basin. In many instances a disaster, such as a dramatic flood, has dictated a one-sided view; development has been centered on flood control, with inadequate consideration of the overall water needs, and at times actually to the detriment of other water users. In other instances, special interests, public or private, dominate, and a single-minded development, such as large-scale navigation works, proceeds on a narrow basis, often with serious loss of natural self-purification capacity. Or hydro power is oriented to the serving of peak power demands, inducing radical fluctuations in stream discharge, with little or no flow permitted to pass downstream on offpeak periods. Frequently such operating practice involves a 2- to 3-day shutdown on weekends. Cutting off the river for 2 or more days each week is not very helpful to downstream users. The utility industry appears to be unaware that, paradoxically, on the one hand, it is spending substantial sums on promotion to attract new industry and encourage community growth in service areas; but, on the other hand, is making it virtually impossible, in the operation of hydro and steam plants, for industry to locate in the river valley. Such piecemeal, one-sided development results in waste of precious water resources and inevitably leads to chaotic water policy.

"Public health agencies assigned major powers and responsibilities to deal with community and industrial water supply and waste disposal have, possibly unwittingly, fostered further fractionalization and piecemeal development. The two interrelated phases of the water contact cycle have been split as though they were independent; incoming water supply is dealt with largely as a problem separate from that of the outgoing waste water return. Incoming supply has received the major attention, but often the responsibility to consider adequately at the same time the satisfactory disposal of the spent water supply—the waste water returned to the stream—has received scant or at best belated attention.

"In turn, each of these two phases has been further fractionalized. In many instances community water supply has been planned and developed on a narrow basis, leaving industries and rapidly expanding fringes outside the central political unit to fend for themselves. Hodgepodge water supply systems result to the detriment of community and industrial growth. The water supply of Metropolitan Philadelphia comprises some 100 separate systems serving 163 political units, with hundreds of independent industrial supplies. Similarly, the Buffalo-Niagara Falls urban-industrial corridor comprises some 50 separate systems, and the Greater Detroit metropolitan region involves some 33 separate systems with many independent industrial supplies. True, there are examples of integrated supply systems such as Boston and on the West coast, but these are the exception rater than the rule.

"Similarly, disposal of the spent water supply has been rationalized. In many instances industrial waste has been considered as a problem separate from that of community sewage disposal. In fact, some agencies and cities have gone so far as to discourage or deliberately forbid admission of industrial wastes to the municipal system. Perhaps this approach reflects an archaic concept that the only problem in pollution control is to protect the community against communicable disease; hence, if only the sewage has been treated, all's well and the health department's responsibility has been met. Responsibility goes far beyond this in an industrial-urban age. To encompass the entire waste disposal problem assuredly means protection against disease, but more than that, it means insuring quantity as well as quality of water —not just drinking water, but water in all its uses conducive of optimum living.

"Regulatory agencies with but few exceptions have been depending almost exclusively upon sewage and waste treament as the cure-all for pollution prevention and abatement. It is increasingly apparent that recovery and treatment of wastes afford only a partial answer. There is no such thing as 100 percent treatment or recovery; tech-

nical and economic limitations inevitably result in a situation where some fraction of the waste must ultimately be handled by natural purification in the water course. Thus it is axiomatic that in an urban-industrial society, some end products must be handled by the water course.

"As a gift of nature, each water course has its unique natural purification capacity, which constitutes an invaluable water resource asset. This asset should and must be utilized. Relatively, the quantity of water required for incoming water supply is much smaller than the magnitude of streamflow required for satisfactory disposal of sewage and waste effluents. The key to satisfactory waste disposal, therefore, is a quantitative determination of the waste assimilation capacity of the stream along its course under reasonable probabilities of the low streamflow expected. It is fair to say that major effort has not been devoted to this quantitative evaluation. Rather, treatment requirements and design of works have been somewhat arbitrarily arrived at. The result usually is either too little or too much treatment. Without a rational basis for design, there has been an alarming tendency to add many costly features to works which do not remove waste load and are ineffective in protecting the stream. Society cannot afford the luxury of expensive monuments along the banks of rivers unrelated to the real capacities of the stream or to the water use requirements placed upon it.

"There is an increasing number of situations where the 'treatment alone' philosophy has reached the end of the road. While the city of Dayton now has so-called complete treatment, in the Miami basin urban-industrial corridor, the residual effluent load, in combination with adverse effects of other uses of the river, results in serious dissolved-oxygen depletion approaching exhaustion during the dry weather and drought periods. In the headwaters, treatment of community and industrial waste by trickling filters, followed by activated sludge, is inadequate to protect against dissolved-oxygen exhaustion of the receiving stream during the drought season. Treatment will always play an important role in satisfactory waste disposal but clearly it has limitations, and other approaches are essential if industrial and urban growth is to continue.

"It also can be fairly said again that with a few outstanding exceptions, there is a conspicuous vacuum in leadership and initiative at the State and local levels in representing the water needs of the community and of industry when plans for other water resource developments are under consideration, particularly the proposals of Federal agencies and large utilities. Depending upon how they are planned and operated, man-made river developments can be either detrimental or beneficial to community-industry water uses, especially as they concern the difficult problem of waste disposal. Each river developer, whether for power, navigation, irrigation, flood control, or some other use, acts as though in a hermetically sealed cell without too much thought of the impact of his project upon other water users. Whose responsibility is it to be on the alert to see that adverse effects of a project are eliminated or minimized and that, where feasible, beneficial multipurpose features are included?

"Further critical evaluation of past practices only emphasizes the folly of a piecemeal approach to water resources use and development. As we face the increasing demands for water from future urban-industrial growth, hope lies in a broader view, and perhaps, with better understanding of the inter-relation among uses, the benefits of an integrated approach will be realizable. There are encouraging signs of change, evidenced by responsible local leadership and pooling of special interests, toward planning more orderly water resources development on an integrated basis."

We recommend a comprehensive and closely coordinated water resources study at federal, state and metropolitan levels to determine available water supply, to recommend water allocation policies and to determine the feasibility of a metropolitan water supply or correlated community water systems and the mechanism of government best suited to administer metropolitan water distribution.

Regulation of Private Wells and Sewers

Implicit in the testimony heard by the *Commission on Municipal Laws* was the need to license private well drillers, sewerage contractors and scavengers and impose standards in the drilling of wells and the construction, installation and servicing of sewerage systems.

This control is needed to protect public health in the metropolitan area during the interim while a metropolitan sewerage disposal system is being constructed. It is also vital to those parts of the metropolitan area and elsewhere in Minnesota where central sewage disposal will not be available. The tests of the Department of Health which indicate contamination of approximately 50% of all wells tested points to the urgent necessity of protecting public health in drilling wells or constructing and maintaining private sewerage systems.

The Commission requested the assistance of the Department of Health in drafting legislation to license well drillers, sewerage contractors and scavengers. We also requested that a bill be drawn to provide for county sanitation programs. Sanitarians are needed to assist in the proper local enforcement of the rules and regulations specified for drilling wells and constructing, installing and servicing private sewerage systems.

As a result, we propose four bills:

(1) Appendix C to license well drillers, and

pump installers and to regulate well drilling and pump installing;

(2) Appendix E to license sewerage contractors engaged in the business of constructing, manufacturing or installing sewerage;

(3) Appendix G licensing scavengers engaged in the business of servicing sewerage systems, privies or chemical or septic toilets by removal therefrom for disposal elsewhere of any of the sewerage constituents or excetra therein;

(4) Appendix H authorizing employment and compensation of sanitarians and control of sanitation by counties and providing state aid for county sanitation programs.

The bill to license well drillers was drawn in consultation with the Minnesota Well Drillers Association, the Twin Cities Well Drillers Association, the Division of Waters of the Department of Conservation and the Certified Water Well Contractors Association. All of these organizations gave valuable assistance and support the proposal. This bill would authorize the Department of Health to issue rules and regulations for the drilling of private wells. The Department of Health has already drawn the rules and regulations it would probably issue if this authority were granted. This enables the Legislature and the affected communities to have in hand for their consideration the type of regulation to protect public health which would come about as a result of issuance of a state well code. This proposed code is included in this report as Appendix D.

The license fees for well drillers has been set at a level to provide sufficient revenue for employment of adequate personnel to properly enforce the well code.

If the proposal to license sewerage contractors is adopted, the Department of Health already has authority pursuant to Minnesota Statutes 144.12 (2) to issue the necessary rules and regulations. Such rules and regulations are already published by the Department of Health and the licensing of sewerage contractors would make these rules enforceable. These are included as Appendix F.

Scavengers are defined in the proposal as those engaged in the business of servicing sewerage systems, privies, or chemical or septic toilets, by removal therefrom for disposal elsewhere of any of the sewage, sewage constituents, or excetra therein. The Department of Health has present authority to issue a code to govern the cleaning of private sewerage systems. (MSA 144.12(2).) No code has been presently drawn but the Department of Health is presently obtaining information from other states as to their experience in drafting similar codes. If this proposal is adopted, the Department of Health will issue the necessary rules and regulations to implement the act.

The bill to provide for employment and compensation of sanitarians and the control of sanitation by counties, with state aid for county sanitation programs, was drawn by the Department of Health at the request of this Commission. The Department of Health consulted the Minnesota Association of County Commissioners.

We have cited the testimony of Dr. Barr, Mr. Woodward and Mr. Kilpatrick of the Department of Health under the heading of *Water Contamination Crisis* in this Report. This series of four bills providing for licensing well drillers, sewerage contractors and scavengers and for employment of county sanitarians are the outgrowth of the problems described by those Health Department officials and the conclusions of this Commission as to the best means of providing solutions. We are of the opinion that the bill to provide state aid for county sanitation programs and for the employment of sanitarians is required if licensing private sewerage contractors is to be effective. The testimony before this Commission and in proceedings before the Minnesota Municipal Commission have shocked the public conscience as to health hazards which are caused by shallow wells in close proximity to septic tanks and private sewers. We think this legislation is urgently required to assist in meeting the water contamination problem and protecting against disease.

Municipal Planning Codification

The League of Minnesota Municipalities asked the 1959 Minnesota Legislature to establish an interim commission to codify and revise the existing planning laws. They suggested an appropriation of $25,000 for this purpose.

The Legislature did not act on the suggestion.

Orville C. Peterson, Executive Secretary of the League of Minnesota Municipalities, requested that this Commission consider as one of its projects the codification of existing planning laws because of the breadth of the legislative charge. This project was undertaken with the result that all planning laws relating to municipal government were completely codified and revised in close cooperation with the League of Minnesota Municipalities and the local unit of the American Institute of Planners.

The League planning committee consisting of Chairman John Hunner, C. David Loeks, Guy Kelnhofer, Kenneth Green, James Hawks, Norton Kent, Sherman Hasbrouck, Herbert Weiland, Ralph Keyes, Lawrence Irvin and Delroy Peterson worked on the revision and codification.

Preliminary to drawing a new municipal plan-

ning and zoning act (which is the manner of accomplishing the codification), all of the laws relating to planning or zoning at any level of government in Minnesota were compiled. The specialized laws now on the statutes relating to municipal planning were several in number. The proposed statute of general application to all municipalities will reduce by more than half the bulk of existing municipal planning laws and will accomplish unification of procedures. A major improvement is made in variance and appeal procedures handled by the board of adjustments and appeals which is authorized for all municipalities.

The proposal is appended to this Report as Appendix J. It represents, in our opinion, a substantial improvement over existing law. Nevertheless, we are constrained to point out the magnitude of the task we undertook. We agreed, because it was pertinent to the general legislative charge to this Commission, to take on the revision and codification of existing laws which the League of Minnesota Municipalities and the professional planners had asked to be the subject of a separate study at a cost exceeding by $5,000 the total appropriation to this Commission. Yet with the volunteer assistance of the professional planners we fit this revision into the context of our total study covering many complex subjects on a budget of less than was suggested for the planning study alone.

We make this comment because our study has deepened our impression of the need for sound planning and zoning procedures to accomplish the goals of intelligent plans and their effectuation while protecting the individual and property rights of our citizens. Our study has also indicated to us the necessity for correlating planning at every level. It may yet be possible for the 1961 session to authorize regional planning districts to be created outside the Twin Cities metropolitan area and to empower our border cities to enter into mutual planning arrangements with their neighbors in other states.

Even if all of this can be accomplished at the 1961 session (and there can be no assurance because of time limitations that this can be done) it is our opinion that continuing study must be given to relating the entire planning and zoning structure in one code so that all of the laws relating to these activities at any level of government may be found in the same set of statutes. But this is not a matter merely of locating all of the laws together so that they can readily be found next to each other. It is more a matter of arriving at sensible coordination of planning functions at every level of government. We suggest the necessity of a planning agency, in somewhat the same pattern as Wisconsin recently adopted, with amplified community planning assistance to cities and villages within the state, and with coordination of the several levels of planning authority: state, regional, county, municipal and township.

Our planning laws will continue to require amplification to cope with the builders, the developers and the subdividers. Guy Kelnhofer, Community Planning Advisor to the Minnesota Department of Business Development, pointed to the need of removing from the hands of private land developers the full power to lay out badly designed and poorly built subdivisions that will later be a burden and expense to the community in a speech to the Twin Cities Metropolitan Planning Commission, April 6, 1960.

The 1959 Annual Report to the Governor of the State of Wisconsin submitted by the Milwaukee Metropolitan Study Commission contained recommendations on regional planning, land use planning and control and a metropolitan water utility:

> "Planning . . . should be tied in with the decision-making process in government and not placed in a detached agency. The metropolitan area has an interest in zoning and platting which should be entitled to some place in decisions which are now made exclusively by individual municipalities. However, most of the power should remain in the municipality . . ."

This viewpoint needs to be considered in determining future legislation relating to the functions of the Twin Cities Metropolitan Planning Commission and of regional planning commissions which may be created elsewhere in Minnesota.

Building Codes

Closely associated to the need for adequate statutes relating to planning and zoning is the necessity for adequate building codes of uniform application.

The June, 1960 issue of *Minnesota Municipalities* contains the recommendation by the planning committee of the League for a state building code. The resolution calls attention to the fact that the 1955-58 temporary state building code commission recognized the need for uniform state-wide minimum standards for the construction of all buildings other than one and two family residences and farm buildings and proposed that the uniform building code prepared by the International Association of Building Officials be used as the basis for such a Minnesota code. The recommendation also provided that local governments could impose stricter standards than the state building code.

The 1955 session of the Legislature created the temporary state building code commission and appropriated $2,500 for the use of the commission. In 1957 the Legislature appropriated

$7,500. The 1959 Legislature was requested to continue the commission with an appropriation of $60,000 to actually draw the building code but did not act.

The League of Minnesota Municipalities has drafted a proposal creating a state building code commission of nine members appointed by the governor authorized to promulgate standards for construction, reconstruction, alteration and repair of regulated buildings (not including privately owned dwellings used exclusively as the residence of not more than two families) and recommended advisory codes for adoption by reference by county and town boards as to buildings and structures to which the state building code is inapplicable. No appropriation is provided but the Commission is authorized to accept financial aid from governmental units and from private donors, if conditions under which it is offered are not incompatible with the provisions of the building commission law.

We recommend that means be provided by the Legislature for adoption of a building code.

Annexation

The 1959 Legislature adopted the Minnesota Municipal Commission Act, Laws 1959, Chapter 686, now Chapter 414 of Minnesota Statutes Annotated. This comprehensive act codified virtually all laws relating to annexation, incorporation, consolidation and detachment and provided administrative review by the Minnesota Municipal Commission of nearly all municipal boundary proceedings. The Municipal Commission consists of a Chairman, Vice-Chairman and Secretary appointed to four year terms by the Governor. This law resulted from the study of the *Commission on Municipal Annexation and Consolidation* established in 1957 to report to the 1959 Legislature. This Commission, after extensive study, recommended simplified and unified procedures and the system of administrative review before new municipal incorporations, annexations or other boundary changes can occur.

This system of administrative review is unique to Minnesota and Alaska in the United States. The new Alaskan Constitution provided for a similar boundary commission. The system is also in use in England and elsewhere in the British Commonwealth. This Commission has been charged by the 1959 Legislature to review the operation of the Minnesota Municipal Commission Act in light of the objectives it set out to accomplish.

The purpose underlying the philosophy of the law has been accomplished. The notable feature of this sucess is that the law has proved to be self-executing in achieving many of its major goals.

The Legislature sought by enactment of Chapter 686 to halt the continued fragmentation of the metropolitan area by increasing the number of municipalities like rabbits for any number of perfidious reasons, including avoidance of annexation or to obtain a liquor license or to preempt a tax base and prevent an adjoining municipality from obtaining it. The provisions to prevent this multiplication of municipalities have been largely self-executing. The creation of the Minnesota Municipal Commission, the raising of the population requirements, and the establishment of statutory standards have discouraged this activity so drastically that there have been only two applications to incorporate within the metropolitan area since the effective date of the new law, April 24, 1959.

Significantly, both of these applications have been to incorporate entire townships which is consistent with the objectives of Section 5. There has been no effort to incorporate any village under Chapter 686 other than these two urban townships.

As to Minnetrista Township, the filing of the application precipitated the merger of Island Park and Mound.

The Municipal Commission denied the application to incorporate Dayton Township as the Village of Dayton Park without prejudice to further consideration when evidence indicates that Dayton is becoming suburban in character. Constructive boundary results may accrue in the Dayton Township area as a result of the public hearings and discussion relating to this petition.

No gerrymandered annexation has been attempted by any municipality by petition to the Minnesota Municipal Commission since passage of the law. There have been isolated examples under Section 3 § 7 over which the Commission has no jurisdiction. We comment on the wisdom of this provision later in the report.

The *Governor's Study Commission on Metropolitan Problems* established by Governor Edmund G. Brown of California has made an extensive study of the annexation problem.

In *"Local Governmental Boundaries and Areas: New Policies for California,"* by Stanley Scott, Bureau of Public Administration, University of California; Lewis Keller, League of California Cities, and John C. Bollens, Bureau of Governmental Research, University of California Los Angeles, 1961 Legislative Problems, No. 2, the Minnesota Municipal Commission Act is reviewed. (pp. 40-47.) The eight jurisdictions reviewed by these eminent scholars as to location, boundaries and area policies are Alaska,

England, Minnesota, North Carolina and New Zealand, Ontario, Virginia and Wisconsin. Of these, Alaska and Minnesota have administrative review by boundary commission; Wisconsin has discretionary review by the Director of Regional Planning, who is a state official; Virginia has a system of annexation courts; North Carolina has a new law applying statutory standards without administrative review, and the British Commonwealth jurisdictions have boundary review.

Governor Brown's Study Commission on Metropolitan Problems recommends the Minnesota approach to the California Legislature: the creation of a commission to give administrative review to local boundary changes.

Ohio provides that all township zoning shall be frozen when an unincorporated area is annexed to a municipality until such time as the annexing municipality enacts an ordinance governing zoning in the annexing area. Texas and California permit cities to set aside property for later annexation so that it cannot be incorporated in the intervening period. This enables them to assure their own expansion room and prevents them from annexing until they are able to furnish adequate municipal services. One of the benefits of the Minnesota system of administrative review is the flexibility which permits the Municipal Commission to accomplish these purposes within present statutory framework by holding an area for annexation by refusing to permit it to incorporate if annexation is a better solution.

In addition to the California study which concluded that the Minnesota approach (administrative review) should be adopted there, Richard W. Cutler, Milwaukee lawyer who drew the new annexation law adopted in Wisconsin in 1959, preferred the Minnesota system. The new Wisconsin law provides for examination of first annexation proposals by a circuit court applying non-discretionary standards. The Director of Regional Planning, a state official, may then apply discretionary standards after the Court has ruled on all procedural and jurisdictional requirements.

Mr. Cutler, in a letter dated January 28, 1960 to the Executive Secretary of this Commission, made this comment, "as the principal draftsman of this statute (Laws of Wisconsin, 1959, Chapter 261) I would have much preferred the general pattern of your new Minnesota statute which provides for a commission of three persons who serve on a state-wide basis and two persons who have a local background." Mr. Cutler attributed the Wisconsin version to the opinion of the membership of the commission he served in 1958, when the law was drawn, that the legislature would not accept the creation of a new agency of government. The Wisconsin law was likewise designed to check the rash of new incorporations.

Recommendations for amendments to the Municipal Commission Act in the light of experience are presented. For clarity, these are organ- by appropriate section numbers of the Act.

SECTION 1. CREATION OF COMMISSION

This section provided effective machinery for the operation of the Commission created by its terms. It is suggested that it be amended in only one respect, to provide payment to the part-time members for "performance of their duties" instead of "attendance at hearings" in the light of an Attorney General's opinion that the part-time members receive no compensation for research, deliberation and preparation of decisions resulting from public hearings because the law "provides authority for the Commission to transact business **and** conduct 'hearings' by a majority of its members." Op. Atty. Gen., March 28, 1960, emphasis is that of the Attorney General.

An alternative is to provide fixed salaries for the part-time members based upon past workload experience. The provision for payment "while in attendance at hearings" in Section 1 was not intended by the previous **Commission on Municipal Annexation and Consolidation** to limit such payment to monthly meetings and the actual public hearings to the exclusion of other duties directly connected with the determination of the proceedings in such hearings. Research and preparation of decisions is one of the Commission's most significant duties. It has no staff and the members conduct the research and prepare the orders. For example, in order to decide the complex White Bear Township case, it was necessary to review the entire judicial history of annexations under prior law in a thirty page opinion to delineate the test of what property is properly conditioned for municipal government by annexation in an urban town within the metropolitan area.

SECTION 2. INCORPORATION OF A VILLAGE

This section applies only to the metropolitan area and to the area within counties containing cities of the first or second class. Incorporation of villages is still accomplished under the village code in all other areas of Minnesota. (The provision that if petitioners seek to incorporate a village within one mile of the present municipal limits of an existing municipality in the rural area not covered by Section 2, such existing municipality may petition the District Court to determine whether or not the existing municipality has such a substantial interest in the proposed incorporation that the petition should be referred to the Commission, has not yet been invoked. The Commission is not aware that incorporation of any villages in the rural area not covered by Section 2 have been attempted. Nevertheless, this provision for reference by District Court to the Commission is a good protection to existing municipalities against fragmenting their urban areas by incorporation of new villages or their boundaries to avoid annexation. It serves as a good safety valve in the law as to the area not covered by Section 2.)

The adequacy of Township government to cope with problems of urban growth in the area proposed for incorporation might be profitably added as a factor for the Commission's consideration.

SECTION 3. ANNEXATION OF UNINCORPORATED PROPERTY TO A MUNICIPALITY

Since this is the most important single provision of the law relating to the major activity in the expanding of municipal boundaries, it will be discussed by Subdivision number:

Subdivision 1. Initiating Petition. The provision that a petition for annexation of adjoining unincorporated property may be initiated by resolution of the annexing village or city or by twenty percent of the freeholders, or one hundred freeholders, whichever is less, residing in the area to be annexed, has proved to be realistic and effective. The township should also be authorized to petition. The Commission should have authority to commence proceedings of its own motion.

Subdivision 2. Hearing and Notice. These provisions were carefully considered to protect the interest of all affected parties and are working out very efficiently.

Subdivision 3. Commission's Order. This subdivision provides for approval or rejection of the proposed annexation by a Commission Order. It lists nine factors upon which the Commission shall make findings as a guide in arriving at a determination of whether or not the property proposed for annexation is so conditioned as to be properly subjected to municipal government and the annexation would be to the best interest of the village or city and of the territory affected. The listing of the nine factors was intended to serve to protect the parties from an arbitrary determination by the Commission without an adequate record before it or without the basic facts having been determined. This purpose has been accomplished. The theory that the Commission should not be bound to make a particular decision on the facts but should be required to find all of the facts so that it has a fair basis for making a determination has proved to be sound.

It may be that the use of the term "so conditioned as to be properly subjected to municipal government," which derives from the early Minnesota Supreme Court decisions and the subsequent enactment of this test into annexation laws is unduly restrictive in that it is a term which has been interpreted on dozens of occasions by the Minnesota Supreme Court and the District Courts and does not leave sufficient discretion to the Municipal Commission to provide for the annexation of enclaves, islands or strips of territory which do not meet the properly conditioned test but nevertheless cannot now be adequately governed except by an adjoining municipality because of separation from the township and encirclement by obviously urban territory.

The term **urban land** might have a plainer and more significant meaning than **so conditioned as to be properly subjected to municipal government.** The term used would be entirely adequate if a sentence were added to Subdivision 3, as to the metropolitan area, that upon a finding by the Municipal Commission that an area which will be better served as to protection against impure water or other health hazards or which reasonably may be expected to come within the path of developers or subdividers may be annexed.

In sum, the test of what land is properly conditioned for annexation within the metropolitan area might well be amplified by indicating that the Commission must determine which form of government, municipal or township, can best serve the interests of the annexation area with due regard to public health, safety and morals, commensurate with need for municipal services and their cost. The proper test within a metropolitan area would seem to be the relative effectiveness of municipal or township government to meet problems of growth including adequate control of land use and construction and adequate protection against health hazards and other risks caused by the close proximity in which people live.

The answer might be to provide for a separate test as to what property is eligible for annexation in the metropolitan area and in counties containing cities of the first and second class, on the one hand, and in the remaining rural area of Minnesota, on the other.

Otherwise, Subdivision 3 is proving to be very adequate as presently written.

Subdivision 4. This subdivision results from an amendment in the State Senate. It provides an election which was not intended by the **Commission on Municipal Annexation and Consolidation** and was not included in the law as drawn. One of the technical flaws which results from this amendment from the floor is that the word final is not stricken from the final sentence of the preceding subdivision which reads, "the Order of the Commission shall be final and it shall be issued by the Commission within a reaonable time after the termination of the hearing."

The term **final order** was used at the end of Subdivision 3 for the obvious reason that the Order would have been final had not the election provision been added by Subdivision 4 and the purpose of calling the Order final was to designate it as an Order from which appeal could be taken. The unfortunate result of not striking the reference in Subdivision 3 to the Order becoming final is that in the Albert Lea and White Bear annexations counsel opposing the annexations in each instance referred to the fact that Section 3 provides for two final orders, one upon approval of the annexation by the Commission in Subdivision 3 before an election is held and again after such election has been held and the annexation has been ratified or rejected by the voters of the annexation area.

In Albert Lea, counsel for Wilson and Company claimed confusion as a result of this and obtained a Restraining Order which was later dissolved by the District Court when a temporary injunction was denied. (Their claim of confusion was not solely based upon the two final orders, but upon the effect of these in conjunction with an error which occurred in Section 7 relating to appeals which is discussed later in this report.)

In any event, it would seem that the rights of the parties would be fully protected if no appeal were granted from the Order approving the annexation subject to election, leaving the appeal

only where the election is favorable. Thus, if the election is not favorable, appeal will be rendered unnecessary to the parties opposing annexation. An amendment is recommended to provide that as to those annexations subject to ratification by election opponents can appeal only after the election has been held, but as to petitions which are denied by the Commission, where no election is required, the petitioners can appeal from the Order denying approval of the annexation and refusing to order an election.

It is further recommended that the election provision contained in Subdivision 4 be made applicable only to the territory in Minnesota outside the metropolitan area and counties containing cities of the first and second class. There are obvious situations in the Twin Cities Metropolitan Area where the provision for elections in the annexation area is an obstacle to correcting boundary situations. The same is equally true in Rochester, Manakto and the larger cities of the state where urban growth is spilling beyond the municipal limits. No brief can be held for people building across the street from city limits and voting against annexation. A sound provision would be that within the metropolitan area and the counties containing cities of the first and second class, the matter be left to hearing and determination by the Municipal Commission, subject to judicial review, but that as to the rest of Minnesota an election be provided except in those situations where the density of population of the area proposed for annexation is at least equal to that of the annexing city or village or is seven persons per square mile, whichever is less, in which case no election would be necessary. This would automatically provide for the annexation of obvious urban residential development just beyond city limits, yet would be a complete protection against land grabs by municipalities, approved by the Municipal Commission, of relatively undeveloped area. These standards would be fixed and understood by everyone and would provide for orderly community growth of the smaller cities and villages in rural Minnesota.

Subdivision 5. Filing of Annexation Order. This provision could be amplified by providing also for service of the annexation Order on the Township Clerk of the area in which the area proposed for annexation is located.

Subdivision 6. This provision requiring consent by the governing body of the annexing municipality before completion of an annexation initiated by freeholders was added by a Senate Amendment. It was considered unnecessary by sponsors but no objection is made to it. Experience has shown that municipal governing bodies in general will approve annexations petitioned for by those living in the adjoining areas.

Subdivision 7. This is the provision which was added to the proposed law by a Senate Amendment to permit annexations by ordinance under restricted conditions. All of its provisions were lifted from annexation procedures under then existing statutes. The provision has caused some confusion among municipalities and their village or city attorneys because it runs contrary to all of the previous six subdivisions of Section 3 in the sense that Subdivisions 1-6 purport to cover the entire range of annexations of unincorporated property and Subdivision 7 then provides a contrary method in the instances prescribed. In the case of the City of Alexandria, a formal petition was sent to the Governor's Office before the Municipal Commission was organized and was then referred to the Municipal Commission to cover an annexation which should have ben accomplished under Subdivision 7. The city attorney very aptly wrote the Commission that he had proceeded under what had appeared to be clearly the law under Subdivisions 1-6.

The remedy as to this confusion would seem to be to reorganize Section 3 so that it is implicit that there are situations in which annexation can be accomplished by ordinance and proper filing without recourse to the Commission for hearings or action.

Subdivision 7 has been the most busily used provision of the entire annexation law. In general, its use has not been abused, but one of the most important underlying principles of the new law to avoid gerrymandering has been thwarted. For example, residents on one side of the highway extending west of Mound petitioned to be annexed to the Village of Mound but did not include the land owners on the other side of the same highway because they would be unable to obtain the signatures of the majority of landowners in number required to avail themselves of the petitions of Subdivision 7. In this situation, 16 of the 27 land owners in number petitioned for the gerrymandered annexation but these 16 owned only approximately 30% of the property involved. This is the exact kind of annexation which occurred under prior statutes and caused the confused and gerrymandered boundaries in areas such as White Bear Township. This type of annexation can still occur by abuse of Subdivision 7. The remedy is to eliminate that portion of Subdivision 7 which permits the annexation of land which is platted, or if unplatted, does not exceed 200 acres, where the owner or a majority of the owners in number petition the governing body of the municipality to have such land included within the municipality. This provision should either be eliminated entirely and the Commission allowed to order such an annexation without hearing where the majority or all of the land owners have so petitioned or to reject the annexation or to alter the boundaries to preserve symmetry or a compact unit which should not be separated. Under this authority the Commission could have either rejected the annexation of one side of the highway leading west of Mound or could have approved it subject to adding the property on the other side of the road. The annexation of property by ordinance upon petition by a majority of the land owners in number representing less than half of the property in area is far more arbitrary than by Commission order because of the avenues of appeal that such a procedure cuts off.

SECTION 4. ANNEXATION OF INCORPORATED PROPERTY TO A MUNICIPALITY

This Section has so far been used to accomplish the merger of the Villages of Island Park and Mound. The procedure worked very well in that situation except that an ambiguity appeared with respect to the fifth paragraph of Subdivision 3 in the provision for an election within the less populated of the merging cities or villages. This paragraph needs to be rewritten because there is now serious question as to whether or not such an election is needed.

Section 4 relates only to mergers in the metropolitan area and in counties containing cities of the first or second class. The village code deals with mergers in the remaining rural area of Minnesota. It is suggested that as to the Twin Cities Metropolitan Area the annexation of one municipality to another may be accomplished by consent of the two governing bodies in those situations where one municipality is completely surrounded by the other (as is the case with Hilltop encircled by Columbia Heights) or where the smaller of the contiguous villages which are the subject of merger proceedings has less than the 500 popuation now required for original incorporation or where the density of population of the municipality to be annexed is less than 2 people per acre and the population of the annexing municipality is greater than that or where the Commission finds that the village to be annexed is not now suitably conditioned under the appropriate statutory tests to maintain separate municipal government. This would apply to only a limited number of situations and would permit the correction of a number of boundary situations while preserving the election now provided to the less populous municipality as to all other cases.

Clarification is needed as to which municipalities require submission of consolidation to the voters where more than two cities or villages are included in the petition. The soundest provision for ratification of such multiple-mergers would be a vote of the combined municipalities because the vote of electors of the most populous municipality would be offset in greater measure where there are two or more less populous municipalities than where only one is to be annexed to the larger municipality.

SECTION 5. INCORPORATING OR ANNEXING TOWNSHIPS ACCORDING TO POPULATION.

This is the section written into the law to deal with the vexatious problem of the so-called urban towns. **An urban town** is an **unincorporated area under township government** which is nevertheless urban in character and requires the exercise of government powers or functions greater than those provided for typical rural township government if it is to adequately serve its residents. This section provides an arbitrary legislative definition of an urban town within the purview of its provisions. Under this definition a statutory urban town is one which has a population in excess of 2,000 exclusive of any municipality or part of a municipality within the township. This definition was made intentionally rigid in the 1959 law in order to limit its application. It logically could be argued that a township is urban in character with less than 2,000 of population, particularly since any township containing that number of people ordinarily has already had municipalities carved from its limits. Nevertheless the present statutory definition seems to be adequate and reasonable.

This section has been used once by the Municipal Commission in the White Bear Township annexation proceedings. It has not been used more extensively because the 1960 census returns were only recently reported. The provision will now receive its greatest test. It was invoked in White Bear Township because of the petition of certain freeholders to annex a small triangular area to the City of White Bear Lake lying between its northern boundary and the southern shore of Bald Eagle Lake. While this annexation was in process, the Ramsey County District Court invalidated a prior annexation of territory lying north of Bald Eagle Lake because that area had become separated from the city limits of White Bear Lake by the earlier invalidation of the annexation of the intervening territory by the Minnesota Supreme Court. The Municipal Commission thereupon decided that a review of all of White Bear Township was in order under Section 5. This was motivated not only by the writ of ouster invalidating the north Bald Eagle annexation, but also by evidence that White Bear Township now consists of 17 separate unconnected parcels of land, no one of them touching any other, seven of which lie wholly within the municipal limits of the City of White Bear Lake, with two additional parcels the subject of confusion in land records as to whether they are a part of the City or Township. The Commission ordered an election April 26, 1960 for annexation of the entire area lying north of the city limits of White Bear Lake and Vadnais Heights to the City of White Bear Lake. In the same order, the Commission recommended that Section 3, Subdivision 7 be utilized by the City of White Bear Lake to annex the seven islands of territory completely encircled by that municipality and by the Village of Vadnais Heights to annex three small pockets surrounded on three sides by that village and removed from the remainder of the township. The vote did not favor annexation and White Bear Township remains a series of unconnected islands in a gerrymandered sea.

There is some doubt that an election is necessary to ratify a decision of the Commission approving annexation under Section 5. As originally drawn, Section 5 did not require ratification by election where the Municipal Commission ordered incorporation or annexation of all or a part of an urban town under its provisions. An amendment in the House of Representatives provided such an election in Section 5, § 3 relating to a Commission Order incorporating an urban town. No similar amendment was added to Section 5, § 4 with regard to Commission Orders to annex all or a part of an urban town to an adjoining municipality. However, Section 5, § 4 does provide that annexations thereunder "shall be controlled as far as is practical by the law relative to the annexation of unincorporated areas." Subsequent to the House amendment requiring an election as to incorpora-

tions under Section 5 but making no similar requirement as to annexations thereunder, the Senate amendment which provided for elections under Section 3 relative to the annexation of unincorporated areas was adopted. Whether this had the effect of requiring elections as to annexations ordered by the Commission under Section 5 is the question.

An election was ordered by the Municipal Commission in the White Bear Township proceedings because they were originally commenced pursuant to Section 3. It is suggested that the Commission be permitted to order annexations under Section 5 without submission of the issue to the voters at least to the extent necessary to correct boundaries by eliminating islands not connected to the main township territory or where the area ordered annexed contains the same or higher population density than the annexing municipality or has a population density of at least 2 persons per acre.

The Commission considers that Section 5 creates a delegation of authority to the Municipal Commission to review urban towns with the mandate to eliminate them or motivate the annexation of all or a part of them to existing municipalities wherever this is practical. To accomplish this, the Commission is of the opinion that the test of suitability for annexation is more flexible in Section 5 than in Section 3 annexations or under previous Minnesota case law construing earlier statutes. This results at least in part from the presumption that appears implicit in Section 5 that some or all of the unincorporated area of an urban town is **properly conditioned** for municipal government. This presumption finds further expression in the entire series of Minnesota Laws which give special municipal powers to urban towns.

The Municipal Commission's hand should be sterngthened by adding a declaration to Section 5 that existence of population in excess of 2,000 exclusive of any municipality or part of a municipality within the township is prima facie evidence that such area is properly conditioned for municipal government. An alternative would be a statutory definition of what property is **properly conditioned** for municipal government within an urban town which would avoid the pitfalls of annexations under prior law. The simplest alternative would be simply to declare in Section 5 that the land within any urban town whose government is now exercising municipal powers under special state laws is **properly conditioned** for municipal government. The Legislature has wrestled with this problem for many years. It has steadily taken the attitude that urban towns should come under municipal government. The study of the **Legislative Research Council** filed at the 1953 session and the **Report of the Commission on Municipal Annexation and Consolidation** filed in 1959 both concluded that urban towns should be subject to municipal government. The Municipal Commission should therefore have sufficiently flexible authority to accomplish the legislative purpose.

SECTION 6. DETACHMENT OF PROPERTY FROM A MUNICIPALITY.

This section is not widely used because there is not a large amount of detachment activity. With the trend to urbanization, it is not expected that property will be removed from municipal boundaries and returned to township government. The only portion of Section 6 which has been used since the Municipal Commission was created is the mechanism in Subdivision 2 which permits the simultaneous detachment from one municipality and annexation to an adjoining municipality by respective resolutions of the governing bodies if the owners of two-thirds of the area of the property affected give their consent in writing except for one detachment petition (Village of New Germany) which was denied. Section 6 requires technical procedural clarification not affecting substance.

SECTION 7. APPEALS

An unfortunate typographical error in the amendment in the House of Representatives which completely supplanted the appeals provision in the Act as originally drawn has caused consternation and requires urgent amending by the 1961 Legislature.

Purely by inadvertence, an error was made in the following language:

> "to render a review effectual, the aggrieved person shall file with the Clerk of the District Court of the County wherein the majority of the area is located, **within date** of such final Order . . ."

It is obvious that the words "within date" are vague and uncertain. It is equally obvious that the intention at this point was to provide the number of days within which such appeal must be filed. Since the language of the appeal section as amended was taken directly from the Education Act (MSA 122.77) which provides for thirty days within which to appeal, the intention of the House Amendment was that these words should be "within thirty days" instead of "within date".

In the Albert Lea complaint for a declaratory judgment, restraining order and petition for a preliminary injunction, Wilson & Company complained that the words "within date" are so vague and uncertain that they render the Act unconstitutional. Judge Warren Plunkett at least tentatively rejected this claim when he lifted the restraining order and denied the request for a preliminary injunction.

Section 7 should be amended either by restoring the direct appeal to the Supreme Court from Commission orders which was provided in the original draft of HF 1277 (which became Laws 1959, Chapter 686) or by changing the "within date" to read "within thirty days of such final order . . ." If appeal to the District Court is retained in the law, an additional amendment should be made to Section 7 to provide that no appeal may be taken from any Order of the Commission providing for an election on the issues of incorporation or annexation but only from the results of such elections. This will prevent a multiplicity of appeals and will completely protect the interest of any

aggrieved party. Appeal should be by Writ of Certiorari.

GENERAL

Other amendments of a technical nature not affecting substance may be included to improve administration of the law when the foregoing recommendations are embodied in amendments. The last legislative commission considered taxing costs to petitioners to finance Municipal Commission operations. Such provisions was not made because it was felt that this could better be done after experience in administering the new law. It is now suggested that filing fees be provided as follows: $100 for petitions to incorporate to be reimbursed to the petitioners by the municipality if incorporation succeeds; $1 per acre for petitions to annex unincorporated property with a minimum of $25 and a maximum of $100 to be reimbursed by the annexing municipality to the petitioning freeholders if the annexation is successful; $100 for a petition to merge and $50 for a petition to detach. It is recommended that costs of posting and publication of notices be borne by the petitioners.

APPENDIX A

Proposed Twin Cities Metropolitan Sanitary District

A BILL FOR AN ACT

TO CREATE A METROPOLITAN SANITARY DISTRICT, DEFINING ITS POWERS AND DUTIES, GRANTING POWERS TO COMPONENT MUNICIPALITIES WITH REFERENCE TO SEWERS, AND REPEALING MINNESOTA STATUTES 1957, CHAPTER 445 AND OTHER LAWS INCONSISTENT HEREWITH.[1]

Be it enacted by the Legislature of the State of Minnesota:

Section 1. [LEGISLATIVE PURPOSE.] The legislature of the state of Minnesota hereby finds that the timely, efficient, and economical provision of sanitary sewer service in the Twin Cities Metropolitan Area is essential to the preservation and proper utilization of the area's water resources and to the health and safety of its inhabitants. The legislature of the state of Minnesota further finds that by virtue of the area's topography, governmental structure, and rapid urban growth, existing units of government are unable to efficiently and effectively meet the metropolitan needs for sewage treatment and disposal.

The general purpose of the district shall be to promote the public health and welfare by providing a safe, adequate, and efficient system of sewage collection and disposal for the Twin City Metropolitan Area so that the pollution resulting from the discharge thereof to any water course shall be so reduced that such water course shall cease to be and shall not become a nuisance or injurious to the public health and welfare. To accomplish such purpose, a metropolitan sanitary district must be created and empowered to construct, operate, reconstruct, and maintain interceptor sewers and a sewage treatment and disposal system to serve the entire area.

Sec. 2. [DEFINITIONS.] As used herein, the following words shall have meanings as follows:

1. "District" means the Twin Cities Metropolitan Sanitary District.
2. "Commission" means the Walter Pollution Control Commission organized under Minnesota Statutes, Section 144.372.
3. "Municipality" means any city, village, or organized town.
4. "Component municipality" means any municipality within the district.
5. "Central city" means the city of Saint Paul or city of Minneapolis.
6. "Suburban area" means all component cities, villages, and towns except the central cities.
7. "Board" or "board of trustees" means the board of trustees of the district.
8. "Governing body" means the legislative body of any municipality whether designated as a council, commission, or board.
9. "Interceptor sewer" means any sewer, including pumping stations, and other necessary appurtenance thereto which serves more than one municipality or which is required to connect the sewers of a component municipality with the district disposal system.
10. "Sewage disposal plant" means any arrangement of devices, structures, or facilities for treatment or disposal of sewage or industrial waste including any outlet into a water course.
11. "District disposal system" includes all interceptor sewers and sewage disposal plants operated by the district.
12. "Contiguous municipality" means any municipality which has a common border with any component municipality.
13. "Fixed charges" means all cost of land and right of way acquisition, and construction of interceptor sewers and sewage disposal plants including all incidental expense and interest on money borrowed to provide such construction costs.
14. "Sewage service charge" means a charge for the collection, or the collection and treatment of sewage, based on water consumption, size of water meter or connection, waste flow, strength of waste, or number and type of plumbing fixtures. Included in this charge may be operation and main tenance cost, fixed charges, or varying percentages of both.

Sec. 3. [ORGANIZATION OF DISTRICT.] Subdivision 1. [TERRITORY.] There is hereby created a Twin Cities Metropolitan Sanitary District as a successor to the Minneapolis-St. Paul Sanitary District which shall exercise the powers and duties hereinafter specified within the territory encompassed within the boundaries of the following counties, cities, villages, and towns, and other areas, as they exist at the time of the adoption of this Act:

All of the territory within Ramsey county. Within the county of Anoka, all of the territory within the following cities and villages: Anoka, Columbia Heights, Fridley, Blaine, Centerville, Circle Pines,

[1]HF 1053. Authors: Richard W. O'Dea, Clarence G. Langley, Peter S. Popovich, Edward J. Volstad and Harold J. Anderson. SF 932. Authors: Leslie E. Westin, Donald Wright, Ralph W. Johnson.

Coon Rapids, Hilltop, Lexington, Lino Lakes, and Spring Lake Park. Within Dakota county, all of the territory within the following cities and villages: South Saint Paul, West Saint Paul, Inver Grove, Lilydale, Mendota, Mendota Heights, Rosemount, and Sunfish Lake, and the following towns: Burnsville, Eagan, Inver Grove, Lebanon, Nininger, and Rosemount. Within Hennepin county, all of the territory within the following cities and villages: Bloomington, Hopkins, Minneapolis, Robbinsdale, St. Louis Park, Brooklyn Center, Brooklyn Park, Champlin, Crystal, Dayton, Edina, Golden Valley, Maple Grove, Medicine Lake, Minnetonka, Morningside, New Hope, Osseo, Plymouth, Richfield, and St. Anthony, and the following towns: Champlin, Dayton, and Eden Prairie, also Fort Snelling, Wold Chamberlain Field and vicinity, including all territory in this area not within the city of Minneapolis and villages of Bloomington and Richfield. Within Scott county, all of the territory within the city of Shakopee, the village of Savage, and the towns of Eagle Creek, and Glendale. Within Washington county, all of the territory within the villages of Birchwood, Dellwood, Hugo, Lake Elmo, Landfall, Mahtomedi, Newport, Pine Springs, St. Paul Park, and Willernie, and the following towns: Cottage Grove, East Oakdale, Grant, Grey Cloud, Lincoln, Northdale, Oakdale, Oneka, and Woodbury.

Subd. 2. [BODY CORPORATE.] The district shall constitute a body corporate and may sue and be sued, enter into contracts, adopt a common seal, and acquire and hold real and personal property for its corporate purposes.

Sec. 4. [AMENDMENT OF DISTRICT BOUNDARIES.] Subdivision 1. [INITIATION.] Territory may be annexed to or detached from the district by order of the commission issued upon petition of any of the following:

1. Owners of property to be annexed or detached.
2. The governing body of any municipality to be annexed or detached.
3. The board of trustees.
4. The State Board of Health.

Subd. 2. [HEARING AND FINAL ORDER.] Upon receiving such petition, the commission shall be empowered to conduct such hearings as it may deem necessary to make such final order changing the boundaries of the district as it may deem necessary to accomplish the purposes of this chapter without imposing an undue burden upon owners of property then devoted to agricultural purposes. Such proceedings shall be conducted, hearings held, final orders made and appeals taken as provided in Minnesota Statutes, Sections 144.372 to 144.375 inclusive. The district shall compensate the commission for any necessary expense in the execution of the duties imposed upon it under this chapter.

Sec. 5. [TRUSTEES.] Subdivision 1. [TERMS OF OFFICE OF PRESENT TRUSTEES.] The present qualified board of trustees now serving as trustees of the Minneapolis-St. Paul sanitary district are, and shall be, trustees of the Twin Cities Metropolitan Sanitary District, and they shall hold said offices for the following terms:

the two members holding no other public office for terms ending on the first Monday in December, 1965; the members from each City Council for terms ending on the first Monday in December, 1963; the member from the state at large, for a term ending on the first Monday in December, 1966; the mayor of each central city, for as long as he shall hold his office as mayor;

thereafter the terms of all successor trustees shall begin on the first Monday of December and shall be for four years, terminating on the first Monday of December, provided that if the member selected from the governing body shall cease to hold such office, his office shall cease and a successor shall be selected for the remainder of said term.

Subd. 2. [SELECTION FROM CENTRAL CITIES.] After the termination of the terms hereinbefore described, the governing body of each of the central cities shall select one of its own members to serve as a trustee for the term hereinbefore provided and during his membership on such governing body, and shall also select one citizen who is a qualified voter of the respective municipality to be a trustee, which citizen shall hold no other elected or municipal office. The mayor of each central city, or such other person as he may individually name, shall also be a trustee during his term of office as mayor.

Subd. 3. [TRUSTEE AT LARGE] The successor to the Trustee at Large referred to in Subdivision 1 of this section shall be elected at the general election in 1966 by a vote of the residents of the entire district. Any qualified elector residing within the district may become a candidate for this position.

Subd. 4. [SELECTION FROM SUBURBAN AREA] Within 60 days after the effective date of this Act, the Governor shall appoint four qualified electors residing within the suburban area to serve as temporary trustees. No more than two of the temporary trustees shall be members of the same political party. At least one temporary trustee shall be a resident of each of the counties of Ramsey and Hennepin and at least one a resident of the other four counties within the district. The terms of

the temporary trustees shall expire on the first Monday in December, 1962. At the general election in 1962, four trustees shall be elected by vote of the residents of the suburban area. Candidates for such office shall be qualified electors residing within the suburban area. Each candidate shall file for a specific term of office to expire as follows: Two terms shall expire on the first Monday in December, 1964; two terms shall expire on the first Monday in December, 1966. The two candidates receiving the highest number of votes for each term shall be declared elected.

Subd. 5. [TERM OF OFFICE.] The term of such elective trustees shall begin on the first Monday in December following election and shall be for a period of four years.

Subd. 6. [VACANCIES.] Vacancies in office of appointive trustees shall be filled by the appointing authority; vacancies in office of elective trustees shall be filled by the Governor.

Subd. 7. [ELECTIONS.] All qualified voters residing in the suburban area shall be entitled to vote for trustees representing the suburban area. All qualified voters of the district shall be entitled to vote for trustee at large. All provisions of Minnesota Statutes, Chapters 202 and 203 shall apply to elections hereunder. If more candidates file for any office than twice the number to be elected, the final candidates shall be determined at the primary election on the nonpartisan ballot. Returns shall be canvassed by the county canvassing board of each county and by the state canvassing board, and certification of election made by the Secretary of State.

Subd. 8. [REMOVAL.] If any trustee moves his place of residence to a location which does not conform to the residence requirement of his office, such action shall be a resignation from that office. A trustee may be removed from office by the Governor for misfeasance, malfeasance, or nonfeasance in the manner provided by law for the removal of state officers.

Subd. 9. [COMPENSATION.] Each trustee shall be reimbursed his actual and necessary expense in the performance of his duty and shall receive as compensation for services the sum of $50 per diem, or part thereof, spent in attending meetings of the board, but no trustee shall receive more than $2,600.00 in any one year.

Sec. 6. [QUORUM, MEETINGS, OFFICERS AND EMPLOYEES.] A majority of the members of the board of trustees shall constitute a quorum for the transaction of business, and an affirmative vote of a majority of the members present, provided that there is a quorum present, shall be sufficient for the passage of any measure, except as otherwise provided herein. As soon as the trustees first appointed enter upon the duties of office, they shall organize by electing one of their members chairman, who shall hold office until the first Monday in December, 1962. Thereafter, the board shall organize by electing one of its members chairman for a term of two years commencing on the first Monday of December following each general election. The board shall appoint a chief engineer who shall be the chief executive officer, an executive secretary, a treasurer, and other officers, agents, and employees as may be necessary. Such officers, agents, and employees shall perform such duties and receive such compensation as the board shall determine, and shall serve at the pleasure of the board. All meetings of the board shall be public and all records shall be public records.

Sec. 7. [RULES AND PENALTIES.] The board may, from time to time, make, adopt, and enforce such rules, regulations and ordinances as it may find expedient or necessary for carrying into effect the purposes of this chapter, and for the management and conducting of the affairs of the district and fix penalties for violation thereof, not exceeding for each offense 90 days imprisonment in jail or workhouse, or a fine not exceeding $100, with imprisonment not exceeding 90 days if fine is not paid. Prosecution may be in any municipal court in any component municipality. Every sheriff, constable, policeman and other peace officer shall see that all such rules, regulations and ordinances are obeyed and shall arrest and prosecute offenders. All fines shall be paid into the treasury of the municipality or county from which the arresting officer draws his salary, and all persons committed shall be received into any penal institution within the district at the expense of the county. All courts shall take notice of such rules, regulations and ordinances without pleading or proof of the same. The board shall prepare annually a comprehensive report of its official and financial transactions, and shall mail a copy of such report to the Governor, the State Board of Health, the commission and the governing body of each component municipality.

Sec. 8. [SPECIAL POWERS AND DUTIES OF BOARD OF TRUSTEES.] The board of trustees, in addition to other powers, is empowered:

(1) To construct, reconstruct, operate, and maintain, within or without the district, a sewage disposal system or systems including interceptor sewers and sewage treatment and disposal plant or plants and all necessary appurtenances thereto for the purpose of carrying off, treating and disposing of sewage.

(2) To regulate and control the discharge of sewage into a common watercourse and the disposal of domestic sewage and commercial and industrial wastes within the district.

(3) To regulate and control the discharge of so-called factory or industrial wastes into the sewers or works of the district.

(4) To enter into contracts with any industry producing wastes for the purpose of determining the amount of treatment, if any, that such industry shall give its wastes at the point of origin, and to provide charges for treatment of such wastes by the district disposal systems.

(5) To require any occupant of any industrial premises whether inside or outside of the district which is discharging factory or industrial wastes directly or indirectly into any watercourse within the boundaries of the district to discontinue such discharge or construct a sewage disposal plant or to so change or rebuild any outlet, drain or sewer so as to discharge the factory or industrial waste into municipal or district sewers under such regulations as it may determine.

(6) To make, promulgate and enforce rules and regulations for the supervision, protection, management, and use of the district disposal system as it may deem expedient. Such regulations may prescribe the manner in which connections to interceptor sewers shall be made, and may prohibit the discharge into such sewers of any liquid or solid waste deemed detrimental to the district disposal system.

(7) To enter into agreements with any municipality adjacent to the district to provide for the discharge of the sewage of such municipality into the district disposal system, provided that in such case such municipality shall pay the entire cost of any interceptor sewers and sewage disposal plant used exclusively by it and of any additional capacity of interceptor sewers and sewage disposal plant as may be necessary in order to serve such municipality, and all costs of operation, maintenance and repair incurred in the conveying, pumping, treatment and disposal of such sewage, such additional cost to be determined by the board. Similar agreements may be made by the board with the United States Government, the State of Minnesota, and with persons, firms, institutions, or corporations having plants or industries located adjacent to the district. The reasonableness of any rule and the factual determination of the board may be reviewed by the district court on application of any municipality, person or corporation aggrieved.

Sec. 9. [COMPREHENSIVE PLAN.] Subdivision 1. [DISTRICT PLAN.] Before undertaking the construction of any additional interceptor sewers or sewage disposal plant, the board shall hold a public hearing, due notice of which is published at least 15 days prior to the hearing, and shall adopt a comprehensive plan and program of procedure and work for the collection, treatment, and disposal of sewage and waste materials of the entire district for such time in the future as may, in the opinion of the board, be proper and reasonable. The plan may be modified from time to time.

Subd. 2. [MUNICIPAL PLANS.] After the board has adopted a comprehensive plan and program of procedure and work, each component municipality shall prepare a comprehensive plan and a program of procedure and work dealing with the aspects of sewage collection falling within the responsibilities of the municipality. Each such comprehensive plan shall be submitted to the board for review and approval of those aspects of the plan affecting the district's responsibilities. No construction of local sewer facilities shall be undertaken by any municipality unless the governing body shall first find the same to be in accordance with its comprehensive plan as approved by the board, provided that such requirement may be waived by the board either before or after such construction.

Subd. 3. [REVIEW BY PLANNING COMMISSION.] A complete copy of each comprehensive plan or major amendment shall be transmitted to the Twin Cities Metropolitan Planning Commission by the board or governing body no less than 30 days prior to the date of adoption of such comprehensive plan or amendment for review by that body. Within 30 days after receipt of such plan or amendment, the Planning Commission shall submit to the board or governing body its written report wherein shall be stated its comments and suggested revisions, if any, provided that the board or governing body may adopt such comprehensive plan or significant amendment thereto without complying with such suggested revisions of the Planning Commission.

Sec. 10. [SURVEYS AND CONSTRUCTION.] The district may enter upon land, within or without the district, for the purpose of making surveys and examinations whenever the board shall deem it necessary or expedient for the performance of its duties or functions. The district may enter upon publicly owned lands or ways, within or without the district, for the purpose of constructing, maintaining, or operating its sewage disposal system, and it may lay out and construct in such lands or ways interceptor sewers, and connect thereto any sewer, drain, or outlet of any component municipality. Before proceeding, it shall notify, in writing, the public body or authority having charge or control of any such land, way, sewer, drain, or outlet, but no permit or payment of fee or charge shall be required. The district shall proceed with due diligence, and, after completing its work, shall at its own expense restore such land or way and the public structures or works therein, including property of municipal or public utility companies, to as good a condition as reasonably possible as it or they existed before the commencement of the work. Without payment to the state or to any political subdivision, the district may lay out, construct, operate and maintain any system of channels, drains, ditches, sewers, and outlets, or other works over, upon, or under any watercourse flowing through or adjacent to any part of its territorial limits, including any publicly owned land covered by navigable

waters of the state, and under rights of ways of railroads and other public utility companies. All persons, firms, trustees, and corporations having structures or other physical obstructions in, over, or under the publicly owned lands or ways, either within or without the district, which interfere with the construction, reconstruction, or repair of any part of the district disposal system, shall, upon reasonable notice by the district, promptly shift, adjust, accommodate, or remove the same at the cost and expense of the district, so as to comply reasonably with the needs and requirements of the district. All contractor's bonds covering work to be done within any component municipality shall contain provisions indemnifying such municipality for loss, damage, or injury to streets and public works on property resulting from such construction work and saving the municipality harmless therefrom, and the board shall defend and save harmless such municipality in any action brought against the municipality for loss, injury, or damage arising therefrom.

Sec. 11. [LAND AND EASEMENT ACQUISITION.] The district may, from time to time, acquire by purchase, deed, grant, lease, device or condemnation any right, title, or interest in land, public or private, within or without the district as it may deem expedient, including, among others, rights and easement to construct and maintain underground conduits with or without disturbance of the surface. It may sell and convey land found unnecessary for its purposes. Land, or any right, title, or interest therein, may be acquired by the exercise of the power of eminent domain in the manner prescribed by Minnesota Statutes, Sections 117.01 to 117.17 inclusive. All awards shall be a charge upon the district. The notice shall be published in a newspaper of general circulation in the county wherein the land lies. Unless a lesser estate is designated, an absolute estate in fee simple, unqualified in any way whatsoever, shall vest in the district.

Sec. 12. [CONSTRUCTION WORK TO BE DONE BY CONTRACT.] All construction work and every purchase of equipment, supplies or materials necessary in carrying out the purpose hereof that shall involve the expenditure of $2,000 or more, shall be awarded by contract except as hereinafter provided. Before receiving bids, the board of trustees shall publish notice once a week for two successive weeks in a newspaper of general circulation within each of the counties lying wholly or partly within the district that bids will be received for such construction work or purchase, stating the nature of the work and terms and conditions upon which the contract is to be let and the time when and the place where bids will be received, opened and read, which shall be not less than seven days after the date of last publication. The board, by an affirmative vote of a majority plus two of the total board membership, shall award the contract to the lowest responsible bidder, or may, if no satisfactory bid is received, construct any work by day labor under such conditions as it may prescribe. The board may set up reasonable qualifications to determine the fitness and responsibility of bidders and may require a bidder to meet such qualifications before its bid is accepted. If the board, by an affirmative vote of a majority plus two of the total board membership, shall determine that an emergency exists requiring the immediate purchase of any equipment, material, or supplies or the making of emergency repairs at a cost in excess of $2,000 but not in excess of $10,000, it shall not be required to advertise for bids but may purchase such material, equipment, or supplies at the lowest price obtainable, or may perform or contract for emergency repairs without competitive bids. In all contract involving the employment of labor, the board shall include such conditions as it deems reasonable as to hours of labor, residence, and wages. Bonds shall be required from contractors for any works of construction as provided in and subject to provisions of Minnesota Statutes, Section 574.26 to 574.31 inclusive.

Sec. 13. [ACQUISITION OF EXISTING FACILITIES.] Subdivision 1 (JOINTLY USED SEWERS) Within three years of the effective date of this act, the district shall acquire all municipally owned interceptor and trunk sewers serving territory within more than one municipality upon payment or arranging for payment to the owning municipality or municipalities of the present worth of such sewers and thereupon any contracts between the owning municipality and any other municipality for the use of such sewers shall be abrogated.

Subd. 2 [MUNICIPAL DISPOSAL PLANTS] The district shall acquire all sewage disposal plants owned and operated by a component municipality upon the payment or arranging for payment to the owning municipality of the present worth of such sewage disposal plant as determined at the time of the acquisition except that any new construction, expansion, or additions of such sewage disposal plants not in progress on or before the effective date of this act shall not be included in the determination of such present worth unless the board has, by resolution, approved of such new construction, expansion, or addition. The district may not collect any charges apportioned against a component municipality which owns and operates a sewage disposal plant until such time as it has acquired such sewage disposal plant from that municipality.

Subd. 3 [PRESENT WORTH DEFINED) Present worth shall be determined by the board on the basis of the reproduction cost less absolesance for works which will not be utilizable in the future and less depreciation on a straight line basis based upon 80 years useful life for sewers and 40 years

useful life for sewage disposal plants with the same to be reduced by a percentage equal to the percentage of the original cost of such facility which was contributed by the Federal Government. In the event that the board and the governing body of the owning municipality are unable to agree upon such present worth, such facilities shall be acquired by eminent domain as provided in Section 11.

Subd. 4 [DIVISION OF PAYMENTS.] Payments by the district for the acquisition of any sewer or sewers acquired under the provisions of this section shall be divided among all municipalities which provided the construction costs thereof either directly or indirectly by virtue of a contract with the owning municipality with such division to be based upon the amounts provided by each municipality.

Subd. 5. [APPORTIONMENT OF COST.] The cost of the district of acquiring existing interceptor sewers, trunk sewers, or sewage disposal plants, as provided in this section, shall be apportioned among the benefitted component municipalities as provided for the construction of new facilities in Subdivision 2 of Section 14.

Sec. 14. [APPORTIONMENT OF EXPENSES.] Subdivision 1. [OPERATION AND MAINTENANCE.] All costs of operation, maintenance and repair of the district disposal system shall be apportioned among the component municipalities on the basis of the annual average dry weather volume of sewage contributed by each as the same shall be measured or estimated by the district, and each such component municipality shall pay such share of the total costs of operation, maintenance and repair as the volume of sewage contributed by such component municipality and the territory served by such municipality, under contract or otherwise, bears to the total volume of sewage. In any such apportionment of costs, there shall be taken into account not only the sewage and wastes of each municipality that are intercepted and treated, but an estimate shall be made of the sewage and wastes of such municipality which enter or are discharged directly or indirectly into any stream or watercourse flowing through or adjacent to the district or any part thereof, and such untreated sewage and wastes shall be considered as contributed by such municipality, provided that the board of trustees has, by resolution, requested that such sewage and wastes be discharged into the district's disposal system, and further provided that such parts of the district disposal system as may be required for the discharge of such sewage and wastes into the district disposal system have been constructed. Such allowance shall be made for infiltration, conveyance losses, and leakage, into or out of the interceptor sewers after the point of measurement of any component municipality's flow as the Board may deem just and equitable.

Subd. 2. [CONSTRUCTION EXPENSE.] All district expenditures for fixed charges for the construction of interceptor sewers or sewage disposal plants shall be apportioned among the benefited component municipalities in the following manner:

A user's share of the fixed charges for the construction of intercepting sewers and jointly used trunk sewers and pumping stations shall be apportioned to the component municipalities in a manner which allocates to users on the basis of annual average dry weather sewage volume, that percentage of the total capacity which is occasioned by maximum use for domestic sewage, commercial and industrial wastes, groundwater infiltration, and storm water admitted to the sewers. A user's share of the fixed charges on sewage treatment plants shall be apportioned to component municipalities in a manner which allocates to users, on the basis of annual average dry weather sewage volume, that percentage of the capacity occasioned by annual average use for domestic sewage, commercial and industrial wastes, and groundwater infiltration. The fixed charges for unused capacity of all sewage works, reserved for future use, shall be allocated to property on the basis of gross utilizable area to be served by the works constructed.

Subd. 3. [DEFERMENT OF PAYMENT.] Upon the request of any component municipality wherein any portion of the territory has not been connected to the district sewers, the board may by resolution of a majority plus two or all of its members provide for deferment of payment of all or part of the fixed charges for construction of any interceptor sewer or sewage disposal plant apportioned against that municipality and may establish such terms for payments of said deferred payments as the board deems fair and equitable so as not to impose an undue hardship on owners of property not then to be served by the district disposal system.

Subd. 4. [METHOD OF APPORTIONMENT.] The board of trustees shall apportion all costs among the component municipalities annually with the assistance of a qualified utility rate engineer upon the basis provided in this section, and shall include the schedule of apportionment of costs in its proposed budget. Pursuant to the budget hearing, the board of trustees may either amend or confirm such schedule. Any component municipality may appeal to the district court.

Subd. 5. [BUDGET PREPARATION.] Before the first day of July in each year, the board shall prepare a detailed budget of needs for the next calendar year, specifying separately the amounts to be expended for construction, operation, and maintenance, respectively, and shall deliver a copy thereof to the governing body of each component municipality, together with a statement of the amount

to be provided by each municipality. The governing body of each municipality shall review the budget, and upon request of any municipality the board shall hear objections to the budget and may, after such hearing, modify or amend the budget. It shall give due notice to each component municipality of any modification of amendment. The budget may be based on estimated sewage volumes or on volumes measured for the preceeding year, with the charges to each municipality adjusted at the close of the actual budget year when actual sewage volumes are available.

Subd. 6. [FINANCING.] For the purpose of providing funds to pay the cost of construction, reconstruction, enlarging, remodeling, improving or otherwise obtaining interceptor sewers and sewage disposal plants, the board of trustees, by vote of not less than a majority plus two of all of its members, may issue and sell general obligation bonds of the district, which shall be payable primarily from net revenues derived as provided in Subdivision 2 of this section, or from other non-tax revenues pledged for their payment, or from any two or more of such sources, or it may issue special obligations payable solely from such revenues. In event the board of trustees shall pledge the full faith and credit of the district to the payment of such bonds, it may levy a direct annual ad valorem tax on all taxable property in the district in the amount of any current or anticipated deficiency in the net revenues required to pay principal of and interest on said bonds during the current or any succeeding year, and it shall levy such tax if required to pay any deficiency without limitation as to rate or amount, provided the amount received by the district from ad valorem taxes levied on property in any component municipality shall be repaid to the component municipalities out of future net revenues of the district, and the board of trustees shall revise its charges in order to provide sufficient net revenues to repay any amount which it has received from such ad valorem levies. All obligations shall be issued and sold in accordance with Minnesota Statutes, Chapter 475, except that no election shall be required. The board may authorize the borrowing of money for any district purpose and provide for the repayment thereof.

Subd. 7. [PAYMENTS.] The governing body of each municipality shall provide the funds necessary to meet its proportion of the total cost for construction, operation and maintenance as finally determined by the board (such funds to be raised by sewer service charges, tax levies, special assessments, bond sales or any other means within the power of the municipality) and pay the same to the district treasurer in such amounts and at such times as the treasurer may request. Each component municipality is authorized to issue and sell bonds if necessary to meet its obligations under this section, irrespective of any limitation in any home rule charter or special or general law, without a vote upon the question by the electors.

Subd. 8. [FAILURE TO COLLECT.] If the governing body of any municipality fails to take any necessary action in order to provide the funds specified in the annual budget, the board shall, on or before October 10th in any calendar year, certify to the auditor of the county in which such municipality is located the amount required from the municipality for the ensuing year, and the county auditor shall extend the same with and as part of general taxes of said municipality for the ensuing year, and the county treasurer, upon the collection of the same, shall pay the same to the district treasurer. Such tax shall not be subject to existing tax limitations.

Sec. 15. [POWERS OF COMPONENT MUNICIPALITIES.] Subdivision 1. [CONSTRUCT SEWERS.] When any component municipality determines to erect or construct, at its own cost and expense, drains, sewers, intercepting sewers, pumping stations and other structures to be used exclusively by such municipality, the intention may be expressed by a resolution adopted by a majority vote of the governing body thereof, and thereafter such municipality may, notwithstanding any provision to the contrary in its charter or any general law of the state, issue and sell its bonds for the cost thereof without a vote upon the question by the electors of such municipality. Such bonds shall be issued in accordance with provisions of Minnesota Statutes, Chapter 475.

Subd. 2. [LEVY SPECIAL ASSESSMENTS.] Every component municipality may levy special assessments upon any property within the municipality benefited by the sewage disposal system, including property not subject to ad valorem levies. Special assessments may be levied by proceedings in accordance with Minnesota Statutes, Chapter 429, or other applicable law or charter provision.

Subd. 3. [IMPOSED SEWER CHARGES.] Every component municipality shall have authority to collect service charges for sewerage service in accordance with Minnesota Statutes, Section 444.075.

Sec. 16. [TRANSITORY.] Subdivision 1. TRANSFER OF PROPERTY OF MINNEAPOLIS-ST. PAUL SANITARY DISTRICT.] Upon qualification of the district treasurer all funds and property, both real and personal, of Minneapolis-Saint Paul Sanitary District shall be transmitted and paid over to the district treasurer who shall credit the same to the respective cities and contracted areas by whom said funds were paid. Such transfers shall be made upon the written request of the district. The district shall succeed to and become vested with all right, title, and interest in and to any property, real or personal, belonging to the Minneapolis-Saint Paul Sanitary District, and the proper officers of such district are hereby authorized and directed to execute such documents of transfer and con-

veyance as may be required for such purpose. In consideration for their equities in the property of Minneapolis-Saint Paul Sanitary District, the district shall pay to the city of Minneapolis the sum of $12,213,100 and to the city of St. Paul the sum of $6,433,233 payable in annual installments commencing in one year and extending over such number of years not exceeding 30 as the board shall determine with interest on the unpaid balance at the rate of three percent per annum payable with each installment. The cost of acquisition of such property shall be apportioned among the benefited component municipalities in the manner provided in section 14, subdivision 2.

Subd. 2. [CONTINUANCE OF OPERATION.] The district created hereunder shall be successor to Minneapolis-Saint Paul Sanitary District as to all contracts, rights, and obligations created by or on behalf of said district prior to the effective date of this act. All officers, agents and employees of the Minneapolis-Saint Paul Sanitary District shall continue in the same capacity retaining all rights with the successor district including all pension rights under Minnesota Statutes, Chapter 42.

Subd. 3. [EFFECTIVE DATE.] This act shall be in force and effect on July 1, 1961. Until all trustees are appointed, hereunder, the board of trustees of Minneapolis-Saint Paul Sanitary District shall act as the board of trustees of the district.

Subd. 4. [REPEALS.] Minnesota Statutes 1957, Chapter 445, and all other acts inconsistent herewith are hereby repealed, provided that the Minneapolis-Saint Paul Sanitary District shall continue in existence for the purpose of conveying or transferring property and winding up its affairs.

Subd. 5. [COMPLYING WITH MINNESOTA CONSTITUTION, ARTICLE XI, SECTION 2.] It is hereby found and determined that the Minneapolis-Saint Paul Sanitary District is the single local government unit to which this law applies on the effective date thereof, and this law shall become effective only after its approval by the two-thirds majority of the board of trustees of such district.

APPENDIX B

Proposal to Authorize Creation of Sanitary Districts

A BILL FOR AN ACT

RELATING TO WATER POLLUTION CONTROL AND SANITATION; PROVIDING FOR SANITARY DISTRICTS.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Subdivision 1. As used in this Act, the terms defined in this section have the meanings given them except as otherwise provided or indicated by the context.

Subd. 2. "Commission" means the state water pollution control commission.

Subd. 3. "District" means a sanitary district created under the provisions of this Act.

Subd. 4. "Board" means the board of managers of a sanitary district.

Subd. 5. "Territorial unit" means all that part of the territory of a district situated within a single municipality, a single organized town outside of any muncipality, or, in the case of an unorganized area, within a single county.

Subd. 6. "Related governmental subdivision" means a municipality or organized town wherein there is a territorial unit of a district, or, in the case of an unorganized area, the county. "Related governing body" means the governing body of a related governmental subdivision.

Subd. 7. "Village" means a village organized as provided by Minnesota Statutes 1957, Chapter 412, under the plan other than optional, or organized as provided by Minnesota Statutes 1959, Chapter 686.

Subd. 8. "Governing body" of a township means the town board.

Subd. 9. The terms defined in Minnesota Statutes 1957, section 144.371, as now in force or hereafter amended, have the meanings given them therein.

Sec. 2. A sanitary district may be created under the provisions of this Act for any territory embracing an area or a group of two or more adjacent areas, whether contiguous or separate, but not situated entirely within the limits of a single municipality, in any case where the commission finds that there is need throughout such territory for the accomplishment of the purposes of such districts under said provisions, that such purposes cannot be effectively accomplished throughout such territory by any existing public agency or agencies, that such purposes can be effectively and economically accomplished on an equitable basis by a district if created, and that the creation and maintenance of such a district will be administratively feasible and in furtherance of the public health, safety, and welfare.

Sec. 3. Subdivision 1. A proceeding for the creation of a district may be initiated by a petition to the commission, filed with its secretary, containing the following:

(1) A request for creation of the proposed district;

(2) The name proposed for the district, to include the words "sanitary district";

(3) A description of the territory of the proposed district;

(4) A statement showing the existence in such territory of the conditions requisite for creation of a district as prescribed in Section 2;

(5) A statement of the territorial units represented by and the qualifications of the respective signers;

(6) The post office address of each signer, given under his signature.

A petition may consist of separate writings of like effect, each signed by one or more qualified persons, and all such writings, when filed, shall be considered together as a single petition.

Subd. 2. Every such petition shall be signed as follows:

(1) For each municipality wherein there is a territorial unit of the proposed district, by an authorized officer or officers pursuant to a resolution of the municipal governing body;

(2) For each organized town wherein there is a territorial unit of the proposed district, by an authorized officer or officers pursuant to a resolution of the town board, or by at least five voters residing and owning land within such unit, or, if there are less than eight persons so qualified, by a majority of them;

(3) For each county wherein there is a territorial unit of the proposed district consisting of an unorganized area, by an authorized officer or officers pursuant to a resolution of the county board, or by at least five voters residing and owning land within such unit, or, if there are less than eight persons so qualified, by a majority of them.

If any signer is alleged to be a landowner in a territorial unit, a statement as to his status as such as shown by the county auditor's tax assessment records, certified by the auditor, shall be attached to or endorsed upon the petition.

Subd. 3. The commission or its agent holding the hearing on a petition may, at any time before the reception of evidence begins, permit the addition of signatures to the petition or may permit amendment of the petition to correct or remedy any error or defect in signature or otherwise except a material error or defect in the description of the territory of the proposed district, but no signer shall be permitted to withdraw his signature. No proceeding shall be invalidated on account of any error or defect in the petition unless questioned by an interested party before the reception of evidence begins at the hearing except a material error or defect in the description of the territory of the proposed district. If the qualifications of any signer of a petition are challenged at the hearing thereon, the commission or its agent holding the hearing shall determine the challenge forthwith on the allegations of the petition, the county auditor's certificate of landownership, and such other evidence as may be received.

Subd. 4. Upon receipt of a petition the commission shall cause a hearing to be held thereon, subject to all provisions of law now or hereafter in force relating to hearings held under authority of the commission in other cases, so far as applicable, except as otherwise provided. Notice of the hearing, stating that a petition for creation of the proposed district has been filed and describing the territory thereof, shall be given by the secretary of the commission by publication for two weeks in a qualified newspaper published within such territory, or, if there is no such newspaper, by publication in a qualified newspaper of general circulation in such territory, also by posting for two weeks in each territorial unit of the proposed district, and by mailing a copy of the notice to each signer of the petition at his address as given therein. Registration of mailed copies of the notice shall not be required. Proof of the giving of the notice shall be filed in the office of the secretary.

Subd. 5. After the hearing and upon the evidence received thereat the commission shall make findings of fact and conclusions determining whether or not the conditions requisite for the creation of a district exist in the territory described in the petition or any part thereof. If the commission finds that such conditions exist it may take an order creating a district for the territory described in the petition or such part thereof as the commission deems suitable, under the name proposed in the petition or such other name, including the words "sanitary district," as the commission deems appropriate.

Subd. 6. If the commission determines that any additional adjacent area or areas outside of the territory described in the petition should be included in a district, it may order the proceeding continued for consideration of a proposal therefor. Thereafter, upon receipt of a supplemental petition requesting the inclusion in the proposed district of such additional area or areas, executed with respect thereto as required for an original petition, the commission may order a supplemental hearing to be held thereon upon like notice and subject to like provisions as for an original hearing upon the entire territory embraced in both the original petition and the supplemental petition. The evidence received at the original hearing and the supplemental hearing shall be considered together as if submitted at a single hearing, and the commission shall make its findings and conclusions thereon accordingly. If the commission finds that the requisite conditions exist, it may make an order creating a district for the entire territory embraced in both petitions or such part thereof as the commission deems suitable.

Subd. 7. If the commission after a hearing determines that the creation of a district in the terri-

tory described in the petition or part thereof is not warranted, it shall make an order denying the petition. The secretary of the commission shall give notice of such denial by mail to each signer of the petition. No petition for the creation of a district consisting of the same territory shall be entertained within a year after the date of such an order, but this shall not preclude action on a petition for the creation of a district embracing part of such territory together with other territory.

Subd. 8. Notice of the making of every order of the commission creating a sanitary district, referring to the date of the order and describing the territory of the district, shall be given by the secretary in like manner as for notice of the hearing on the petition for creation of the district, including a supplemental petition, if any.

Subd. 9. An appeal may be taken and prosecuted from an order of the commission creating a district or denying the petition to create a district in like manner as now or hereafter provided for appeals from other orders of the commission except that the giving of notice of the order as provided in subdivision 8 shall be deemed notice thereof to all interested parties, and the time for appeal by any party shall be limited to 30 days after completion of the mailing of copies of the order or after expiration of the prescribed period of posting or publication, whichever is latest. The validity of the creation of a district shall not be otherwise questioned.

Subd. 10. Upon expiration of the time for appeal from an order of the commission creating a district, or, in case of an appeal, upon the taking effect of a final judgment of a court of competent jurisdiction sustaining the order, the secretary of the commission shall deliver a certified copy of the order to the secretary of state for filing. Thereupon the creation of the district shall be deemed complete, and it shall be conclusively presumed that all requirements of law relating thereto have been complied with. The secretary of the commission shall also transmit a certified copy of the order for filing to the county auditor of each county and the clerk or recorder of each municipality and organized town wherein any part of the territory of the district is situated and to the secretary of the district board when elected.

Sec. 4. Subdivision 1. An area adjacent to an existing district may be annexed thereto upon a petition to the commission stating the grounds therefor as hereinafter provided, signed by an authorized officer or officers of the district pursuant to a resolution of the board, also signed with respect to the area proposed for annexation in like manner as provided for a petition for creation of a district. Except as otherwise provided, a proceeding for annexation shall be governed by the provisions now or hereafter in force relating to proceedings for the creation of districts, so far as applicable. For the purpose of giving the required notices the territory involved shall comprise the area proposed for annexation together with the entire territory of the district. If the commission determines that the requisite conditions exist in the area proposed for annexation or any part thereof together with the territory of the district, it may make an order for annexation accordingly. All taxable property within the annexed area shall be subject to taxation for any existing bonded indebtedness or other indebtedness of the district for the cost of acquisition or construction of any disposal system or other works or facilities beneficial to the annexed area to such extent as the commission may determine to be just and equitable, to be specified in the order for annexation. The proper officers shall levy further taxes on such property accordingly.

Subd. 2. An area within a district may be detached therefrom upon a petition to the commission stating the grounds therefor as hereinafter provided, signed with respect to the area proposed for detachment in like manner as provided for a petition for creation of a district. Except as otherwise provided, a proceeding for detachment shall be governed by the provisions now or hereafter in force relating to proceedings for the creation of districts, so far as applicable. For the purpose of giving the required notices the territory involved shall comprise the entire territory of the district. If the commission determines that the requisite conditions for inclusion in a district no longer exist in the area proposed for detachment or any part thereof, it may make an order for detachment accordingly. All taxable property within the detached area shall remain subject to taxation for any existing bonded indebtedness of the district to such extent as it would have been subject thereto if not detached, and shall also remain subject to taxation for any other existing indebtedness of the district incurred for any purpose beneficial to such area to such extent as the commission may determine to be just and equitable, to be specified in the order for detachment. The proper officers shall levy further taxes on such property accordingly.

Subd. 3. Different areas may be annexed to and detached from a district in a single proceeding upon a joint petition therefor and upon compliance with the provisions of subdivisions 1 and 2 with respect to the areas affected so far as applicable.

Subd. 4. A district may be dissolved upon a petition to the commission stating the grounds for dissolution as hereinafter provided, signed by an authorized officer or officers of the district pursuant to a resolution of the board, and containing a pro posal for distribution of the remaining funds of the district, if any, among the related governmental subdivision. Except as otherwise provided,

a proceeding for dissolution shall be governed by the provisions now or hereafter in force relating to proceedings for the creation of districts, so far as applicable. If the commission determines that the conditions requisite for the creation of the district no longer exist therein, that all indebtedness of the district has been paid, and that all property of the district except funds has been disposed of, it may make an order dissolving the district and directing the distribution of its remaining funds, if any, among the related governmental subdivisions on such basis as the commission determines to be just and equitable, to be specified in the order. Certified copies of the order for dissolution shall be transmitted and filed as provided for an order creating a district. The secretary of the commission shall also transmit a certified copy of the order to the treasurer of the district, who shall thereupon distribute the remaining funds of the district as directed by the order, and shall be responsible for such funds until so distributed.

Sec. 5. Expenses of the preparation and submission of petitions in proceedings under sections 2 to 4 shall be paid by the petitioners. Expenses of hearings therein shal be paid out of any available funds appropriated for the commission.

Sec. 6. Subdivision 1. The governing body of each district shall be a board of managers of five members, who shall be voters residing in the district, and who may, but need not be, officers, members of governing bodies, or employees of the related governmental subdivisions. Members of the Board of Managers shall be paid $25 for each meeting attended, not to exceed $600 per year.

Subd. 2. The terms of the first board members elected after creation of a district shall be so arranged and determined by the commission in its order creating the district as to expire on the first business day in January as follows:

(1) The terms of two members in the second calendar year after the year in which they were elected;

(2) The terms of two other members in the third calendar year after the year in which they were elected;

(3) The term of the remaining member in the fourth calendar year after the year in which he was elected.

Thereafter board members shall be elected successively for regular terms beginning on expiration of the preceding terms and expiring on the first business day in January of the third calendar year thereafter. Each board member shall serve until his successor is elected and has qualified.

Subd 3. In a district having only one territorial unit all the members of the board shall be elected by the related governing body. In a district having more than one territorial unit the members of the board shall be elected by the members of the related governing bodies in joint session except as otherwise provided. The electing bodies concerned shall meet and elect the first board members of a new district as soon as practicable after creation of the district, and shall meet and elect board members for succeeding regular terms as soon as practicable after November 1 next preceding the beginning of the terms to be filled, respectively.

Subd. 4. Upon the creation of a district having more than one territorial unit the commission, on the basis of convenience for joint meeting purposes, shall designate one of the related governing bodies as the central related governing body in the order creating the district or in a subsequent special order, of which the secretary of the commission shall notify the clerks or recorders of all the related governing bodies. Upon receipt of such notification, the clerk or recorder of the central related governing body shall immediately transmit the same to the presiding officer of such body. Such officer shall thereupon call a joint meeting of the members of all the related governing bodies to elect board members, to be held at such time as he shall fix at the regular meeting place of his governing body or at such other place in the district as he shall determine. At least ten days notice of the meeting shall be given by mail by the clerk or recorder of such body to the clerks or recorders of all the other related governing bodies, who shall immediately transmit such notice to all the members of such bodies, respectively. Subsequent joint meetings to elect board members for regular terms shall be called and held in like manner. The presiding officer and the clerk or recorder of the central related governing body shall act respectively as chairman and secretary of the joint electing body at any meeting thereof, but in case of the absence or disability of either of them such body may elect a temporary substitute. A majority of the members of each related governing body shall be required for a quorum at any meeting of the joint electing body.

Subd. 5. Nominations for board members may be made by petitions, each signed by ten or more voters residing and owning land in the district, filed with the clerk, recorder, or secretary of the electing body before the election meeting. No person shall sign more than one petition. The electing body shall give due consideration to all such nominations but shall not be limited thereto.

Subd. 6. In the case of an electing body consisting of a single related governing body, a majority vote of all the members shall be required for an election. In the case of a joint electing body, a majority vote of the members present shall be required for an election. In case of lack of a quorum

or failure to elect, a meeting of an electing body may be adjourned to a stated time and place without further notice.

Subd. 7. In any district having more than one territorial unit the related governing bodies, instead of meeting in joint session, may elect a board member by resolutions adopted by all of them separately, concurring in the election of the same person. A majority vote of all the members of each related governing body shall be required for the adoption of any such resolution. The clerks or recorders of the other related governing bodies shall transmit certified copies of such resolutions to the clerk or recorder of the central related governing body. Upon receipt of concurring resolutions from all the related governing bodies, the presiding officer and clerk or recorder of the central related governing body shall certify the results and furnish certificates of election as provided for a joint meeting.

Subd. 8. Any vacancy in the membership of a board shall be filled for the unexpired term in like manner as provided for the regular election of board members.

Subd. 9. The presiding and recording officers of the electing body shall certify the results of each election to the secretary of the commission, to the county auditor of each county wherein any part of the district is situated, and to the clerk or recorder of each related governing body, and shall make and transmit to each board member elected a certificate of his election. Upon electing the first board members of a district, the presiding officer of the electing body shall designate one of them to serve as temporary chairman for the purposes of intitial organization of the board, and the recording officer of the body shall include written notice thereof to all the board members with their certificates of election.

Sec. 7. Subdivision 1. As soon as practicable after the election of the first board members of a district they shall meet at the call of the temporary chairman to elect officers and take other appropriate action for organization and administration of the district. Each board shall hold a regular annual meeting at the call of the chairman or otherwise as it shall prescribe on or as soon as practicable after the first business day in January of each year, and such other regular and special meetings as it shall prescribe.

Subd. 2. The officers of each district shall be a chairman and a vice-chairman, who shall be members of the board, and a secretary and a treasurer, who may but need not be members of the board. The board of a new district at its initial meeting or as soon thereafter as practicable shall elect the officers to serve until the first business day in January next following. Thereafter the board shall elect the officers at each regular annual meeting for terms expiring on the first business day in January next following. Each officer shall serve until his successor is elected and has qualified.

Subd. 3. The board at its initial meeting or as soon thereafter as practicable shall provide for suitable places for board meetings and for offices of the district officers, and may change the same thereafter as it deems advisable. Such meeting place and offices may be the same as those of any related governing body, with the approval of such body. The secretary of the board shall notify the secretary of state, the secretary of the commission, the county auditor of each county wherein any part of the district is situated, and the clerk or recorder of each related governing body of the location and post office addresses of such meeting place and offices and any changes therein.

Subd. 4. At any time before the proceeds of the first tax levy in a district become available the district board may prepare a budget comprising an estimate of the expenses of organizing and administering the district until such proceeds are available, with a proposal for apportionment of the estimated amount among the related governmental subdivisions, and may request the governing bodies thereof to advance funds in accordance with the proposal. Such governing bodies may authorize advancement of the requested amounts, or such part thereof as they respectively deem proper, from any funds available in their respective treasuries. The board shall include in its first tax levy after receipt of any such advancements a sufficient sum to cover the same and shall cause the same to be repaid, without interest, from the proceeds of taxes as soon as received.

Sec. 8. Subdivision 1. Every district thall be a public corporation and a governmental subdivision of the state, and shall be deemed to be a municipality or municipal corporation for the purpose of obtaining federal or state grants or loans or otherwise complying with any provison of federal or state laws or for any other purpose relating to the powers and purposes of the district for which such status is now or hereafter required by law.

Subd. 2. Every district shall have the powers and purposes prescribed by this section and such others as may now or hereafter be prescribed by law. No express grant of power or enumeration of powers herein shall be deemed to limit the generality or scope of any grant of power.

Subd. 3. Except as otherwise provided, a power or duty vested in or imposed upon a district or any of its officers, agents, or employees shall not be deemed exclusive and shall not supersede or abridge any power or duty vested in or imposed upon any other agency of the state or any governmental subdivision thereof, but shall be supplementary thereto.

Subd. 4. All the powers of a district shall be exercised by its board of managers except so far as approval of any action by popular vote or by any other authority may be expressly required by law.

Subd. 5. A district may sue and be sued and may enter into any contract necessary or proper for the exercise of its powers or the accomplishment of its purposes.

Subd. 6. A district may acquire by purchase, gift, or condemnation or may lease or rent any real or personal property within or without the district which may be necessary for the exercise of its powers or the accomplishment of its purposes, may hold such property for such purposes, and may lease or rent out or sell or otherwise dispose of any such property so far as not needed for such purposes.

Subd. 7. A district may accept gifts, grants, or loans of money or other property from the United States, the state, or any person, corporation, or other entity for district purposes, many enter into any agreement required in connection therewith, and may hold, use, and dispose of such money or property in accordance with the terms of the gift, grant, loan, or agreement relating thereto.

Sec. 9. Subdivision 1. A district may abate, control, and prevent polution of any waters of the state within or adjacent to its territory, may construct, install, improve, maintain, and operate any system, works, or facilities required therefor within or without the district.

Subd. 2. A district may provide for, regulate, and control the disposal of sewage, industrial waste, and other waste originating or existing within its territory, and may construct, install, improve, maintain, and operate any system, works, or facilities required therefor within or without the district. The district may require any person upon whose premises there is any source of sewage, industrial waste, or other waste within the district to connect the same with the disposal system, works, or facilities of the district whenever reasonable opportunity therefor is provided.

Subd. 3. A district may provide for, regulate, and control the disposal of garbage or refuse originating or existing within its territory, may construct, install, improve, maintain, and operate any system, works, or facilities required therefor within or without the district, and may require any person upon whose premises any garbage or refuse is produced or accumulated to dispose thereof through the system, works, or facilities of the district whenever reasonable opportunity therefor is provided.

Subd. 4. A district may procure supplies of water so far as necessary for any purpose under subdivisions 1, 2, and 3, and may construct, install, improve, maintain, and operate any system, works, or facilities required therefor within or without the district.

Subd. 5. A district may provide for the construction, improvement, and maintenance of artificial channels, ditches, and reservoirs, and for the improvement and maintenance of natural stream channels and basins, for the regualtion and control of waters therein, for the prevention and control of soil erosion, for the prevention and control of floods, and for the disposal of flood water and excess surface water so far as necessary for any purpose under subdivisions 1, 2, 3, and 4, and may construct, install, improve, maintain, and operate any system, works, or facilities required therefor within or withou the district.

Sec. 10. Subdivision 1. For the purpose of constructing, improving, maintaining, or operating any system, works, or facilities designed or used for any purpose under section 9 a district, its officers, agents, employees, and contractors may enter, occupy, excavate, and otherwise operate in, upon, under, through, or along any public highway, including a state trunk highway, or any street, park, or other public grounds so far as necessary for such work, with the approval of the governing body or other authority in charge of the public property affected and on such terms as may be agreed upon with such governing body or authority respecting interference with public use, restoration of previous conditions, compensation for damages, and other pertinent matters. If such an agreement cannot be reached after reasonable opportunity therefor, the district may acquire the necessary rights, easements, or other interests in such public property by condemnation, subject to all applicable provisions of law as in case of taking private property.

Subd. 2. A district may, upon such terms as may agreed upon with the respective governing bodies or authorities concerned, provide for connecting with or using or may lease or acquire and take over any system, works, or facilities for any purpose under section 12 belonging to any other governmental subdivision or other public agency.

Subd. 3. A district may, upon such terms as may be agreed upon with the respective governing bodies or authorities concerned, authorize the use by any other governmental subdivision or other public agency of any system, works, or facilities of the district constructed for any purpose under section 9 so far as the capacity thereof is sufficient beyond the needs of the district. A district may extend any such system, works, or facilities and permit the use thereof by persons outside the district, so far as the capacity thereof is sufficient beyond the needs of the district, upon such terms as the board may prescribe.

Subd. 4. A district may be a party to a joint cooperative project, undertaking, or enterprise with any one or more other governmental subdivisions or other public agencies for any purpose under section 9 upon such terms as may be agreed upon between the governing bodies or authorities concerned. Without limiting the effect of the foregoing provision or any other provisions of this Act, a district, with respect to any of said purposes, may act under and be subject to the provisions of Minnesota Statutes 1957, Section 471.59, as now in force or hereafter amended, or any other appropriate law now in force or hereafter enacted providing for joint or cooperative action between governmental subdivisions or other public agencies.

Sec. 11. A district may regulate and control the construction, maintenance, and use of privies, cesspools, septic tanks, toilets, and other facilities and devices for the reception or disposal of human or animal excreta or other domestic watestes within its territory so far as necessary to prevent nuisances or pollution or to protect the public health, safety, and welfare, and may prohibit the use of any such facilities or devices not connected with a district disposal system, works, or facilities whenever reasonable opportunity for such connection is provided.

Sec. 12. A district may develop general programs and particular projects within the scope of its powers and purposes, and may make all surveys, studies, and investigations necessary therefor.

Sec. 13. A district may do and perform all other acts and things necessary or proper for the effectuation of its powers and the accomplishment of its purposes. Without limiting the effect of the foregoing provision or any other provision of this Act, a district, with respect to each and all of said powers and purposes, shall have like powers as are vested in villages with respect to any similar purposes, and the exercise of such powers by a district and all matters pertaining thereto shall be governed by the provisions of law relating to the exercise of similar powers by villages and matters pertaining thereto, so far as applicable, with like force and effect, except as otherwise provided.

Sec. 14. A district may contract to purchase any system of sewage disposal works or facilities from any related governmental subdivision at a cost not to exceed present cost less depreciation and obsolescence.

Sec. 15. Subdivision 1. The board of managers of every district shall have charge and control of all the funds, property, and affairs of the district. With respect thereto the board shall have like powers and duties as are provided by law for a village council with respect to similar village matters, except as otherwise provided. Except as otherwise provided, the chairman, vice-chairman, secretary, and treasurer of the district shall have like powers and duties, respectively, as the mayor, acting mayor, clerk, and treasurer of a village. Except as otherwise provided the exercise of the powers and the performance of the duties of the board and officers of the district and all other activities, transactions, and procedures of the district or any of its officers, agents, or employees, respectively, shall be governed by the provisions of law relating to similar matters in a village, so far as applicable, with like force and effect.

Subd. 2. The board may enact ordinances, prescribe regulations, adopt resolutions, and take other appropriate action relating to any matter within the powers and purposes of the district, and may do and perform all other acts and things necessary or proper for the effectuation of said powers and the acomplishment of said purposes. The board may provide that violation of any ordinance shall be a misdemeanor and may prescribe penalties therefor.

Subd. 3. Violations of district ordinances may be prosecuted before any justice of the peace or municipal court of any related governmental subdivision for the district, and every such justice or court shall have jurisdiction thereof. Any constable or other peace officer of any such governmental subdivision may make arrests for such violations committed anywhere within the district in like manner and with like effect as for violations of village ordinances or for statutory misdemeanors.

All fines collected in such cases shall be deposited in the treasury of the district. The lawful fees and costs of the magistrates and officers acting in such cases, except as collected from offenders, shall be paid by the district, and provision may be made for payment by the district of such other compensation of such magistrates and officers for services in such cases and for payment of the expenses of confinement of offenders on such terms as may be agreed upon between the board and the respective governing bodies or authorities concerned.

Subd. 4. The board may provide for the appointment of officers of the district to be known as sanitary district inspectors, who shall enforce all district ordainances, state laws, and orders and regulations of the state board of health and the state water pollution control commission pertaining to any matter within the scope of the powers and purposes of the district. Such officers shall have all the powers of peace officers with respect to such matters, and shall qualify as peace officers.

Sec. 16 Subdivision 1. The board may levy taxes for any district purpose on all taxable property in the district.

Subd. 2. In any case where a particular area within the district, but not the entire district, is benefited by a system, works, or facilities of the district, the board, after holding a public hearing as pro-

vided by law for levying assessments on benefited property, may by ordinance establish such area as a taxing subdistrict, to be designated by number, and may levy special taxes on all the taxable property therein, to be accounted for separately and used only for the purpose of paying the cost of construction, improvement, maintenance, and operation of such system, works, or facilities, or paying the principal and interest on bonds issued to provide funds therefor and expenses incident thereto. Such hearing may be held jointly with a hearing for the purpose of levying assessments on benefited property within the proposed taxing subdistrict.

Subd. 3. The board may levy assessments on benefited property to provide funds for payment of the cost of construction, improvement, or acquisition of any system, works, or facilities designed or used for any district purpose, or for payment of the principal of and interest on any bonds issued therefor and expenses incident thereto.

Subd. 4. The board may prescribe service, use, or rental charges for persons or premises connecting with or making use of any system, works, or facilities of the district, may prescribe the method of payment and collection of such charges, and may provide for the collection thereof for the district by any related governmental subdivision or other public agency on such terms as may be agreed upon with the governing body or other authority thereof.

Sec. 17. Subdivision 1. The board may authorize the borrowing of money for any district purpose and provide for the repayment thereof.

Subd. 2. The board may authorize the issuance of bonds or obligations of the district to provide funds for the construction, improvement, or acquisition of any system, works, or facilities for any district purpose, or for refunding any prior bonds or obligations issued for any such purpose, and may pledge the full faith and credit of the district or the proceeds of tax levies or assessments or service, use, or rental charges, or any combination thereof, to the payment of such bonds or obligations and interest thereon or expenses incident thereto. No election or vote of the people of the district shall be required to authorize the issuance of any such bonds or obligations. Except as otherwise provided in this Act, the forms and procedures for issuing and selling bonds and provisions for payment thereof shall comply with the provisions of Minnesota Statutes 1957, Chapter 475, as now in force or hereafter amended.

Sec. 18. The proceeds of all tax levies, assessments, service, use, or rental charges, and other income of the district shall be deposited in the district treasury and shall be held and disposed of as the board may direct for district purposes, subject to any pledges or dedications made by the board for the use of particular funds for the payment of bonds or interest thereon or expenses incident thereto or for other specific purposes.

Sec. 19. A district shall not be subject to any existing statutory limit on tax levies, assessments against benefited property, bonded indebtedness, or other indebtedness, nor to any such limits hereafter prescribed unless expressly made applicable to sanitary districts.

Sec. 20. In any case where an ordinance is enacted or a regulation adopted by a district board relating to the same subject matter and applicable in the same area as an existing ordinance or regulation of a related governmental subdivision for the district, the district ordinance or regulation, to the extent of its application, shall supersede the ordinance or regulation of the related governmental subdivision. In any case where an area within a district is served for any district purpose by a system, works, or facilities of the district, no system, works, or facilities shall be constructed, maintained, or operated for the same purpose in the same area by any related governmental subdivision or other public agency except as approved by the district board.

APPENDIX C

Proposal to License Well Drillers and Regulate Well Drilling

A BILL FOR AN ACT

RELATING TO WATER WELLS, WELL DRILLING AND PUMP INSTALLING PROVIDING FOR THE EXAMINATION AND LICENSING OF WELL DRILLERS, PRACTICAL WELL DRILLERS AND PUMP INSTALLERS, FOR REGULATION OF WELL DRILLING AND PUMP INSTALLING, AND PROVIDING PENALTIES FOR VIOLATIONS.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. [DEFINITIONS.] Subdivision 1. [GENERAL.] For the purposes of this act the terms defined in this section have the meaning ascribed to them.

Subd. 2. "Well" means an excavation or opening into the ground made by digging, boring, drilling, driving, or other methods for the purpose of obtaining water from one or more geological aquifers.

Subd. 3. "Well drilling" means the industry and procedure employed in the construction, reconstruction, and repair of wells, including the work of excavation or opening of the ground, and the installation of casing or curbing in wells.

Subd. 4. "Well driller" means any person skilled in the planning and superintending and the practical art of well drilling and otherwise lawfully qualified to conduct the business of well drilling, and who is familiar with the laws, rules and regulations governing well drilling.

Subd. 5. "Practical well driller" means any person other than a well driller who, as his principal occupation, is engaged as an emloyee of, or otherwise working under the direction of, a well driller in practical well drilling.

Subd. 6. "Board" means the state board of health.

Subd. 7. "Pump installer" means any person skilled in the installation of water supply equipment for the pumping of water and otherwise lawfully qualified to install water supply pumping equipment and who is familiar with the laws, rules and regulations governing the installation of water pumps.

Sec. 2. [WELL DRILLING; SUPERVISION BY STATE BOARD OF HEALTH.] The board may, by regulation, pursuant to Minnesota Statutes 1957, Chapter 15, prescribe minimum standards which shall be uniform, and which shall thereafter be effective for all well drilling and water pump installation in this state. Such regulations, upon approval by the attorney general and their legal publication and filing, pursuant to Minnesota Statutes 1957, Chapter 15, shall have the force of law, and the violation of any part thereof shall constitute a misdemeanor. The board shall administer the provisions of this act and may employ a competent person and assistants to supervise and inspect well drilling and pump installation operations.

Sec. 3. [LICENSING.] Subdivision 1. [WELL DRILLERS AND PRACTICAL WELL DRILLERS AND PUMP INSTALLERS; LICENSE BY STATE BOARD OF HEALTH; EXCEPTIONS; WELL DRILLING ON ONE'S OWN PREMISES.] From and after January 1, 1962 no person, firm or corporation shall engage in or work at the business of a well driller or practical well driller or pump installer unless licensed to do so by the board. Such license shall not be required of registered professional engineers or superintendents of water works systems in the preparation of plans and specifications or in supervising the installation of wells. A well driller may also work as a practical well driller but shall not work as a pump installer unless licensed to do so. Anyone not so licensed may do well drilling or pump installing work on property owned or leased by him to obtain water for his own personal use, unless forbidden to do so by local ordinance.

Subd. 2. [SUPERVISION BY WELL DRILLER OR PUMP INSTALLER.] No person, firm or corporation shall engage in the business of well drilling unless at all times a licensed well driller, who shall be responsible for proper performance of well drilling, is in charge of the well drilling of such person, firm or corporation. No person, firm or corporation shall engage in the business of pump installing unless at all times a licensed pump installer is in charge of the pump installation of such person, firm or corporation.

Sec. 4. [EXAMINATION FOR LICENSE.] Subdivision 1. [RULES AND REGULATIONS.] The board shall prescribe rules and regulations, not inconsistent herewith, for the examination and licensing of well drillers and practical well drillers and pump installers.

Subd. 2. [EXAMINERS.] The board shall appoint five examiners, of whom two shall be well drillers, two pump installers, and one a representative of the board, who serving together with the director of the division of waters of the Minnesota department of conservation or his authorized representative shall be the well drilling examiners. Such well drillers and pump installers shall each receive his expenses and such sum per diem for each day actually engaged in duties connected with the carrying out of the provisions of this act as the board shall fix by its order.

Subd. 3. [APPLICATIONS.] Applications for well driller's license and practical well driller's license and pump installer's license shall be made to the state board of health, with fees. Unless the applicant is entitled to a renewal, he shall be licensed by the state board of health only after passing a satisfactory examination by the examiners showing qualifications. Examination fees for well drillers, practical well drillers and pump installers shall be $5. Upon being notified that he has successfully passed the examination for original license the applicant shall submit an application, with the license fee herein provided. Annual license fees shall be $10 for practical well drillers, $15 for pump installers and $25 for well drillers except that persons qualifying for license after June 30 of any year shall be issued a license for the remainder of the calendar year upon payment of one half of the annual fee. Licenses shall expire December 31st, but may be renewed upon application made the following January or February, but if in February only upon payment of an additional fee of $2.

Subd. 4. [REVOLVING FUND.] A revolving fund to be known as the Minnesota department of health, water-well account is hereby created in the state treasury. All fees and other receipts arising

from the operation of this act shall be deposited in such revolving fund. All monies in such revolving fund are appropriated annually to the Minnesota department of health for purposes of carrying out the terms and provisions of this act.

Sec. 5. [BOARD MAY REVOKE LICENSES.] The board may revoke any license obtained through error or fraud, or if the licensee is shown to be incompetent, and for a wilful violation of any of its rules and regulations applicable to such work, or of this act, or for knowingly aiding or abetting one to do well drilling work who is not properly licensed, or the employing by a well driller of an unlicensed person to do well drilling work or pump installing. The licensee shall have notice in writing, enumerating the charges, and shall be entitled to a public hearing by the board upon at least five days notice, with the right to produce testimony. The board may appoint, in writing, any competent person to take testimony, who shall have power to administer oaths, issue subpoenas, and compel the attendance of witnesses. The decision of the board shall be based on the testimony and records. One year from the date of revocation, application may be made for a new license.

Sec. 6. [REVIEW BY CERTIORARI.] The action of the board revoking any license shall be reviewable by certiorari under Minnesota Statutes 1957, Chapter 606.

Sec. 7. [ADVISORY COMMITTEE.] The board shall appoint three licensed well drillers, two licensed pump installers, and a registered professional consulting engineer, who serving together with the director of the division of waters of the Minnesota department of conservation or his authorized representative shall comprise a committee advisory to the board. The board shall, prior to any hearing required by Minnesota Statutes 1957, Section 15.0412, held for consideration of adoption or change of regulations or standards authorized by this act, arrange for a meeting of the advisory committee for discussion of the regulations and standards proposed for adoption or change. The well drillers, pump installers and consulting engineer who as members of the advisory committee attend a meeting called by the board as provided for herein shall each receive their expenses.

Sec. 8. [VIOLATIONS; PENALTIES.] Any person violating any of the provisions of this act or who shall wilfully make any false representations to the board of health in applying for a license or permit shall be guilty of a misdemeanor.

APPENDIX D

Proposed Private Well Code[1]

PROPOSED CODE OF RULES AND REGULATIONS TO BE ISSUED PURSUANT TO WELL DRILLER'S LICENSING LAW (APPENDIX C) IF ENACTED

SECTION I.

1.1 Definitions: (To be added)

SECTION II. BASIC PRINCIPLES

2.1 The purpose of this code is to establish uniform minimum standards and methods of procuring and protecting an adequate supply of safe ground water and to protect the quality of the ground water resources, through proper location, construction, reconstruction, development and use of wells and installation of pumping equipment in conformity with Chapter _____.

2.2 *Location* The well shall be located where the surroundings can be maintained in a sanitary condition. The site shall not be subject to flooding or excessive surface wash water. It should be on the upstream slope of the ground water table from known or probable sources of contamination and shall be adequately removed therefrom.

2.3 *Construction* The well shall be:

(a) Constructed in such manner as to maintain protection against contamination of water-bearing formations and to exclude surface waters and known sources of contamination.

(b) Adapted to the geologic (earth structure) and ground water conditions existing at the site of the well so as to insure full utilization of every natural protection afforded thereby.

(c) Designed to facilitate such supplemantry construction as may be required to provide a safe water supply, where obtainable, and to conserve ground water.

(d) Watertight from a point above the ground surface to such depth as necessary to exclude contamination from both outside and inside the casing.

[1]If the proposal to license well drillers contained in Appendix C is enacted by the Minnesota Legislature, the Department of Health proposes to issue rules and regulations pursuant thereto in the tentative form contained in this Appendix, subject to future revision.

2.4 *Pump Installation* The pumping equipment shall be:

(a) Located in such manner that the pump and its surroundings can be maintained in a sanitary condition.

(b) Designed: (1) to meet the water yield and draw down characteristics of the well at the time of installation; (2) to be durable and reliable in character; (3) of such material that no toxic or otherwise objectionable condition will be created in the water; (4) in such manner that continued operation without priming is assured at the time of installation; (5) to provide adequate protection against contamination of any character from any surface or subsurface source.

2.5 *Prohibited Uses* No well shall be used for the disposal of sewage, surface water, refuse or other substance or material that will or may adversely affect the quality of the water in the formations or aquifers penetrated by the well. No sewage, surface water, refuse, or other substance or material capable of adversely affecting the quality of ground water shall be discharged into any subsurface shaft or pit other than a properly constructed seepage pit.

SECTION III. LOCATION

3.1 *Relation to Contamination Sources.* The well shall be located on a well drained site at least two feet above the highest known flood water level. Minimum horizontal ditsances between the well and existing common sources of contamination or drainage from such sources shall be as follows:

(a) Cesspool, seepage pit ..... 75 ft.

(b) Septic tank; subsurface sewage disposal field; pit toilet or privy; buried sewer (except as specified in (c), (d) and (e).) sewer connected foundation drain; barnyard; barn gutter; animal pen or stall; farm silo; lake, pond or stream; and other similar sources of contamination ..... 50 ft.

(c) Buried sewer of extra-heavy cast iron with air-tested lead-caulked joints protected with packed sleeves, 6 inch concrete encasement, bell-joint clamps or equivalent or with air-tested mechanical joints ..... 30 ft.

(d) Buried sewer of extra-heavy cast iron with leaded-caulked air-tested joints ..... 40 ft.

(e) The horizontal distance specified in (c) where applicable to a well serving a single family dwelling and to a buried sewer as specified serving the same single family dwelling may be reduced to ..... 20 ft.

(f) Pumphouse floor drain of cast iron with leaded or mechanical joints and draining to ground surface ..... 2 ft.

(g) Greater distances may be required in accordance with Appendix ___ under the following conditions: (1) when the well is pumped at 150 gallons per minute or more; (2) where the well is located in proximity to gross sources of contamination; (3) where the ground water may approach the well from any direction through creviced or highly porous formations.

3.2 *Relation to Buildings.* With respect to buildings, the location of a well shall be as follows:

(a) When a well is located adjacent to a building, it shall be located so that the center line of the well, extended vertically, will clear any projection from the building by not less than two feet.

(b) Every well shall be located so that it will be accessible for cleaning, treatment, repair, test, inspection, and such other attention as may be necessary.

(c) Wellheads, well pumps and well casing openings shall not be located in, nor shall any well casing extend through or within 10 feet measured horizontally of any pit, room, or space extending below the established ground surface except where protection against flooding is provided and except that a well which is pumped at a rate of 20 gallons per minute or less may be located within 3 feet of the basement of the building being served and a well serving only one single family dwelling may be housed in an alcove of the main basement of the dwelling served, provided that: (1) the footings of the building extend continuous across the face of the alcove; (2) the floor of the alcove is at least 6 inches above the floor of the main basement; (3) the upper terminal of the well casing is at least 18 inches above the level of the main basement floor; (4) the walls of the alcove extend at least 6 inches above established ground level; (5) the alcove is provided with a water-tight cover.

SECTION IV. CONSTRUCTION OF WELLS IN UNCONSOLIDATED FORMATIONS

4.1 *Minimum Depth of Casing.* Drilled wells, constructed in geological formations of sand, gravel, clay or other such formations of an unconsolidated nature, extending the full depth of the well, shall have a permanent casing installed to a depth sufficient to prevent the entrance of contamination. Where information is available to show the distance below ground level to which the zone of contamination

extends the casing shall extend to a depth at least 50 percent greater subject to the following minimum requirements:

(a) For isolated installations such as at farms, rural schools, etc., the depth of casing shall be determined by the pumping level. For pumping levels 20 feet or less the casing shall extend 10 feet below pumping level. For pumping levels 20 feet to 25 feet the casing shall extend to a depth of 30 feet below the ground surface. For pumping levels greater than 25 feet the casing shall extend 10 feet below pumping level, if practicable, but in no case less than 5 feet.

(b) For installations in areas which are or will be platted or otherwise developed on a community basis the casing shall extend to a depth of at least 75 feet below the ground level, or 5 feet below the pumping level whichever is greater.

(c) *Casing Diameter.* The minimum casing diameter for drilled wells shall be 4 inches.

(d) *Screens.* An adequate screen shall be provided. The joint between the screen and the casing shall be made sand-tight with lead packer or equivalent materials or methods.

In exceptional cases where the construction specified above cannot be met, deviations will be permitted provided that the construction will conform to Section 3.2.

4.2 *Caving Formations With Stable Overlay.* All drilled wells constructed in geological formations of a caving nature which lie below clay, hardpan, shale, or other relatively stable unconsolidated material, shall be of grouted type construction, extending through the stable unconsolidated formation, according to the following minimum standards:

(a) *Overlying Sand and Clay.* Where the overlying material extends to a depth of 30 feet or more and contains layers of sand or gravel, the upper drillhole shall extend 5 feet into clay below any sand or gravel above the 20 foot depth. The depth of casing shall be determined in accordance with Section 4.1 and the annular space shall be filled with cement grout.

(b) *Overlying Clay or Similar Material.* Where the overlying material is only clay or similar material to a depth of 25 feet or more, the upper drillhole shall extend to a depth of at least 20 feet. The casing shall extend into the water-bearing formation to a depth determined in accordance with Section 4.1. The upper drillhole shall be kept about ⅓ filled with clay slurry throughout driving of the permanent casing. The remaining annular space shall be filled with cement grout.

(c) *Drillhole.* The size of the upper drillhole shall be equal to the casing diameter (I.D.) plus 4 inches. The diameter of the lower drillhole shall be equal to the nominal casing inside diameter.

4.3 *Gravel Wall Construction.* Gravel wall or gravel-packed wells shall have a drillhole or outer casing having a diameter at least 12 inches larger than the protective casing pipe and one and one-half inch minimum space surrounding gravel replacement pipes in place. The gravel surface shall terminate or an outer watertight casing shall extend to conform to the depth specified for casing pipe in Section 4.1. All gravel shall be disinfected with a chlorine solution immediately before application to the well (see Section 8.1). If gravel refill pipes are used, they shall terminate above grade and be securely capped. The annular space between the excavation line and the outside of the protective well casing shall be filled with cement grout.

4.4 *Special Types.* Driven point, dug, or bored wells and radial water collectors.

(a) *Driven wells.* The depth of the upper unperforated pipe of a driven point well shall conform to the specifications 4.1. The minimum pipe size shall be 1¼ inches diameter. The depth of a driven well shall be sufficient to prevent breaking suction when pumping the well at a rate 50 percent greater than the capacity of the permanent pump. Protection against freezing shall be accomplished by means of casing pipe. So called "frost pits" curbed with stone, brick, tile, wood and the like are prohibited.

(b) *Bored Wells.* The construction of a bored type well shall conform to the requirements in Section 5.1 or 5.2, except that the minimum depth of watertight casing may be 10 feet. The minimum diameter of the casing pipe shall be 6 inches. The curbing below the watertight casing shall be cured concrete pipe or equal having overlapping or otherwise secured joints, and a minimum inside diameter of 8 inches.

(c) *Dug Wells or Surface Curb Wells.* When the water-bearing formation to be used is less than 20 feet below the ground surface, a watertight curbing shall extend to a depth of at least 2 feet below the water level, provided that the minimum depth shall be 10 feet. When the water-bearing formation to be used is more than 20 feet below the ground surface, the watertight wall shall extend to a depth of at least 20 feet. The annular space around the watertight portion of the wall through an impervious formation shall be filled with cement grout. When more than one formation bearing suitable water is available

within 40 feet of the ground surface, the lower formation shall be used. If the retaining wall or curbing is of concrete material, it shall be poured in one operation and shall have minimum thickness of 6 inches. The cover shall be made of substantial reinforced watertight concrete or equivalent, of sufficient diameter to overlap the wall by at least two inches. A watertight seal shall be provided between the under face of the cover and the top of the well curbing. The cover shall be free from joints. A manhole, if installed, shall be provided with a curb, the top of which extends 6 inches above the slab, and be equipped with a locked or bolted watertight cover, the sides of which extend downward least 4 inches. All pumping equipment or appurtenances requiring access to the bottom of the well for maintenance or repair operations shall be installed in the well.

(d) *Buried Slab Dug Well.* The curbing or retaining wall of such a dug well shall comply with requirements of Section 4.4(c). The buried slab shall be constructed of concrete and be free of joints. A watertight connection between the curbing or retaining wall and the concrete slab shall be provided. A metal casing of material complying with Section 6.1 shall be connected watertight with the concrete slab and terminate above the established ground elevation as specified in Section 6.9. Backfill shall be thoroughly tamped to minimize settling.

(e) *Radial Water Collectors.* Plans and specifications for radial water collectors shall be submitted to the State Board of Health for approval.

(f) *Special Requirements.* A special permit shall be obtained from the State Board of Health to construct dug wells as listed under (c) and (d) of this section.

SECTION V. CONSTRUCTION OF WELLS IN CONSOLIDATED FORMATIONS.

5.1 *Casing and Grouting.* The casing of all wells constructed in consolidated geological formations shall be surrounded by cement grout to a depth determined by Section 4.1 or such depth as necessary to exclude contamination. The minimum finished casing diameter shall be 4 inches. Where rebuilding may be necessary to exclude contamination, the minimum starting diameter shall be 8 inches.

5.2 *Creviced Formations.* Formations which are creviced, fractured, shattered or otherwise channelized shall not be used as a source of ground water supply, unless overlain by a mantle of drift or an insoluble rock formation of sufficient depth and extending for a sufficient horizontal distance from the site of the well in all directions, to insure satisfactory sanitary quality of the water drawn by the well; *provided, however,* that where no other source of water supply is available, the board may authorize the construction of a well which derives its water supply from creviced, fractured, shattered or otherwise channelized rock, and prescribe and alter adequate continuous disinfection and other additional treatment as it deems necessary on the basis of the geological conditions involved and the bacteriological, physical and chemical characteristics of the water. Areas of the State where specific geological formations shall not be used or may be used only subject to treatment, are set forth in Appendix _____.

5.3 *WATER-BEARING ROCK BELOW CREVICED FORMATIONS.* Where an adequate and safe water supply is available in a formation overlain by a creviced formation known to be contaminated in that area, the creviced formation shall be cased off and the casing shall extend at least 15 feet into the safe formation. The drillhole through the creviced rock formation and 15 feet into the safe formation shall be at least nominal 4 inches larger in diameter than the casing and the annular space shall be filled with cement grout.

5.4 *Impervious Formation Underlying Creviced Formations.* Where a formation known to be impervious and continuous, underlies a creviced formation which is subject to contamination and overlies an adequate and safe water-bearing formation, termination of the protective casing 15 feet in the top of the impervious formation shall be permitted. The lower terminal of such casing and the casing extending through the creviced formation shall be protected as specified in 5.3 with the preferably applied before drilling further.

5.5 *Flowing Artesian Wells.* In the construction of flowing well, initial drilling operations shall extend into, but not through unless necessary for proper construction, the impervious formation confining the water under artesian head. The protective casing and annular space seal of cement grout shall then be installed and allowed to set. After the annular space seal has set, drilling operations shall then be continued into the artesian strata. Flow control from the well should be provided consisting of valved pipe connections, watertight pump connection, or receiving reservoirs sets at an altitude corresponding to that of the artesian head. There shall be no direct connection between the discharge pipe and sewer or other source of contamination.

SECTION VI. CONSTRUCTION MATERIALS AND OTHER REQUIREMENTS

6.1 *Casing.* The protective casing and liners forming the permanent well shall be constructed of wrought iron or steel in accordance with minimum thickness given in Table No. 1, to protect the well against structural deficiencies during construction and against contamination and other undesirable

water during the expected life of the well. For new construction and for reconstruction of an existing well only new, Mill stamped, seamless or electric fusion welded casing pipe shall be used. Welded joints of reamed and drifted threaded and coupled joints are required. Thicker wall pipe should be used where corrosive waters are likely to be encountered or where needed for structural stability. Pipe that is to be driven shall be equipped with a drive shoe.

(a) *Table No. 1 Casing Pipe, Weights and Dimensions*
(To be filled in)

6.2 *Well Screens.* Screen openings shall provide the maximum amount of open area, consistent with strength and the gradation or grain sizes of the material of the water-bearing formation or of the gravel employed in a gravel packed well and shall be constructed of material which is not readily subject to attack by the chemical action of the ground water.

6.3 *Grouting.* All grouting shall be performed by adding the mixture from the bottom of the space to be grouted towards the surface in one continuous operation. A minimum of 2 inches of grout shall be provided, except that where casing sections are joined by welding, a nominal 2 inch thickness may be used. The casing shall be centered in the drillhole by means of suitable guides.

6.4 *Capping.* Temporary capping of a well until the pumping equipment is installed shall be such that no contamination can enter the well. A properly fitted and firmly driven, solid, wooden plug or equally watertight closure is acceptable.

6.5 *Yield Test.* Before being put into use, every well should be tested for yield and drawdown by pumping. The test pump shall have a capacity at least 25 percent greater than the pumping rate which it is expected the well will be pumped during its useage. The test pump shall be installed to operate continuously until the water level has stabilized and, at this point, the yield and drawdown determined. Periodic water level observations should be made during the drawdown and subsequent recovery periods. For 6 inch wells and less, where drawdown equipment cannot be used, the pumping level may be determined by altering the amount of drop-pipe.

6.6 *Plumbness and Alignment.* Before being put into use each well should be tested for plumbness and alignment. The well shall not vary from the vertical or from alignment sufficiently to interfere with the installation and operation of the pump.

6.7 *Upper terminal of Well.* (Also see Section 4.2) The casing pipe of any drilled or driven well shall be surrounded by an impervious platform or pump-room floor which extends at least 2 feet in all directions and is sloped to drain away from the well. The upper surface of the platform or pump-room floor, except as provided in Section 3.2(c), shall be at least 4 inches above established ground level at the edge. The casing pipe shall project not less than 6 inches above the pump house floor or platform. Any vent opening, observation ports and air line equipment shall extend from the upper terminal of the well by watertight piping to a point not less than 6 inches above the pumphouse or cover installed above the established ground surface and as specified in Section 7.7. The terminals of these facilities shall be shielded or sealed so as to prevent entrance of foreign matter.

SECTION VII. PUMP INSTALLATION

7.1 *Pump Capacity.* For drilled or driven wells where the casing terminates in unconsolidated formations, or in creviced limestone or other consolidated formations subject to contamination, the pump installed in the well shall not have a capacity capable of lowering the water level to a point inconsistent with the provisions of Section's 4.1, 4.2, 4.3, 4.4 and 4.5, under normal conditions of ground water sufficiency. (See Section 3)

7.2 *Hand Pumps.* All hand pumps, stands, or similar devices shall be installed so that no unprotected opening connecting with the interior of the pump exists. The pump spout shall be of the closed downward-directed type. All hand pumps shall be bolted to a mounting flange securely fastened to the well casing. The top of the casing shall extend above the face of the flange.

7.3 *Power-Driven Pumps.* All power-driven pumps located over wells shall be mounted on the well casing, a pump foundation, or a pump stand, so as to provide an effective well seal at the top of the well. Extension of the casing at least one inch into the pump base will be considered an effective seal provided the pump is mounted on a base plate for foundation, in such manner to exclude insects. Where the pump unit is not located over the well and the pump deliver or suction pipe emerges from the top thereof, a watertight expanding or equivalent well seal shall be provided between the well casing and piping. A similar watertight seal shall be provided at the terminal of a conduit containing a cable for a submersible pump.

7.4 *Pump Bearing Lubrication.* Bearings of power pumps shall be lubricated with water or oil of a bacterial quality equal to that of the water being pumped.

(a) *Water Lubricated Pumps.* If a pump is provided with a water lubrication tank, the tank shall be so designed and installed as to prevent contamination of the water therein.

(b) *Oil Lubricated Pumps.* Oil or grease shall not be used for lubrication of water supply equipment surfaces which are exposed to the water except such oil or grease that is con-

tained in sealed bearings and is placed in the equipment at the time of manufacture or overhaul. The oil shall be free from toxic materials or substances which could impart undesirable taste to the water.

7.5 *Pumphouses.* Unless the power-driven pump installation is of weather-proof construction, a structure housing the pump shall be constructed permitting access to the pump for maintenance and repair work. The pumphouse floor shall be constructed of impervious material and shall slope away in all directions from the well or suction pipe.

7.6 *Protection Against Freezing.* Pumps, discharge lines, and accessory equipment shall be protected against freezing, and where necessary by installation of dependable heating facilites preferably of a thermostatically controlled type.

7.7 *Well Vents.* The well casing shall be equipped with an air vent. All well vent openings shall be piped watertight to a point not less than 6 inches above the pumphouse floor or cover installed above the established ground surface. Such vent opening and piping shall be of sufficient size to prevent clogging by hoarfrost and in no case less than one-quarter inch in diameter. (See Appendix _____). The terminals of vent pipes shall be shielded and screened to prevent entrance of foreign matter and preferably turned down. If toxic or inflamable gases are vented from the well the vent shall extend to the outside atmosphere at a point where the gases will not produce a hazard. Openings in pump bases and the joint between the vent pipe and the casing shall be sealed water tight.

7.8 *Sampling Faucets.* In all pressure water systems, provision shall be made for collection of water samples by installation of a faucet on the discharge side of and adjacent to the pump.

7.9 *Pipes Connecting Pump and Well.* All buried suction pipes unless deeper than 10 feet below the ground surface shall be enclosed in a pipe conduit having a minimum wall thickness equivalent to the casing, and shall be located from sources of contamination in accordance with the distances specified in Section 3.1. Suction pipes with annular space between the pipe and encasement under pressure may be installed less than the specified distances but in no case within 10 feet. No suction line shall be laid beneath a sewer. Any pipe connecting a pump and well shall be protected against freezing.

7.10 *Casing Not Part of Pump Installation.* No pipe serving as the casing of any well shall be used as a delivery pipe or be utilized in the pumping operation except that where pumps of the ejector type are used the casing pipe may be used as the return line from the pump to the ejector in the well.

7.11 *Materials Prohibited.* No material shall be used in the well or pump installation that will result in the delivered water being toxic or having an objectionable taste or odor. All metallic and nonmetallic materials shall have sufficient structural strength and other properties to accomplish the purpose for which installed. Plastic pipe should not be used for suspending submersible pumps. Plastic pipe used for any purpose shall be manufactured, tested, and used in accordance with a commercial standard published by the U. S. Department of Commerce.

SECTION VIII. DISINFECTION, SAMPLES AND REPORTS

8.1 *Disinfection.* Every new, modified, or reconditioned water source, including pumping equipment and gravel used in gravel wall wells, shall be disinfected before being placed in service for general use. After all construction on wells or other ground water developments, including pumping equipment, has been completed, it shall be thoroughly cleaned of all foreign substances, including tools, timbers, rope, debris of any kind, cement, oil, grease, joint dope and scum. The casing pipe or curbing shall be thoroughly swabbed, using alkalies, if necessary, to remove oil, grease, and joint dope. The well or other ground water development, including the pumping equipment and gravel used in gravel wall construction, shall be disinfected with a solution containing at least 50 ppm chlorine and which shall remain in the well for a period of at least 12 hours; except where calcium hypochlorite tablets are used, they shall remain in the well for a minimum period of 48 hours. (See table No. 2 for proper chlorine mixtures).

(a) Table No. 2: (To be filled in).

8.2 *Water Samples.* (Omit this paragraph until a workable procedure can be established.)

8.3 *Continuous Disinfection.* Where the ground water source is or may be subject to continuous or intermittent contamination, provisions shall be made for treatment of the water or for abandonment of the source in accordance with the recommendations of the Board.

8.4 *Well Record.* The Driller shall submit Form No. _____, within 30 days after completion of the installation. Forms will be furnished by the Board.

SECTION IX. ABANDONMENT OF WELLS

9.1 *Temporary Abandonment.* A permit shall be obtained from the Board for wells temporarily removed from service or retained as observation wells. Temporary abandonment shall be in accordance with the provisions of the Permit.

9.2 *Permanent Abandonment.* When a well is permanently abandoned, the Owner thereof shall protect the water-bearing formations against possible contamination in the following manner:

(a) Drilled and cased wells shall be filled with neat cement slurry or puddled clay, except that natural earth may be used to fill sections of the well which extend through the drift. In any case, the upper 50 feet of the well shall be filled with cement slurry.
(b) Driven well points shall be withdrawn and the hole filled with a clean clay slurry or with neat cement slurry.
(c) Dug or bored wells shall be thoroughly disinfected and then filled with puddled clay or natural earth.

9.3 *Permanent Abandonment Where Mandatory.* Any well which is or has been used for the disposal of sewage, surface water, refuse or other material or substance which has or may adversely affect the quality of the water in the geological formationspenetrated by the well, shall be permanently abandoned in accordance with the provisions of Section 9.2.

SECTION X. STORAGE TANKS AND DISCHARGE PIPING

10.1 *Storage Facilities Required.* Water supply systems in which water is distributed under pressure shall include water storage equipment.

10.2 *Gravity Storage.* Tank and reservoir which supply the system by gravity pressure shall be provided with watertight covers situated at least 6 inches above established ground level. Manhole openings shall be constructed with raised edges and the cover shall be of solid watertight material which overlaps and projects downward around the raised edges at least two inches.

10.3 *Vents and Overflows.* Vents and overflow pipes shall enter the reservoir through a watertight connection. Vents, drains and overflows shall not be connected directly to any storm or sanitary sewer or so constructed as to permit back-flow of any contaminated material into the reservoir. Outlets of vents and overflows shall be screened and shall terminate downward or shall be shielded by a watertight hood.

10.4 *Buried Gravity Storage.* No non-pressurized water storage tank or reservoir shall be located in any pit or basement. Any part of such non-pressurized tank or reservoir situated below ground level shall be of watertight construction and shall be located a minimum distance from sources of contamination as specified for wells in Section 3.

10.5 *Pneumatic Tanks.* Pressure tanks except those serving a single family dwelling shall not be buried but shall be located in such manner that at least the head can be observed. Such tanks shall be adequate in size to assure adequate and continuous pressure in the system under normal operating conditions when the water demand exceeds the discharge capacity of the pump.

10.6 *Discharge Pipes.* The discharge pipe from the pump to the storage tank or reservoir shall be adequate in size to carry the flow of water at the discharge rate of the pump with a pressure loss not to exceed 2 pounds per square inch per 100 feet and in no instance in excess of 5 pounds per square inch for the entire length of discharge pipe at the time of original installation.

APPENDIX E

Proposal to Regulate Individual Sewerage Systems and License Sewerage Contractors

A BILL FOR AN ACT

RELATING TO INDIVIDUAL SEWERAGE SYSTEMS; PROVIDING FOR THE LICENSING OF SEWERAGE CONTRACTORS, AND FOR PENALTIES FOR VIOLATIONS.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. [DEFINITIONS.] Subdivision 1. [GENERAL.] For the purposes of this act the terms defined in this section have the meaning ascribed to them.

Subd. 2. "Sewage" means any water-carried domestic waste, exclusive of footing and roof drainage, of any residence, industry, or commercial establishment, whether treated or untreated, and includes the liquid wastes produced by bathing, laundry, and culinary operations, and from toilets and floor drains.

Subd. 3. "Sewerage" means any system or part thereof for the collection, treatment, or disposal of sewage from an individual establishment, except any such system which is provided for public use or for the use of any considerable number of people not related as members of a family unit. It shall not include any item of plumbing as defined in the Minnesota Plumbing Code as amended October 16, 1951.

Subd. 4. "Sewerage contractor" means any person, firm or corporation engaged in the business of constructing, manufacturing, or installing sewerage.

Subd. 5. "Board" means the state board of health.

Sec. 2. [SEWERAGE CONTRACTORS MUST BE LICENSED.] No person, firm or corporation shall engage in business as a sewerage contractor unless licensed to do so by the board. Anyone not so licensed may install sewerage on property owned or leased by him for his own personal use unless forbidden to do so by local ordinance. The board may prescribe rules and regulations, not inconsistent herewith, for the examination and licensing of sewerage contractors.

Sec. [APPLICATIONS.] Applications for sewerage contractor's license shall be made to the board. The applicant shall submit an application, with the license fee herein provided. The annual license fee shall be $25. Licenses shall expire December 31st, but may be renewed upon application made before or after the date of expiration, but if after the date of expiration only upon payment of an additional fee of $5.

Sec. 4. [BOARD MAY REVOKE LICENSES.] The board may revoke any license obtained through error or fraud, or if the licensee is shown to be incompetent, and for a wilful violation of any of its rules and regulations or of any of the provisions of this act. The licensee shall have notice in writing, enumerating the charges, and be entitled to a public hearing by the board upon at least five days notice, with the right to produce testimony. The board may appoint, in writing, any competent person to take testimony, who shall have power to administer oaths, issue subpoenas, and compel the attendance of witnesses. The decision of the board shall be based on the testimony and records. One year from the date of revocation, application may be made for a new license.

Sec. 5. [REVIEW BY CERTIORARI.] The action of the board revoking any license shall be reviewable by certiorari under Minnesota Statutes 1957, Chapter 606.

Sec. 6. [REVOLVING FUND.] A revolving fund to be known as the Minnesota department of health sewerage system account is hereby created in the state treasury,. All fees and other receipts arising from the operation of this act shall be deposited in such revolving fund. All monies in such revolving fund are appropriated annually to the Minnesota department of health for purposes of carrying out the terms and provisions of this act.

Sec. 7. [VIOLATIONS; PENALTIES.] Any person violatng any of the provisions of this act or who shall wilfully make any false representations to the board in applying for a license shall be guilty of a misdemeanor.

Sec. 8. This act becomes effective January 1, 1962.

APPENDIX F

Proposed Private Sewage System Code

PROPOSED MINNESOTA INDIVIDUAL SEWAGE DISPOSAL SYSTEM CODE MINIMUM STANDARDS TO BE ISSUED BY THE MINESOTA DEPARTMENT OF HEALTH PURSUANT TO THE SEWERAGE CONTRACTOR'S LICENSING LAW IF ENACTED.[1]

1. General
   a. Location and installation of the individual sewage disposal system and each part thereof shall be such that, with reasonable maintenance, it will function in a sanitary manner and will not create a nuisance nor endanger the safety of any domestic water supply. In determining a suitable location for the system, consideration shal be given to the size and shape of the lot, slope of natural and finished grade, soil permeability, depth of ground water, geology, proximity to existing or future water supplies, accessibility for maintenance, and possible expansion of the system.
   b. No part of the system shall be located so that it is nearer to any water supply than outlined hereinafter, or so that surface drainage from its location may reach any domestic water supply.
   c. Raw sewage, septic tank effluent, or seepage from a soil absorption system shall not be discharged to the ground surface, abandoned wells, or bodies of surface water, or into any rock formation the structure of which is not conducive to purification of water by filtration.
   d. The lot size shall be sufficient to permit installation of the individual sewage disposal system in accordance with all the requirements pertaining thereto.
   e. Installations of individual sewage disposal systems shall not be made in low swampy areas or areas which may be subject to flooding.

[1]The Minnesota Department of Health is authorized by MSA 144.12 (2) to promulgate rules relating to construction and installation of sewerage. If the proposal to license sewerage contractors is enacted the above code, with some modifications, will probably be promulgated by the Department of Health to govern private sewerage construction. —(Minnesota Department of Health, **Ordinance and Code Regulating Individual Sewerage Construction.)**

f. In areas with a high ground-water table or where limestone or any geological formation similarly faulty is covered by less than 50 feet of earth, the final disposal unit shall be a tile field. The bottom of the tile laterals shall not be less than 2 feet above the highest known or calculated water table and the bottom of the trenches shall be above the water table and at least 2 feet above the surface of the faulty rock formation.

g. Bulldozers, trucks or other heavy machinery shall not be driven over the system after installation.

h. The system or systems shall be designed to receive all sewage from the dwelling, building or other establishment served, including laundry waste and basement floor drainage. Footing or roof drainage shall not enter any part of the system. Where the construction of additional bedrooms, the installation of mechanical equipment, or other factors likely to affect the operation of the system can be reasonably anticipated, the installation of a system adequate for such anticipated need shall be required.

i. The system shall consist of a building sewer, a septic tank, and a soil absorption unit. The soil absorption unit shall consist of a sub-surface disposal field or one or more seepage pits, or a combination of the two. All sewage shall be treated in the septic tank and the septic tank effluent shall be discharged to the disposal field or seepage pits. Where unusual conditions exist other systems of disposal may be employed, provided that they comply with all other provisions of this code.

2. Sewer Construction

a. No buried or concealed portion of the building sewer, or building drain or branch thereof serving any establishment shall be located less than 30 feet from any water-supply well. The buried or concealed portions of any building sewer, building drain or branches thereof located less than 50 feet from any well shall be constructed of extra-heavy cast-iron soil pipe with lead-caulked, air-tested joints. The joints of such sewer, drain or branch located less than 40 feet from a well shall be further protected against leakage by means of bell-joint clamps or 6-inch concrete encasement or by other equally effective means. The air test shall be made by attaching an air compressor or test apparatus to a suitable opening and closing all other inlets and outlets to the sewer and/or drain under test by means of proper testing plugs. Air shall be forced into the system until there is a uniform pressure of five pounds per square inch in the section being tested. The system shall be considered satisfactorily air tested if the pressure therein remains constant for fifteen minutes without the addition of air.

b. The portions of any buried sewer more than 50 feet from a well or buried suction line shall be of adequate size and constructed of cast-iron, vitrified-clay, cement-asbestos or bituminized-fiber pipe. Clay pipe and clay pipe fittings shall conform to A.S.T.M. specifications for standard strength or extra strength clay pipe and clay pipe fittings. Any building drain or building sewer constructed of cast-iron or cement and asbestos shall be not less than 4 inches in diameter, and any building sewer constructed of material other than cast-iron or cement-asbestos shall be not less than 6 inches in diameter.

c. The space between the bell and spigot of vitrified-clay pipe shall be packed with oakum, hemp or jute or otherwise prepared so as to form a concentric opening uniform in width around the pipe, which opening shall be filled with Portland cement mortar or other acceptable sewer-joint compound. Poured joints are recommended. Where cement joints are used they shall be carefully jointed on the outside and left smooth on the inside by drawing through them a swab or scraper. Construction of the line shall be such as to secure water-tight and root-tight joints, free of obstructions, and shall provide a grade of not less than 1/8 inch per foot. The 10 feet of sewer immediately preceding the septic tank shall not slope more than 1/4 inch per foot. No 90° ells shall be permitted, and where the direction of the sewer is changed in excess of 22½°, accessible cleanouts shall be provided.

3. Septic Tank

a. The location of the septic tank shall be such as to provide not less than the stated distances from the following:

(1) Property lines, buried pipe distributing water under pressure and occupied buildings . . 10 ft
(2) Any source of domestic water supply or buried water suction line . . . . . 50 ft

b. The liquid capacity of a septic tank serving a dwelling shall be based on the number of bedrooms contemplated in the dwelling served and shall conform to capacities given in Table 1 which follows. The liquid capacity of a septic tank serving an establishment other than a dwelling shall be sufficient to provide a sewage detention period of not less than 24 hours in the tank but in no instance shall it be less than 500 gallons.

TABLE I
MINIMUM CAPACITIES FOR SEPTIC TANKS
(Provides for Use of Garbage-Grinders, Automatic Washers, and Other Household Appliances)

Number of Bedrooms	Recommended Minimum Tank Capacity	Equivalent Capacity per Bedroom
2 or less	750	375
3	900	300
4[1]	1,000	250

[1] For each additional bedroom add 250 gallons.

c. The liquid depth of any septic tank or compartment thereof shall be not less than 30 inches. A liquid depth greater than 6½ feet shall not be considered in determining tank capacity.
d. No tank or compartment thereof shall have an inside horizontal dimension less than 24 inches.
e. Inlet and outlet connections of the tank and of each compartment thereof shall be submerged by means of vented tees or baffled so as to obtain effective retention of scum and sludge.
f. The space in the tank between the liquid surface and the top of the inlet and outlet baffles or submerged pipes shall be not less than 20 percent of the total required liquid capacity, except that in horizontal cylindrical tanks this space shall be not less than 15 percent of the total required liquid capacity.
g. The inlet baffle or submerged pipe shall extend at least 6 inches but not more than 20 percent of the total liquid depth, to the nearest inch, below the liquid surface and at least one inch above the crown of the inlet sewer.
h. The outlet baffle or submerged pipe and the baffles or submerged pipes between compartments shall extend below the liquid surface a distance equal to 40 percent, to the nearest inch, of the liquid depth except that the penetration of the indicated baffles or submerged pipes for horizontal cylindrical tanks shall be 35 percent, to the nearest inch, of the total liquid depth. They also shall extend above the liquid surface to provide for scum storage as required in item 3f above. In no case shall they extend less than 6 inches above the liquid surface.
i. There shall be at least one inch between the underside of the top of the tank and the highest point of the inlet and outlet devices and partitions so as to provide the required ventilation of the system through the main building stack.
j. The inlet invert shall be not less than 3 inches above the outlet invert.
k. Construction of the tank shall be such as to assure its being water-tight and to prevent the entrance of rainwater, surface drainage, or ground water.
l. The tank shall be constructed of sound and durable material not subject to excessive corrosion or decay. Metal septic tanks shall comply with Commercial Standard 177-51 of the U. S. Department of Commerce and have the capacity required by Table I.
m. Adequate access to each compartment of the tank for inspection and sludge removal shall be provided by a manhole (not less than standard size) or removable cover and by a clean-out pipe of not less than 4-inch diameter extending through the cover to a point above the tank not more than 6 inches below finished ground level. The point at which the cleanout pipe passes through the cover shall be so located that a downmard projection of the pipe clears the outlet device by not more than 4 inches nor less than 2 inches. The top of the clean-out pipe shall be provided with a readily removable water-tight cap and its location shall be marked by stake or other means at the ground surface. The inlet device shall be made accessible by either the removable cover or the manhole or by the addition of properly placed hand holes.

4. Subsurface Disposal Field
   a. Location of the disposal field shall be in an unobstructed and preferably unshaded area, and the distances given below shall be the minimum horizontal separations between the disposal field and the following:
      (1) Any water supply well, or buried water suction pipe ..... 50 feet
      (2) Streams or other bodies of water ..... 25 feet
      (3) Occupied buildings ..... 10 feet
      (4) Large trees (see alternate in item 4f (4) of this section ..... 10 feet
      (5) Property lines or buried pipe distributing water under pressure ..... 10 feet
   b. When coarse soil formations are encountered, the 50 foot distance specified in item 4a(1) shall be increased appropriately.
   c. A distribution box with removable cover and of sufficient size to accommodate the necessary tile field lateral lines shall be constructed at the head of each disposal field.
      (1) Each tile field lateral line shall be connected separately to the distribution box and shall not be subdivided.

(2) The inverts of all outlets shall be at the same elevation and the inlet invert shall be at least one inch above the outlet inverts.

(3) The outlet inverts shall be at least 4 inches above the distribution box floor for the purpose of securing equal distribution of the septic tank effluent to each tile lateral.

(4) In the event that septic tank effluent is delivered to the distribution box by pump or siphon, a baffle wall shall be installed in the distribution bop. The baffle shall be secured to the bottom of the box and shall extend vertically to a point at least level with the crown of the inlet pipe. The plane surface of the baffle shall be perpendicular to the inlet flow line.

d. Minimum seepage area of the disposal field (total flat area of trench bottom exclusive of sidewall area) shall be determined by the following percolation test procedure as applied to Table 2.

(1) *Number and location of tests.* Six or more tests shall be made in separate test holes spaced uniformly over the proposed absorption field site.

(2) *Type of test hole.* A hole with horizontal dimensions of 4 to 12 inches and vertical sides shall be dug or bored to the depth of the proposed absorption trench. The holes may be bored with an auger of not less than 4-inch diameter.

(3) *Preparation of test hole.* The bottom and sides of the hole shall be carefully scratched with knife blade or sharp pointed instrument to remove any smeared soil surfaces and to provide a natural soil interface into which water may percolate. All loose material shall be removed from the hole and 2 inches of coarse sand or fine gravel shall be added to protect the bottom from scouring.

(4) *Saturation and swelling of the soil.* The hole shall be carefully filled with clear water to a minimum depth of 12 inches over the gravel. Water shall be kept in the hole for at least 4 hours, and preferably overnight, by refilling if necessary, or by supplying a surplus reservoir of water, such as in an automatic siphon. In sandy soils containing little or no clay, the swelling procedure shall not be required and the test may be made as described under item 4d(5) (c) after the water from one filling of the hole has completely seeped away.

(5) *Percolation rate measurement.* With the exception of sandy soils, percolation rate measurements shall be made on the day following the procedure described under item 4d (4).

(a) If water remains in the test hole after the overnight swelling period, the depth shall be adjusted to approximately 6 inches over the gravel. From a fixed reference point the drop in water level shall be measured over a 30 minute period. This drop shall be used to calculate the percolation rate.

(b) If no water remains in the hole after the overnight swelling period, clear water shall be added to bring the depth of water in the hole to approximately 6 inches over the gravel. From a fixed reference point the drop in water level shall be measured at approximately 30 minute intervals for four hours, refilling 6 inches over the gravel if necessary. The drop that occurs during the final 30 minute period shall be used to calculate the percolation rate.

(c) In sandy soils or other soils in which the first 6 inches of water seeps away in less than 30 minutes after the overnight swelling period, the time interval between measurements shall be taken as 10 minutes and the test shall be run for one hour. The drop that occurs during the final 10 minutes shall be used to calculate the percolation rate.

TABLE II

ABSORPTION AREA REQUIREMENTS FOR PRIVATE RESIDENCES AND OTHER ESTABLISHMENTS

(Provides for Garbage Grinder and Automatic Sequence Washing Machines)

Percolation rate (time required for water to fall 1 inch, in minutes)	Required absorption area in square feet standard trench[1] and seepage pits[2]		Percolation rate (time required for water to fall 1 inch, in minutes)	Required absorption area in square feet standard trench[1] and seepage pits[2]	
	Per bedroom[3]	Per gallon of waste per day		Per bedroom[3]	Per gallon of waste per day
1 or less	70	.20	10	165	.65
2	85	.30	15	190	.80
3	100	.35	30[4]	250	1.10
4	115	.40	45[4]	300	1.25
5	125	.45	60[4, 5]	330	1.65

[1]Absorption area for standard trenches is figured as trench-bottom area.
[2]Absorption area for seepage pits is figured as effective sidewall area beneath the inlet.
[3]In every case sufficient area should be provided for at least 2 bedrooms.
[4]Unsuitable for seepage pits if over 30.
[5]Unsuitable for absorption systems if over 60.

e. Additional criteria for judging soil suitability.

(1) In areas of shallow ground water, the depth of the water table shall be determined. No soil absorption system shall be installed in an area where the water table is at any time less than 4 feet below ground level. Soil absorption systems installed in areas where impermeable layers are found at depths of less than 4 feet shall be considered to be of special design.

(2) A modification of the percolation test may be used where the percolation test procedure has been previously used and knowledge is available on the character and uniformity of the soil.

f. Construction of disposal trenches.

(1) All trenches in a disposal field shall be constructed in accordance with the following standards:

(a) Minimum number of lines per field	2
(b) Maximum length of individual lines	100 feet
(c) Minimum bottom width of trench	18 inches
(d) Minimum depth of cover of tile lines	18 inches
(e) Preferred depth of cover of tile lines	24 inches
(f) Maximum depth of cover of tile lines	36 inches
(g) Maximum uniform grade of tile lines	6 inches per 100 feet
(h) Preferred uniform grade of tile lines	2 to 4 inches per 100 feet
(i) Size and spacing of trenches	Conform to Table III
(j) Minimum filter material under tile	6 inches
(k) Preferred depth of filter material under tile	12 to 24 inches
(m) Minimum filter material over tile	2 inches

TABLE III

SIZE AND MINIMUM SPACING REQUIREMENTS FOR DISPOSAL TRENCHES

Width at bottom in inches	Effective absorption area in sq. ft. per lin. ft.	Minimum spacing of lines c to c in feet
18	1.5	6.0
24	2.0	6.5
30	2.5	7.0
36	3.0	7.5

(2) Pipe used for the line between the septic tank and the distribution box and between the distribution box and tile laterals to the point where the laterals are separated 6 feet, shall be vitrified-clay, cement-asbestos, or cast-iron. Joints in such pipe shall be water-tight. Pipe used under driveways or other areas subject to heavy loads shall be bell and spigot cast-iron with leaded caulked joints. Such water-tight sections laid in the disposal field shall not be considered in determining the effective absorption area.

(3) Field tile used in the disposal field shall be 4-inch agricultural drain tile 12 inches in length and shall be laid with ¼ inch open joints. Alternate materials may be used if equivalent performance is indicated.

(a) All open joints shall be protected on top by strips of asphalt-treated building paper at least 10 inches long and 3 to 6 inches wide or by other acceptable means.

(b) All bends used in the disposal field shall have tight joints at each end of the bend.

(4) Filter material shall be crushed stone, gravel, or similar insoluble, durable and acceptable material having sufficient voids. This material may vary from ½ to 2½ inches in size and shall be free of dust, sand or clay. The filter materials shall completely encase the tile in accordance with item 4f(1) (j), (k) and (m). In any case, disposal trenches constructed within 10 feet of large trees or dense shrubbery shall have at least 12 inches of filter materials beneath the tile.

(5) The top of the filter material shall be covered with untreated building paper or a two-inch layer of hay or straw so as to prevent settling of backfill material into the filter material.

(6) Where it is necessary to fill an area for construction of tile laterals, the bottom of the tile trenches shall extend not less than one foot into the original soil.

(7) The trench above the filter material shall be overfilled with 4 to 6 inches of earth. The backfill shall be hand-tamped.

(8) Before filter material is placed, all smeared or compacted soil in the trench bottom shall be broken up and removed by raking or other effective means to provide natural soil conditions.

g. Seepage Pits

(1) Seepage pits shall be used for disposal of septic tank effluent only when such use is indicated by favorable conditions of soil, ground-water level, or topography, and where such use does not reduce the safety of surrounding water supplies. The pit excavation shall terminate at least 4 feet above the highest known or calculated ground-water table. The depth of the excavation shall not exceed 50 percent of the depth of any well casing in the area or 20 feet, which ever is least.

(2) A distribution box which is constructed in accordance with item 4c shall be required when two or more seepage pits are connected and used in parallel.

(3) The location of seepage pits, in addition to the general provisions under item 4g(1) shall be not less than the stated minimum distances from the following:

(a) Any water supply well or buried water suction pipe ..... 75 feet
(b) Occupied buildings ..... 20 feet
(c) Property lines and buried pipe distributing water under pressure ..... 10 feet
(d) Other seepage pits ..... 3 times the diameter of the largest pit (edge to edge)

(4) Effective absorption area of a seepage pit shall be calculated as the sidewall area below the inlet, exclusive of any hardpan, rock, or clay formations.

(a) Required seepage area shall be determined by the percolation test described in item 4d and from Table II. A percolation test shall be made in each vertical stratum penetrated by the seepage pit, and the weighted average of the results, exclusive of results from soil strata in which the percolation rate exceeds 30 minutes, shall be computed and applied to Table II as indicated.

(b) A minimum of 4 feet composite depth of porous formation for each installation shall be provided in one or more pits.

(c) All pits shall have a diameter of at least 4 feet.

(5) Construction of all seepage pits shall conform to the following requirements:

(a) To prevent cave-in, the pit shall be lined with brick, stone or block at least 4 inches thick, laid in a radial arch to support the pit walls.

(b) The brick, stone or block shall be laid water-tight above the inlet and with open joints below the inlet to provide adequate passage of liquids.

(c) A minimum annular space of 6 inches and preferably 12 inches between the lining and excavation wall shall be filled with crushed rock or gravel.

(d) The seepage pit shall be so constructed at the top as to be capable of supporting the over-burden of earth and any reasonable load to which it is subjected. Access to the pit shall be provided by means of a manhole or inspection hole equipped with a water-tight cover. The seepage pit may terminate in a conventional manhole top, frame and cover. The top of the seepage pit shall be not less than 12 inches below the ground surface. Where the top is more than 18 inches below the ground surface there shall be provided an inspection pipe of not less than 4 inch diameter extending through the cover to a point above the tank not more than 6 inches below finished ground level. The top of the inspection pipe shall be provided with a readily removable water-tight cap and its location shall be marked at the ground surface.

APPENDIX G

Regulation of Servicing of Sewerage Systems and Licensing of Scavengers

A BILL FOR AN ACT

RELATING TO SERVICING OF INDIVIDUAL SEWERAGE SYSTEMS; PROVIDING FOR THE LICENSING OF SCAVENGERS, AND FOR PENALTIES FOR VIOLATIONS.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. [DEFINITIONS.] Subdivision 1. [GENERAL.] For the purposes of this act the terms defined in this section have the meaning ascribed to them.

Subd. 2. "Scavenger" means a person, firm or corporation engaged in the business of servicing sewerage systems, privies, or chemical or septic toilets, by removal therefrom for disposal elsewhere of any of the sewage, sewage constituents, or excreta therein, but shall not include any official or employee of any municipality or other political subdivision of the state when such person is engaged in servicing a public sewerage system of such municipality or political subdivision.

Subd. 3. "Sewage" means any water-carried waste, exclusive of footing and roof drainage, of any residence, industry, or commercial establishment, whether treated or untreated.

Subd. 4. "Sewage system" means any system and its associated appurtenances for the collection, treatment or disposal of sewage.

Subd. 5. "Board" means the state board of health.

Sec. 2. [SCAVENGERS MUST BE LICENSED; APPLICATION; FEE.] Subdivision 1. [LICENSE REQUIRED.] No person, firm or corporation shall engage in business as a scavenger unless licensed to do so by the board.

Subd. 2. [APPLICATION.] Application for scavenger's license shall be made to the board. The applicant shall submit an application with the license fee herein provided. The annual license fee shall be $25. Such license shall apply only during, and shall expire on December 31st of, the year for which it was issued, but may be renewed upon application made before or after the date of expiration, but if after the date of expiration only upon payment of an additional fee of $5.

Sec. 3. [BOARD MAY REVOKE LICENSES.] The board may revoke any license obtained through error or fraud, or if the licensee is shown to be incompetent, and for a wilful violation of any of its rules and regulations or any of the provisions of this act. The licensee shall have notice in writing, enumerating the charges, and be entitled to a public hearing by the board upon at least five days notice, with the right to produce testimony. The board may appoint, in writing, any competent person to take testimony, who shall have power to administer oaths, issue subpoenas, and compel the attendance of witnesses. The decision of the board shall be based on the testimony and records. One year from the date of revocation, application may be made for a new license.

Sec. 4. [REVIEW BY CERTIORARI.] The action of the board revoking any license shall be reviewable by certiorari under Minnesota Statutes 1957, Chapter 606.

Sec. 5. [REVOLVING FUND.] A revolving fund to be known as the Minnesota department of health scavenger account is hereby created in the state treasury. All fees and other receipts arising from the operation of this act shall be deposited in such revolving fund. All monies in such revolving fund are appropriated annually to the Minnesota department of health for purposes of carrying out the terms and provisions of this act.

Sec. 6. [VIOLATIONS; PENALTIES.] Any person violating any of the provisions of this act or who shall wilfully make any false representations to the board in applying for a license shall be guilty of a misdemeanor.

Sec. 7. This act becomes effective January 1, 1962.

APPENDIX H

Proposed County Sanitarian Law

A BILL FOR AN ACT

AUTHORIZING EMPLOYMENT AND COMPENSATION OF SANITARIANS AND CONTROL OF SANITATION BY COUNTIES.

Be is enacted by the Legislature of the State of Minnesota:

Section 1. Employment, Appropriation, Exception.

(1) Appropriation for compensation and expenses. Every board of county commissioners, except as otherwise provided in Section 145.52, is hereby authorized and empowered to employ and to make appropriations for the compensation and necessary expenses of sanitarians, for such duties as are specified and authorized in Section 3 of this chapter.

(2) Expenses defined. The term "expenses" may cover and include suitable furnished office rooms, records, stationery, postage, laboratory equipment and equipment necessary in the conduct of inspections and investigations, transportation, including the purchase and maintenance of automobiles, meals and lodging of sanitarians when on duty away from their place of residence, telephone, rent and tolls, clerical and laboratory technician assistance, training and such other actual expenses as shall be necessary incidental to the carrying out of these purposes.

Section 2. Qualifications. Every sanitarian employed under the provisions of this chapter must have as minimum qualification a degree from an accredited college or university in one of the natural sciences. For the purposes of this Act dairy science shall be considered one of the natural sciences.

Section 3. Administration and Duties.

(1) Administrative Assignment. Sanitarians employed under the authority of this chapter shall become thereby agents of the county board of health and subordinate to the county health officer.

(2) Duties. Such sanitarians shall administer and enforce within the county in which they are employed all regulations relating to health and sanitation adopted by the board of county commissioners under the authority of this Act, and shall conduct such inspections and investigations, prepare such reports, and engage in such administrative activities related to matters of health and as requested by the county planning commission pursuant to its official duties; and, under the general supervision of the state board of health shall administer and enforce the statutes of this State and any regulation of the state board of health governing the following matters:

(1) The licensing of well drillers and the conduct of well drilling.
(2) The licensing of sewerage contractors and the businesses of constructing, installing and manufacturing individual sewerage systems.
(3) The licensing of scavengers engaged in the business of pumping, cleaning, and servicing individual sewerage systems and the business of scavengering.

Section 4. Rules and Regulations. The board of county commissioners in any county in which a sanitarian has been employed under the authority of this Act shall have the power to adopt and to alter by resolution and to enforce reasonable regulations applicable throughout the whole or any portion of the county for the preservation of the public health governing sanitary and environmental conditions, facilities, and factors such as water supply, sewerage and sewage disposal, plumbing of buildings, collection, storage, and disposal of refuse, milk and food supplies, housing, vermin, pollution of air and water, and sources and use of ionizing radiation. No county regulation shall supersede or conflict with higher standards established by statute, or the regulations of the state board of health or any other agency of State government.

Section 5. Preemption of Cities and Villages. No regulation adopted by any board of county commissioners under the authority of this Act shall have application in any city or village within such county, which having the authority to do so has adopted and is enforcing an ordinance pertaining to the same subject and establishing standards and requirements equal to or higher than the comparable standards and requirements established by said county regulation.

(2) Certificate by county board; certificate to state auditor. At the end of each 60 day period provided for in Subdivision 1 hereof, the State Board of Health shall certify to the State Auditor, in the manner prescribed by law, the name of each such county, the amount to be paid to it, and that there are funds available for the payment thereof. Such certificates shall be supported by the certificate of the county board of such county. Thereupon, the State Auditor shall draw his warrant upon the State Treasurer payable to the county for the amount so certified.

APPENDIX I

Municipal Waterworks System Bonds

A BILL FOR AN ACT

RELATING TO ELECTIONS IN VILLAGES ON THE ESTABLISHMENT OF A WATERWORKS SYSTEM; AMENDING MINNESOTA STATUTES 1957, SECTION 412.321, SUBDIVISION 2.[1]

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1957, Section 412.321, Subdivision 2, is amended to read:

Subd. 2. No (SUCH PUBLIC) *gas, light, power, or heat* utility shall be constructed, purchased, or leased until the proposal to do so has been submitted to the voters at a regular or special election and been approved by (A MAJORITY OF THOSE VOTING ON THE PROPOSITION IN THE CASE OF WATERWORKS) five-eighths of those voting on the proposition. (IN OTHER CASES.) Such proposition shall state whether the public utility is to be constructed, purchased, or leased and the estimated cost or the maximum amount to be expended for that purpose. This proposal and a proposal to issue bonds to raise money therefor may be submitted either separately or as a single question. The proposal for the acquisition of the public utility may include authority for distribution only or for generation or production and distribution of a particular utility service or group of services. Approval of the voters shall be obtained under this section before a village purchasing gas or electricity wholesale and distributing it to consumers acquires facilities for the manufacture of gas or generation of electricity unless the voters have, within the two previous years, approved a proposal for both generation or production and distribution.

[1]The effect of this proposal, if enacted, is to remove the requirement of submitting the issue of establishing a central water system to the voters except where general obligation bonds are involved. This is consistent with present law relating to establishment of municipal sewer systems. The material in italics is added to the present law; the material in capital letters and parentheses is deleted.

APPENDIX J

Proposed Municipal Planning and Development Act

A BILL FOR AN ACT

RELATING TO MUNICIPAL PLANNING AND DEVELOPMENT AND PROVIDING FOR ZONING, OFFICIAL MAPS, SUBDIVISION REGULATIONS, AND OTHER OFFICIAL CONTROLS; REPEALING MINNESOTA STATUTES 1957, SECTIONS 412.221, SUBDIVISION 29, 462.01 TO 462.23, AND 471.26 TO 471.33.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. *Statement of Policy.* The legislature finds that municipalities are faced with complex problems in providing effective means of guiding future development of their land so as to insure a safer, more pleasant and more economical environment for residential, commercial, industrial and public activities and promote the public health, safety, morals and welfare. By careful and prudent action municipalities can prepare themselves to accommodate future changes before they occur and by such preparations bring about significant savings in both private and public expenditures and prevent the suffering expenses and inconvenience of municipal blight and deterioration. Such municipal planning, by providing public guides to future municipal action, enables other public and private agencies to plan their activities in harmony with the municipalities plans for a more orderly and judicious development of the area. Muncipal planning will assist the state in developing its lands more wisely, to serve its citizens more effectively, make the provision of public services less costly, and achieve a more secure tax base through the improved management of its urban centers.

Section 2. *Definitions.*

Subdivision 1. For the purposes of this act the terms defined in this section have the meanings ascribed to them.

Subdivision 2. "Municipality" means any city, including a city operating under a home rule charter, and any village, town or borough.

Subdivision 3. "Planning agency" means the planning commission or the planning department of a municipality; and in any case where the planning department is responsible to, or advised by a planning commission, it may include either or both as the context requires.

Subdivision 4. "Platting authority" means the governing body or other agency responsible under statute or charter for the approval of plats of land within the municipality or its area of platting control.

Subdivision 5. "Comprehensive municipal plan" means a compilation of policies, goals, standards, and plans for guiding the future physical, social and economic development, both private and public, of the municipality and its environs and includes, but is not limited to, the following elements: statement of policies, goals, standards, a land use plan, a community facilities plan, a transportation plan, and a program of action for putting the plan into effect.

Subdivision 6. "Land use plan" means a map and statement of goals, objectives, standards, plans, and action programs for guiding the future development of private and public property to create the best possible social and economic environment in which the citizens of the municipality may live. The term includes a plan designating all types of uses for the entire municipality as well as one specialized to show specific areas or specific types of uses, such as residential, commercial, industrial, or any combination of uses.

Subdivision 7. "Transportation plan" means a compilation of goals, standards, plans and action programs for guiding the future development of the streets and highways, mass transit, railroads, air transportation, trucking and water transportation, and other parts of the transportation system of the municipality and its environs, and includes a major thoroughfare plan.

Subdivision 8. "Community facilities plan" means a compilation of goals, standards, plans, and action programs for guiding the future development of the public or semi-public facilities of the municipality.

Subdivision 9. "Capital improvement budget" means an itemized budget setting forth the details of specific improvements contemplated during a fiscal year, their estimated cost, the justification for each improvement, the impact that such improvements will have on the current operating expense of the municipality, and such other information on capital improvements in subsequent fiscal years as the planning agency may include.

Subdivision 10. "Official map" means a map adopted in accordance with Section 9 and showing the proposed future streets or the widening of existing streets of the municipality or the term includes such a map also showing the location of future public facilities within the municipality or both.

Section 3. *Authority to plan.*

Subdivision 1. *General Authority.* Any municipality may carry on comprehensive municipal

planning activities for guiding the future development and improvement of the municipality and may prepare, adopt and amend a comprehensive municipal plan and implement such plan by ordinance and other official actions in accordance with the provisions of this act.

Subdivision 2. *Studies and Reports.* In exercising its powers under Subdivision 1, any municipality may collect and analyse data, prepare maps, charts, tables, and other illustrations and displays, and conduct all necessary studies. It may publicize its purposes, suggestions, and findings on planning matters and may distribute reports thereon. It may advise the public on the planning matters within the scope of its duties and objectives.

Subdivision 3. The governing body of any municipality may appropriate moneys from any fund not dedicated to other purposes in order to finance its planning activities, whether conducted through a planning agency or otherwise. Any municipality may receive and expend grants and gifts for planning purposes consistent with the provisions of this act and may enter into contracts with the federal and state governments or with other public or private agencies in furtherance of the planning activities authorized by this act.

Section 4. *Organization for Planning.*

Subdivision 1. Planning Agency. The governing body of any municipality may by charter or ordinance create or abolish a planning agency. The planning agency shall be advisory, except as other powers and duties are imposed on it by this act or by charter or ordinance. In the performance of its duties the planning agency shall have access to all public records and may obtain copies thereof. The planning agency may take the following alternative forms:

(1) It may consist of a planning commission, which may or may not include municipal officials among its members. The planning commission may be provided with subordinate staff which may be a division of the administrative structure of the municipal government. The commission shall be advisory directly to the council.

(2) It may consist of a planning department with or without a planning commission attached to it and shall function as a staff department advisory to the council and the municipal administration. The department may be provided with a director and other staff as in the case of other municipal departments.

Subdivision 2. *Board of Adjustments and Appeals.* The governing body of any municipality adopting or having in effect a zoning ordinance, a subdivision control ordinance, or an official map shall provide for a board of appeals and adjustments. Except as otherwise provided by charter, the governing body may provide alternatively that there be a separate board of appeals and adjustments or that the governing body or the planning commission or a committee of the planning commission serve as the board of appeals and adjustments, and it may provide any appropriate name for such board. In any municipality where the council does not serve as the board, the governing body may, except as otherwise provided by charter, provide that the decisions of the board on matters within its jurisdiction are final, subject to judicial review, or are final subject to appeal to the council and the right of later judicial review, or are advisory to the council.

Hearings by the board of appeals and adjustments shall be held within a reasonable time and upon reasonable notice to interested parties, the board shall decide within a reasonable time the matter heard and shall serve a copy of such order upon the appellant or petitioner by mail. Any party may appear at the hearing in person or by agent or attorney. Subject to such limitations as may be imposed by the governing body, the board may adopt rules for the conduct of proceedings before it. Such rules may include provisions for the giving of oaths to witnesses and the filing of written briefs by the parties. The board shall provde for a record of its proceedings which shall include the minutes of its meetings, its findings and the action taken on each matter heard by it. In any municipality in which the planning agency does not act as the board of adjustments and appeals, the board shall make no decision on an appeal or petition until the planning agency, if there is one, or a representative authorized by it has had a reasonable opportunity to review and report upon the appeal or petition.

Section 5. *Adoption of Comprehensive Plans.*

Subdivision 1. *Advice and Coordination.* The planning agency shall advise with and coordinate the planning of other departments and agencies of the municipality to insure conformity with and to assist in the development of the comprehensive municipal plan. The planning agency shall coordinate its planning activities with those of adjacent units of government and other public agencies to assure a more orderly development and to minimize waste, conflicts, and duplication in the development of the area in which the municipality lies.

Subdivision 2. *Procedure for Plan Adoption.* The planning agency may prepare and adopt a comprehensive municipal plan for the physical development of the municipality and its environs. The plan shall be based on social and economic considerations and may be prepared and adopted in sections, each of which relates to a major subject of the plan or to a major geographical section of the municipality. Before adopting the comprehensive municipal plan or any section or substantial amendment of the

plan, the planning agency shall hold at least one public hearing thereon, notice of the time, place and purpose of which shall be published once in the official newspaper of the municipality at least ten days before the day of the hearing. Adoption of the comprehensive plan or of any section or amendment thereof shall be by resolution of the planning commission, approved by the affirmative votes of not less than a majority of its total membership or, if there is no planning commission, by order of the planning director. The planning agency shall from time to time review the adopted plan and amend it whenever changed conditions or further studies by the planning agency indicate that such amendment is necessary. A copy of the plan or of any section or amendment thereof adopted by the planning agency shall be certified to the governing body of the municipality.

Section 6. *Procedure for Plan Effectuation: General.*

Subdivision 1. *Recommendations for Plan Execution.* Upon the adoption of the comprehensive municipal plan, the planning agency shall study and recommend to the governing body of the municipality reasonable and practicable means for putting such plan or section of the plan into effect in order that it will be served as a pattern and guide for the orderly physical development of the municipality and as a basis for the efficient expenditure of municipal funds relating to the subject of the plan. Subject to the limitations of the following sections, such means may include, but shall not be limited to, a zoning plan, regulations for the subdivision of land, an official map, coordination of the normal public improvements, facilities, and services of the municipality, urban renewal, and an annual capital improvement budget.

Subdivision 2. *Compliance with Plan.* Once a comprehensive municipal plan or section thereof has been duly adopted and a certified copy filed with the governing body, no land within the municipality shall be acquired or disposed of, nor shall any capital improvement be authorized, by the municipality or any other political subdivision or special district or agency thereof until after the planning agency has reviewed the proposed acquisition, disposal, or improvement and reported in writing to the governing body or other agency concerned its recommendations as to its compliance with the comprehensive municipal plan. Failure of the planning agency to report on the proposal within 45 days after such reference, or such longer period as may be designated by the governing body or other agency, shall be deemed to be approval of the proposal.

Section 7. *Procedures for Plan Effectuation: Zoning.*

Subdivision 1. *Authority for Zoning.* The governing body of any municipality may by ordinance, in accordance with the procedure prescribed in this section, regulate the location, height, bulk, number of stories, size of buildings and other structures, the percentage of lot which may be occupied, the sizes of yards and other open spaces, the density and distribution of population, the uses of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation, or other purposes. For the purpose of carrying out the objectives of the land use plan of the municipality, the governing body may divide the municipality into districts or zones of suitable numbers, shape and area. All such regulations shall be uniform for each class and kind of buildings and for the use of land and buildings throughout such district, but the regulations in one district may differ from those in other districts.

Subdivision 2. *General Requirements.* At any time after it has adopted a land use plan, the planning agency may prepare a proposed zoning ordinance and submit it to the governing body with its recommendations for adoption. Subject to the requirements of Subdivisions 3 and 4, the governing body may adopt such ordinance and by two-thirds (2/3) vote of all its members may amend or revise such ordinance.

Subdivision 3. *Public Hearings.* No zoning ordinance or amendment shall be hereafter adopted until after a public hearing has been held thereon by the planning agency or, if there is none, by the governing body. Except in the case of an amendment initiated by petition of property owners, public notice of the time, place, and purpose of such hearing shall be given in the official newspaper of the municipality at least 10 days prior to the hearing. In the case of an amendment initiated by petition, 10 days notice shall be given by mail to each owner of property situated wholly or partly within 100 feet of the property to which the amendment relates.

Subdivision 4. *Amendments.* An amendment to a zoning ordinance may be initiated by the governing body, the planning agency, or by the petition of affected property owners, as defined in the zoning ordinance. Any amendment not initiated by the planning agency shall be referred to the planning agency for study and report and shall not be acted upon by the governing body until the governing body has received the recommendation of the planning agency on the proposed amendment or until 45 days have elapsed from the date of reference of the amendment without a report by the planning agency.

Subdivision 5. *Appeals and Adjustments.* Appeals to the board of appeals and adjustments may be taken by any person aggrieved upon compliance with any reasonable conditions imposed by the

zoning ordinance. The board of appeals and adjustments shall have the following power with respect to any zoning ordinance, whether heretofore or hereafter enacted:

(1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the zoning ordinance.

(2) To hear requests for variances from the literal provisions of the ordinance in instances where their strict enforcement would cause undue hardship due to circumstances unique to the individual property under consideration, and grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of the ordinance.

The board of appeals and adjustments shall not permit as a variance any use that is not permitted under the ordinance for property in the zone where the petitioner's land is located. It may impose conditions in the granting of variances to insure compliance and to protect adjacent properties.

Section 8. *Procedure for Plan Effectuation: Subdivision Regulations.*

Subdivision 1. *Authority to Regulate.* To provide for orderly economic, safe, and esthetically pleasing development of land and urban services and facilities any municipality may adopt subdivision regulations including minimum physical standards, requirements as to subdivision improvements and procedures for approval, including the procedure for appeals from actions of the platting authority. Any municipality which has adopted standards for the location of facilities may deny its approval to a plat which does not conform to such standards. Such regulations shall be adopted by the platting authority. Action shall be taken by ordinance when the governing body is the platting authority. Any municipality may extend the application of its subdivision regulations to land located within three miles of its limits in any direction and not in a town which has elected to require the approval of subdivision plats under this act; provided that where two or more municipalities have boundaries less than six miles apart, each shall have control of the subdivision of land equidistant from its boundaries within this area.

Subdivision 2. *Terms of Regulations.* Subdivision regulations shall require that all streets shown on a proposed subdivision plat shall conform to the official map. In considering requirements for the location and width of streets, the municipality shall take into consideration the prospective character of the development and make any reasonable requirements therefor.

As a condition precedent to the approval of any subdivision plat of lands located within the municipality, subdivision regulations may prescribe requirements of the extent to which and the manner in which streets shall be graded and improved and water, sewer, and other utility mains, piping connections, or other facilities shall be installed. Such regulations may provide, or authorize the governing body or other platting authority to provide, that, in lieu of the completion of such work before the final approval of a plat, the governing body or plat authority may accept a cash deposit, certified check or a bond, in an amount and with surety and conditions satisfactory to it, to assure the municipality that such improvements and utilities will be actually constructed and installed within a period specified by the governing body or platting authority expressed in the bond; and the municipality may enforce such bonds by all appropriate legal and equitable remedies.

After adoption of an official map the subdivision regulations may require that a reasonable portion of each proposed subdivision be dedicated to the public for public use as parks, playgrounds, and school sites or that the subdivider contribute an equivalent amount in cash as defined by the regulation. Such regulations may require that all lands falling within the high water mark of lakes, rivers, and water courses, be dedicated to the public or covenanted against building upon.

Subdivision 3. *Plat Approval.* After a municipality adopts subdivision regulations, copies of the regulations shall be filed with the county register of deeds and registrar of titles as provided in this act. Thereafter, no subdivision plat for land within the area to which the regulations are applicable shall be filed or accepted for filing unless it is accompanied by a certified copy of the resolution approving it. Before a subdivision plat is approved, it shall be checked as to measurement of all lots, streets, and public lands and as to its conformity to subdivision regulations. During the review of a plat by the platting authority, a public hearing shall be held thereon after notice of the time and place thereof has been published once in the official newspaper at least 30 days before the hearing. At such hearing all persons interested in the plat shall be heard and the platting authority may thereafter approve or disapprove the plat. The grounds for and refusal to approve a plat shall be set forth in the proceedings of the platting authority and reported to the applicant. After approval a plat may be filed or recorded as otherwise provided by law.

Subdivision 4. *Restrictions on Filing and Recording Conveyances.* In any municipality in which such subdivision regulations are in force and have been filed or recorded as provided in Subdivision 4, no conveyance of land to which the regulations are applicable (including land located within three

miles of its limits) shall be filed or recorded, or accepted for filing or recording if the land is described in the conveyance by metes and bounds or by reference to a registered land survey or to an unapproved plat made after such regulations become effective unless approval of the platting authority is stamped or endorsed on the face of such conveyance. The foregoing provision does not apply to a conveyance if the land described was either

(1) a separate parcel of record April 1, 1945 or the date of adoption of subdivision regulations under Laws 1945, Chapter 287, whichever is the later, or of the adoption of subdivision regulations pursuant to a home rule charter, or

(2) the subject of an agreement to convey was entered into prior to such time.

In any case in which compliance with the foregoing restriction will create an unnecessary hardship and failure to comply does not interfere with the purpose of the subdivision regulations, the governing body may waive such compliance by adoption of a resolution to the effect. Any owner or agent of the owner of land who conveys a lot or parcel in violation of the provisions of this subdivision shall be guilty of a misdemeanor. A municipality may enjoin such conveyance or the filing or recording of such conveyance by a civil action in any court of competent jurisdiction.

Subdivision 5. *Permits.* Except as otherwise provided by this section all utilities, municipal services, and improvement shall be constructed only on a street, alley, or other public way or easement which is designated upon an approved plat or properly indicated on the official map of the municipality. When a municipality has adopted an official map, no permit for the erection of any building shall be issued unless it is located upon a parcel of land abutting on a street or highway which has been designated on the official map and unless the buildings conform to the established building line. No permit shall be issued for the construction of a building on any lot or parcel conveyed in violation of the provisions of Subdivision 4 except as to any land outside the municipal limits.

Subdivision 6. *Appeals:* The platting regulations may provide for procedure for varying regulations as they apply to specific properties where an unusual hardship of the land exists. If any procedures are incorporated in regulations, the specific grounds for varying such regulations shall be set forth in said regulation.

Section 9. *Procedure for Plan Effectuation: Official Maps.*

Subdivision 1. *Statement of Purposes.* Land that is needed for future street purposes and as sites for other necessary public facilities and services is frequently diverted to non-public uses which might well have been located on other lands without substantial loss or inconvenience to the owners. When this happens, public uses of land may be denied or may be obtained later only at prohibitive cost or at the expense of dislocating the owners and occupants of the land. Reservation of land needed for future public uses permits both the public and private property owners to adjust their building plans equitably and conveniently before prior investments are made which will make such adjustments difficult to accomplish.

Subdivision. 2. *Adoption.* At any time after a municipality has adopted a major thoroughfare plan and a community facilities plan, it may adopt an official map. Such map shall be adopted by resolution of the governing body after a public hearing of which notice has been given by publication once in the official newspaper at least ten days before the hearing. After adoption, a copy of the official map shall be filed with the register of deeds and the registrar of titles of the county in which the municipality is situated.

Subdivision 3. *Effect.* After an official map has been adopted and filed, no building permit shall be issued by the municipality except as provided in this section. Whenever any street or highway is widened or improved or any new street is opened, or lands for other public purpose are acquired by action of the municipality, it shall not be required in such proceedings to pay for any building or structure placed without a permit or in violation of conditions of a permit after the filing of such map within the limits of the mapped street or outside of any building line that may have been established upon the existing street or within any area thus reserved for public purposes. The adoption of the map shall not give the municipality any other right or interest in such unplatted streets or other reserved areas except the right to secure the payment of compensation for any such improvement constructed thereafter without a permit or outside the established building line or within the reserved areas as herein provided.

Subdivision 4. *Appeals.* If a permit for a building in such location is denied, the board of appeals and adjustments shall have the power, upon appeal filed with it by the owner of the land, to grant a permit for building in such location in any case in which the board finds, upon the evidence and the arguments presented to it upon such appeal, (a) that the entire property of the appellant of which such reserved public use forms a part cannot yield a reasonable return to the owner unless such permit is granted, and (b) that balancing the interest of the municipality in preserving the integrity of the official map and of the comprehensive plan and the interest of the owner of the property in the use of his property and in the benefits of ownership, the grant of such permit is required by con-

siderations of reasonable justice and equity. In addition to the notice of hearing required by Section 4, Subdivision 2, a notice shall be published in the official newspaper once at least 15 days before the hearing. If the board of appeals and adjustments denies the request for a permit, the governing body or other board or commission having jurisdiction shall have six months from the date of the decision to institute proceedings to acquire such land. If no such proceedings are started within that time, the officer responsible for issuing building permts shall issue the permit if the application otherwise conforms to local ordinances.

Section 10. *Restricted Residence Districts.*

Subdivision 1. *Proceedings for Vacation.* Any city of the first class having a restricted residence district created under the authority of Laws 1915, Chapter 128 as amended may vacate any such restricted residence district upon petition of the owners of 50% of the real estate in the district according to the assessor's latest full and true valuation thereof or upon the petition of the planning agency stating that the district is in conflict with the comprehensive municipal plan. (If proceedings are initiated by the owners, the governing body shall not proceed until the probable cost of the proceedings if abandoned, has been deposited or secured by the petitioners.) Upon such petition, the governing body may, in accordance with this section, acquire by eminent domain the right to exercise the powers granted by this section. When such proceedings have been completed, the right to exercise such power power shall be vested in the city.

Subdivision 2. *Appraisers.* The council shall appoint five appraisers who shall be disinterested qualified voters of the city, and none of whom shall be a resident of the ward or wards in which any part of the district so designated is situate, to view the premises and appraise the damages which may be occasioned by the abandonment of such restricted residence district and by the exercise by the city of the powers herein granted.

The appraisers shall be notified as soon as practicable by the city clerk, as the case may be, to attend at a time fixed by him, for the purpose of qualifying and entering upon their duties. When a vacancy may occur among the appraisers by neglect or refusal of any of them to act or otherwise, such vacancy shall be filled by the council.

The appraisers shall be sworn to discharge their duty as appraisers in the matter with impartiality and fidelity; and to make due return of their acts to the council.

The appraisers shall give notice, by publication in the official newspaper of the city, once a week for two consecutive weeks, which last publication shall be at least ten days before the day of such meeting, which notice shall contain a general description of the lands designated by the council, and give notice that a plat of the same has been filed in the office of the city clerk, and that the appraisers will meet at a place and time designated in the notice, and thence proceed to view the premises and appraise the damages which may be occasioned by the vacation of such restricted residence district and by the exercise by the city of the powers herein granted, and to assess benefits in the manner hereinafter specified.

The city clerk shall, after the first publication of such notice, and at least six days (Sunday excluded) prior to the meeting specified in said notice, serve upon each person having an interest as owner or mortgagee in each parcel of land in said district as shown by the records in the office of the register of deeds a copy of the notice by depositing the same in the post-office of the city, with first class postage prepaid, in an envelope bearing on its front in type no smaller than ten point the words "Notice of Pro ceedings to Vacate Restricted Residence Districts Affecting Your Property," directed to such person at his last known place of residence, if known to the city clerk, but if not known, then to his place of residence as given in the last published city directory of the city, if his name appears therein, or obtained from the records of such owner's address last given on tax receipts in the office of the county treasurer or auditor, or, in the case of mortgages, to the address, if any, appearing in the mortgage.

After the first publication of the notice, and at least six days (Sunday excluded) prior to the meeting specified in the notice, a copy of the same shall also be served upon the person in possession of each of the tracts or parcels of land, or some part thereof, if the same be actually occupied, in the same manner as provided for the service of summons in a civil action in the district court. A copy of all subsequent notices relating to said proceedings which are required to be published, shall be mailed by said clerk in the manner above specified, immediately after the first publication thereof, to owners and mortgagees in the manner and to the address above provided and to such persons as shall have appeared in said proceedings and requested in writing that such notice be mailed to them.

At the time and place mentioned in the notice, the appraisers shall meet and thence proceed to view the premises, and may hear the evidence or proof offered by the parties interested, and may adjourn from time to time for the purposes aforesaid. When their view and hearing shall be concluded they shall determine the amount of damages, if any, suffered by each piece or parcel of land of which each piece or parcel of land in the district is a part. They shall also determine the amount of benefits, if any, to each such piece or parcel of land. If the damages exceed the benefits to any particular piece,

the excess shall be awarded as damages. If the benefits exceed the damages to any particular piece, the difference shall be assessed as benefits, but the costs of the proceedings, including printers' fees, appraisers' fees, cost of serving notices and other expenses, shall be added to the amount to be assessed. The total assessments for benefits, however, shall not be greater than the aggregate net award of damages, including the costs of the proceedings as above provided; and in every case the benefits assessed upon the several parcels shall be in proportion to the actual benefits received, and no assessment upon any particular piece shall exceed the amount of actual benefits after deducting the damages, if any.

If the land and buildings belong to different persons, or if the land be subject to lease, mortgage or judgment, or if there be any estate less than an estate in fee, the injury or damage done to such persons or interests respectively may be awarded to them separately by the appraisers. Neither such award of the appraisers, nor the confirmation thereof by the council shall be deemed to require the payment of such damages to the person or persons named in such award in case it shall transpire that such person or persons are not entitled to receive the same.

The appraisers having ascertained and appraised the damages and benefits as aforesaid, shall make and file with the city clerk a written report of their action in the premises, embracing a schedule and appraisement of the damages awarded and benefits assessed, with descriptions of the lands, and the names of the owners, if known to them and also a statement of the costs of the proceedings.

Upon such report being filed, the city clerk shall give notice that such appraisement has been returned, and that the same will be considered by the council at a meeting thereof to be named in the notice, which notice shall be published in the official newspaper of the city, once a week for two consecutive weeks, and the last publication shall be at least ten days before such meeting. The council upon the day fixed for the consideration of such report, or at any subsequent meeting to which the same may stand over or be referred, shall have power in their discretion to confirm, revise or annul the appraisement and assessment, giving due consideration to any objections interposed by parties interested in the manner hereinafter specified, provided that the council shall not have the power to reduce the amount of any award, nor increase any assessment. In case the appraisement and assessment is annulled, the council may thereupon appoint new appraisers, who shall proceed, in like manner, as in case of the first appraisement, and upon the coming in of their report, the council shall proceed in a like manner and with the same powers as in the case of the first appraisement.

If not annulled or set aside, such awards shall be final, and shall be a charge upon the city, for the payment of which the credit of the city shall be pledged. Such assessments shall be and remain a lien and charge upon the respective lands until paid. The awards shall be paid to the persons entitled thereto, or shall be deposited and set apart in the treasury of the city for the use of the parties entitled thereto, within six months after the confirmation of the appraisement and award. In case any appeal or appeals shall be taken from the order confirming the appraisement and assessment, as hereinafter provided, then the time for payment of the awards shall be extended until and including 60 days after the final determination of all appeals taken in the proceeding, and in case of any change in the awards or assessments upon appeal, the council may, by resolution duly adopted, at any time within 60 days after the determination of all appeals set aside the entire proceeding. Any awards so set aside shall not be paid, and the proceedings as to the tracts for which the awards are so set aside shall be deemed abandoned. Any awards not so set aside shall be a charge upon the city, for the payment of which the credit of the city shall be pledged. All awards shall bear interest at the rate of six per cent per annum from the time of the filing of the original appraisers' report and all subsequent awards and awards upon appeal shall be made as of the day and date of filing of such original reports.

Upon the conclusion of the proceedings and the payment of the awards, the several tracts of lands shall be deemed to be taken and appropriated for the purpose of section 9 of this act, and the right above specified shall vest absolutely in the city in which the lands are situate. In case the council shall in any case be unable to determine to whom the damages should in any particular case be paid, or in case of adverse claim in relation thereto, or in case of the legal disability of any person interested, the council shall, and in any and every case, the council may in its discretion deposit the amount of damages with the district court of the county in which such lands are situate, for the use of the parties entitled thereto, and the court shall, upon the application of any person interested and upon such notice as the court shall prescribe, determine who is entitled to the award, and shall order the same paid accordingly. Any such deposit shall have the same effect as the payment to the proper persons.

Any owner of land within the district who deems that there is any irregularity in the proceedings of the council, or action of the appraisers, by reason of which the award of the appraisers ought not to be confirmed, or who is dissatisfied with the amount of damages awarded, to him or the assessment thereon, may at any time before the time specified for the consideration of the award and assessment by the council, file with the city clerk, in writing, his objections to such confirmation, setting forth therein specifically the particular irregularities complained of, and the particular objection to the award or

assessment, and containing a description of the property in which he is interested, affected by such proceedings and his interest therein, and if, notwithstanding such objections the council shall confirm the award, or assessment, such person so objecting shall have the right to appeal from such order of confirmation of the council to the district court of the county where such land is situate, within 20 days after such order. Such appeals shall be made by serving a written notice of appeal upon the city clerk which shall specify the property of the appellant affected by such award and refer to the objection filed as aforesaid, thereupon the city clerk, at the expense of the appelant, shall make out and transmit to the clerk of the district court a copy of the record of the entire proceedings, and of the award of the appraisers as confirmed by the council and of the order of the council confirming the same, and of the objections filed by the appellant, as aforesaid, and of the notice of appeal, all certified by the city clerk to be true copies, within ten days after the taking of such appeal. If more than one appeal be taken from any award, it shall not be necessary that the city clerk in appeals subsequent to the first, shall send up anything but a certified copy of the appellant's objections. There shall be no pleading on any appeal, but the court shall determine in the first instance whether there was in the proceedings any such irregularity or omission of duty prejudicial to the appelant and specified in his written objection that as to him the award or assessment of the appraisers ought not to stand, and whether the appraisers had jurisdiction to take action in the premises.

The case may be brought on for hearing on eight days' notice, at any general or special term of the court, and the judgment of the court shall be to confirm or annul the proceedings, only so far as the proceedings affect the property of the appellant proposed to be included in the district or damaged or assessed, and described in the written objection. In case the amount of damages or benefits assessed is complained of by such appellant, the court shall, if the proceedings be confirmed in other respects, appoint three disinterested qualified voters, appraisers to reappraise the damages, and reassess benefits as to the property of appellant. The parties of such appeal shall be heard by the court upon the appointment of such appraisers, and the court shall fix the time and place of meeting of the appraisers, they shall be sworn to the faithful discharge of their duties as such appraisers, and shall proceed to view the premises and to hear the parties interested, with their allegations and proofs pertinent to the question of the amount of damages or benefits; such appraisers shall be governed by the same provisions in respect to the method of arriving at the amount of damages or benefits and in all other material respects as are in section 9 of this act made for the government of appraisers appointed by the council. They shall, after the hearing and view of the premises, make a report to the court of their award of damages and assessment of benefits in respect to the property of such appellant. The award shall be final unless set aside by the court. The motion to set aside shall be made within 15 days. In case such report is set aside, the court may, in its discretion, recommit the same to the same appraisers, or appoint new appraisers as it shall deem best; the court shall allow to the appraisers a reasonable compensation for their services, and make such award of costs on such appeal, including the compensation of such appraisers as it shall deem just in the premises, and enforce the same by execution. In case the court shall be of the opinion that such appeal was frivolous or vexatious, it may adjudge double costs against such appellant. An appeal may be taken to the supreme court of the state from any final decision of the district court in the proceedings.

The city council, for the purpose of realizing the funds for making such improvements and paying such damages and the costs of such proceeding may issue and sell special certificates of indebtedness, or special restricted residence district bonds, as it may decide, which shall entitle the holder thereof to all sums realized upon any such assessment, or if deemed advisable, a series of two or more certificates or bonds against any one assessment, the principal and interest being payable at fixed dates out of the fund collected from such assessments, including interest and penalties, and the whole of such fund is hereby pledged for the pro rata payment of such certificates or bonds and the interest thereon, as they severally become due. Such certificates or bonds may be made payable to the bearer, with interest coupons attached, and the city council may bind the city to make good deficiencies in the collection up to, but not exceeding, the principal and interest at the rate fixed as hereinafter provided and for the time specified in subdivision 3. If the city, because of any such guaranty, shall redeem any certificate or bond, it shall thereupon be subrogated to the holder's rights. For the purpose of such guaranty, penalties collected shall be credited upon deficiencies of principal and interest before the city shall be liable. Such certificates or bonds shall be sold at public sale or by sealed proposals at a meeting of which at least two weeks' published notice shall be given to the purchaser who will pay the par value thereof at the lowest interest rate, and the certificates or bonds shall be drawn accordingly, but the rate of interest shall in no case exceed five percent per annum payable annually or semiannually. The city clerk shall certify to the county auditor the rate of interest to be determined, and interest shall be computed upon the assessments at such annual rate, in accordance with the terms of section 10, subdivision 3.

Section 11. *Powers in Addition.* Notwithstanding any provision in this act to the contrary, any planning commission now exercising any power or authority granted by this act to the governing body

of the municipality shall continue to exercise such power or authority and the governing body referred to in this act shall be construed to mean the planning commission now exercising the power of authority therein referred to under any statute or home rule charter. Any powers conveyed to any municipality by this act shall be in addition to the powers now possessed by the municipality under a home rule charter or under any statute not expressly repealed by this act. Ordinances adopted under this act by a city having a home rule charter shall be subject to any referendum provisions of the charter.

Section 12. *Enforcement and Penalty.* Violation of any regulatory provision of this act is a misdemeanor. Any municipality may by ordinance provide for the enforcement of ordinances or regulations adopted under this act and provide penalties for violation thereof. Any municipality may also enforce any provision of this act or of any ordinance adopted thereupon by mandamus, injunction, or any other appropriate remedy in any court of competent jurisdiction.

Section 13. *Present Ordinances Continued.* Except as otherwise provided in this act, valid ordinances now in effect shall continue in effect until amended or repealed in accordance with the provisions of this act.

Section 14. *Repeal.* Minnesota Statutes 1957, Section 412.221, Subdivision 29, 462.01 to 462.23, and 471.26 to 471.33 are repealed. Inconsistent special laws and general laws of special application are superseded by this act to the extent of inconsistency.

Section 15. *Effective Date.* This act takes effect July 1, 1961.

APPENDIX K

Memorandum

Metropolitan Water Supply and Sewage Disposal

Submitted April 14, 1960, to Commission on Municipal Laws

This memorandum is submitted to the Commission on Municipal Laws in reference to the approach to recommended legislation to meet the emergency problem which has been emphasized in repeated testimony concerning water contamination and the need for expanding the Minneapolis-St. Paul Sanitary District.

Everyone is familiar by now with the testimony that in 29 suburban municipalities where private wells have been tested, an average of 50% of all such wells have been found to be contaminated by nitrates. The most dramatic testimony is that the Federal Housing Administration and Veterans Administration have found the condition sufficiently serious to warrant denying all mortgage loans in any suburb not assuring a pure water supply by steps to be accomplished within one year.

The Minneapolis-St. Paul Sanitary District is engaged in extensive studies to recommend substantial enlargement of the Sanitary District. Every witness who has ventured an opinion has recommended that any extension of the Sanitary District cover the entire metropolitan area. This seems to be the burden of the testimony of Kerwin L. Mick, Chief Engineer and Superintendent of the Sanitary District, and apparently represents the attitude of the Sanitary District.

Sidney A. Frellsen, Director of Division of Waters of the Department of Conservation, has recommended that there be a metropolitan water supply and C. David Loeks, Executive Director of the Twin Cities Metropolitan Planning Commission, and other witnesses have indicated the necessity of state-wide policy on water allocation.

It is suggested that the water contamination emergency in the Twin Cities metropolitan area warrants immediate establishment by the next Legislature of a metropolitan district to handle sewage disposal. At the same time, it is recognized from testimony that water supply, law enforcement and other problems will quickly extend beyond the ability of individual municipalities to handle them.

I recommend that the Commission on Municipal Laws request the 1961 Minnesota Legislature to create a Twin Cities metropolitan district with boundaries established to encompass all of the area beset by problems of metropolitan living, along the general lines of the definition of metropolitan areas prescribed by the United States Department of Commerce, to assume and administer any function of government municipal in character; which can no longer be adequately or effectively managed by individual villages and cities. I suggest that this district be assigned the administration of the enlarged Sanitary District at once and that the law be so drawn as to permit the creation of additional departments within the metropolitan district to establish a metropolitan water supply or to assume any other function which it is agreed at any future date requires area-wide metropolitan control. This should be done in such a manner as to preserve complete local autonomy of each municipality as to all remaining municipal functions. Local consent and clear cut public recognition of the need for

the metropolitan approach should be imbedded in the law before any function can be added. The Legislature should declare as a policy that no future single purpose taxing and service districts should be established. Multiplying ad hoc agencies can create the same problems we now have with the multiplicity of municipal governments in the Twin Cities metropolis. The structure of the metropolitan district should be such that as consent can be obtained, proper arrangements made, present single purpose districts such as mosquito control be added.

A metropolitan district should be governed by a board broadly representative of the entire metropolitan area with adequate representation of municipalities, counties and local governments. It is submitted that this will be a considerable improvement over single purpose agencies which furnish many services to areas which have no voice in their control.

If the Commission on Municipal Laws agrees with the above policy a tentative draft of a proposed law embodying the structure of a metropolitan district can be drawn in time for complete deliberation as to each detail by Commission members.

Respectfully submitted,

Joseph Robbie
Executive Secretary and Counsel

April 14, 1960

APPENDIX L

Memorandum Outline of Proposed Metropolitan Service District

Submitted June 1, 1960, to Commission on Municipal Laws

By my earlier memorandum of April 14, 1960, in response to a request from the Commission on Municipal Laws, I recommended the creation of a multiple-purpose service district to cover the entire Metropolitan Twin Cities area to serve the purpose of an enlarged Minneapolis-St. Paul Sanitary District in managing sewage disposal on an area-wide metropolitan basis and to assume any additional service functions assigned to it, including water supply, whenever there is agreement within the metropolitan area or by the legislature that such service can be more effectively and economically furnished on an area-wide basis, without disturbing the autonomy of any existing municipality as to any other municipal service functions. That memorandum was premised upon the assumption that no additional single-taxing districts should be created but that a mechanism should be constructed to assume all functions where the metropolis is in agreement that the metropolitan approach is needed.

Upon presentation of the multi-purpose district proposal, I was directed to outline the specific nature such a legislative proposal might take. Since then the proposal has received favorable editorial attention from the Minneapolis Tribune and has been the subject of discussion at the meeting of the Executive Committee of the Twin Cities Metropolitan Planning Commission with the Governor which was also attended by members of the Minnesota Municipal Commission and the Governor's Advisory Committee on Suburban Problems. The Water and Sewer Committee of the Metropolitan Planning Commission, working in close liaison with the Minneapolis-St. Paul Sanitary District and other affected agencies in dealing directly with problems of sewage disposal and water supply within the metropolitan area, has considered the tentative draft of the Water Study prepared by the staff and about to be approved as to contents and published by the Metropolitan Planning Commission and it is probable that creation of a multi-purpose district will be designated in the MPC Water Study as the preferred alternative to accomplish coordination of sewage disposal and water supply within the metropolitan area to solve the contamination problem and to assure an adequate and pure water supply.

Home Builder and Well Driller Associations, whose direct interests are affected by the ominous contamination reports, and who tend to challenge the interpretation placed upon the gravity of these test results by the State Health Department and the Federal Housing Administration, nevertheless seem to be solidly behind the metropolitan approach rather than a series of community water and sewer systems.

There are only two alternatives in solving the water and sewer problems:

(1) The metropolitan approach, and

(2) A system of community water systems and separate sewage systems in suburbs where contamination occurs, with individual wells and septic tanks where ordinances permit and FHA mortgage regulations do not inhibit and health has not yet been endangered by tests showing

contamination, supplemented by contracts between individual suburbs and the Minneapolis-St. Paul Sanitary District as to sewage disposal and between suburbs and the Cities of Minneapolis and St. Paul as to water supply where the sanitary district or the central city has the capacity to serve and the contracting parties can agree on reasonable terms.

The latter is basically the status quo. It can be fortified by better ordinances relating to the construction of wells and septic tanks to protect public health and by enlarging the sanitary district so that it has better capacity to contract with non-member communities. But no matter what is done, this will remain a patch work system. It is difficult to stitch the metropolitan area together in a consistent water distribution system recognizing the rights of all communities to an adequate water supply, with no community complicating the problem of another, merely by a system of intertwining contracts. The same is true of sewage disposal. It is sufficient to say that no responsible party has come forward and offered testimony to this Commission, or commented upon the previous proposal contained in my earlier memorandum of April 14, 1960, and in the process advocated the extension of the status quo.

If the metropolitan approach is to be utilized, there are only two alternatives:

(1) To create a multiple-purpose district, with functions to be assigned to such district only upon recognition by the metropolitan community or the legislature that the function to be assigned is one that can be no longer adequately, effectively, or economically performed separately by each individual municipality, with local consent accorded either by vote or upon a representative basis, with each municipality remaining completely autonomous as to all other municipal functions or services, with the tax burden and the governing control to be proportionately shared by the people and local governing bodies of the entire metropolitan district, or

(2) To establish separate autonomous taxing districts to manage each separate function such as sewage disposal and water distribution.

The metropolitan approach has already been recognized and utilized in the Twin Cities area in the creation of the Metropolitan Planning Commission, the Metropolitan Airports Commission, Minneapolis-St. Paul Sanitary District, and the Mosquito Control District. These districts each have their own taxing power, propose and adopt their own budgets, plan their own work programs, and exist independently of one another with only voluntary liaison and varied participation from component local governments within this metropolitan area. They have varying boundaries, there is no coordination lending to them the aspect of separate departments working toward the common goal of metropolitan coordination. Each in its own sphere does an effective job. Yet creation of additional single-purpose taxing districts will only lead to the same kind of diffusion that has come from dividing this metropolitan area into seven counties, some 116 municipalities, and approximately 250 total local subdivisions of government. Such single-purpose taxing districts have come under increasing cross-fire of criticism in California and other populous states. The American Municipal Association has recently said in a brochure, *Basic Principles for a Good Annexation Law,* that creation of special service districts are often hasty and ill-conceived ventures enabled by unduly lax governing laws. "To prevent a senseless proliferation of illogical or uneconomic minor governmental and taxing districts (the hallmark of the 'metropolitan' problem) statutes should frankly favor annexation to functioning municipalities as the preferred avenue toward the provision of 'municipal' services." The same point may be made for a uniform taxing district for the entire metropolitan area as to those functions that cannot be successfully exercised by individual municipalities. (See footnote 14, *Basic Principles for a Good Annexation Law,* ibid).

I have found no one defending the extension of single-purpose taxing and service districts either before or since the filing of my April 14th memorandum recommending a multiple-purpose service district.

I now propose that a law be submitted to the 1961 Minnesota Legislature by this Commission creating a multiple-purpose district but providing immediately for the single function of sewage disposal. I further recommend that later in the session, after the proposed legislation creating the metropolitan district has been considered and passed upon by the legislature, if the district is created, a supplemental bill be offered, standing separately on its own merits, creating a water department within the multiple purpose district for the sole purpose in the forthcoming biennium of conducting the necessary engineering study to determine the feasibility of a metropolitan water distribution system, the location of its mains, financing, cost allocation, and all other pertinent factors necessary to the establishment of such a system. This will enable the legislature to make separate disposition of the sewer and water problems without allowing either to complicate handling the other on its own merits. It has the added advantage of permitting the legislature, if it so decides, to treat water and sewer as one problem directed toward the single purpose of assuring a pure and adequate water supply by first adopting the bill creating the multiple-purpose district and by then adding the water study assignment to the district thus created.

I further recommend that the bill not be complicated by an effort to merge into the new multiple-purpose district the Metropolitan Airports Commission, the Metropolitan Planning Commission, the Mosquito Control District, or any other functions presently assigned to broader units containing more

than one municipality within the metropolitan area. Further legislative study should be given to the desirability of such amalgamation and to the mechanics of accomplishment.

* * * * * *

I am ready to submit the complete text of the proposed act including all technical provisions consistent with any policy instructions which may be given me by the legislative commission by July, 1960, subject of flexibility for later major policy decisions on such problems as representation of the Metropolitan Council, financing and allocation of costs, and credit for past investment by the central cities in the present Minneapolis-St. Paul Sanitary District.

I recommend that the legislative commission meet with the present trustees of the Minneapolis-St. Paul Sanitary District to carefully consider the proposed act as it relates to the operations of the Sanitary District. The matter of representation on the Metropolitan Council should be negotiated in detail with the present Sanitary District, the central cities, and suburban, municipal and county interests, with due regard for townships and all other local governments.

If this approach is approved, the proposed act should provide that in addition to the Metropolitan Council, there shall be a separate board or commission as to each metropolitan function to be immediately assigned to the district, including sewer and water. The present terms of office of the incumbent trustees of the Minneapolis-St. Paul Sanitary District should not be disturbed, including that of the neutral chairman who does not live in the Twin Cities metropolitan area. It is probable that most trustees, because of their official positions, will be members of the original Metropolitan Council in view of the suggestion in this memorandum as to representation and membership on the Twin Cities Metropolitan Council.

Respectfully submitted,

Joseph Robbie,
Executive Secretary and Counsel

June 1, 1960

APPENDIX M

Suburban Communities Contracted for Sewage Service - 1960[1]

Minneapolis Suburban Communities:

Community	Ordinance with Contract or	Acres Gross Area
Bloomington	Richfield	24,880
Brooklyn Center	Minneapolis	5,440
Columbia Heights	Minneapolis	2,240
Crystal	Minneapolis	3,760
Edina	Minneapolis	9,800
Fridley	Minneapolis	6,750
Golden Valley	Minneapolis	6,740
Hopkins	Minneapolis	2,560
Lauderdale	Minneapolis	240
Morningside	Minneapolis	250
New Hope	Golden Valley	3,300
Osseo	Minneapolis	330
Richfield	Minneapolis	4,490
Robbinsdale	Minneapolis	1,830
St. Anthony (part)	Minneapolis	1,120
St. Louis Park	Minneapolis	6,820

St. Paul Suburban Communities:

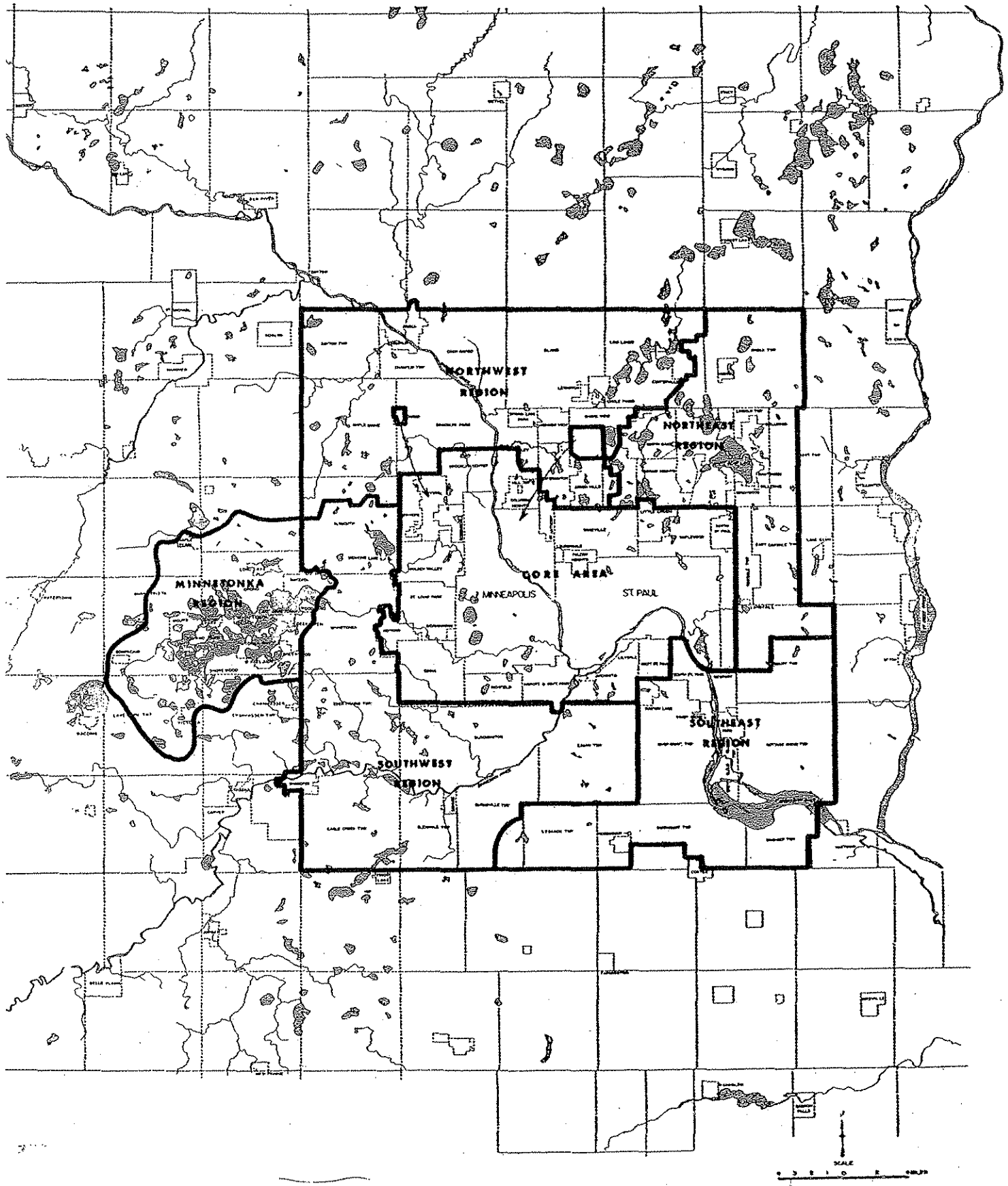
Community	Ordinance with Contract or	Acres Gross Area
Arden Hills (part)	Roseville	2,150
Falcon Heights	St. Paul	1,440
Maplewood	St. Paul	11,400
North St. Paul	St. Paul	1,960
Roseville	St. Paul	8,770
St. Anthony (part)	Roseville	410
Shoreview (part)	Roseville	1,560
West St. Paul	St. Paul	3,240

The total contracted suburban area is 1.7 times the size of the central cities. In addition to the cities shown, the Minneapolis-Saint Paul Sanitary District contracts with the Minneapolis-St. Paul International Airport, Northern Ordinance, Twin Cities Arsenal and the Veterans Administration and Fort Snelling.

[1]Toltz, King, Duvall, Anderson and Associates, Inc., Consulting Engineers, **Report on the Expansion of Sewage Works in the Minneapolis-St. Paul Area**, Volume III, September, 1960.

APPENDIX N

Limits of Proposed Twin Cities Metropolitan Sanitary District



(Reprinted Courtesy of Minneapolis-Saint Paul Sanitary District)