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SENATE BILL 446

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Carlos R. Cisneros

AN ACT

RELATING TO SPECIAL DISTRICTS; PROVIDING FOR THE CREATION OF A COUNTY WATER AND SANITATION AUTHORITY; ESTABLISHING POWERS AND DUTIES; ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the "County Water and Sanitation Authority Act".

Section 2. PURPOSE OF COUNTY WATER AND SANITATION AUTHORITY.--A county water and sanitation authority may be created for the purpose of:

A. purchasing, acquiring, establishing or constructing waterworks to supply water for domestic, commercial and industrial purposes by any available means to persons within and without the boundaries of the authority, and for this purpose an authority shall have power to extend its

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1 water lines outside of the boundaries of the authority for the
2 purpose of securing a source of water supply or for the purpose
3 of supplying such water to any lands of the United States, the
4 state of New Mexico or an Indian nation, tribe or pueblo for
5 use by any person, firm or corporation;

6 B. purchasing, acquiring, establishing or
7 constructing wastewater systems for the treatment and disposal
8 of sewage; or

9 C. planning, developing or coordinating the
10 development of regional water and wastewater facilities.

11 Section 3. DEFINITIONS.--As used in the County Water and
12 Sanitation Authority Act:

13 A. "authority" means a county water and sanitation
14 authority that is established pursuant to the County Water and
15 Sanitation Authority Act; and

16 B. "board" means the board of directors of an
17 authority.

18 Section 4. COUNTY WATER AND SANITATION AUTHORITY--
19 CREATION.--A county water and sanitation authority may be
20 established by ordinance of a board of county commissioners of
21 a class A county having a final, full and assessed valuation of
22 over three billion seven hundred million dollars
23 (\$3,700,000,000) and having a population of over one hundred
24 twenty-five thousand persons according to the last federal
25 decennial census.

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1 Section 5. BOARD--APPOINTMENT--ELECTION--VACANCIES--
2 REMOVAL.--

3 A. The board shall consist of five directors who
4 are residents of the county in which the authority is created.
5 The initial board of directors shall be appointed by the board
6 of county commissioners and shall serve until their successors
7 are appointed or elected in accordance with the provisions of
8 this section.

9 B. During the next general election following the
10 creation of an authority, three directors shall be elected at
11 large by the voters of the county. One director shall serve an
12 initial two-year term, and thereafter the director elected to
13 that position shall serve a four-year term. Selection of the
14 director to serve an initial two-year term shall be made by
15 lot. The other two directors shall serve a term of four years.
16 Thereafter, directors shall serve terms of four years. Elected
17 directors shall be limited to serving two consecutive four-year
18 terms.

19 C. Elections shall be governed by the procedures of
20 the Election Code relating to the election of county officers.

21 D. Following creation of an authority, two
22 directors shall be appointed by the board of county
23 commissioners, and shall thereafter serve four-year terms
24 subject to reappointment. No director appointed by the board
25 of county commissioners shall serve more than two consecutive

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1 four-year terms. One of the appointed members shall be a
2 member of and represent an Indian nation, tribe or pueblo in
3 the county if tribal or pueblo lands are located within the
4 territory comprising the authority. Any director appointed by
5 a board of county commissioners shall be eligible for election,
6 provided that no member of a board shall serve on the board for
7 a total of more than ten years.

8 E. Vacancies on the board shall be filled by
9 appointment by the board of county commissioners for the
10 remainder of the unexpired term or until a successor is elected
11 to fulfill the remainder of a term when the vacancy occurs in
12 an elected position, the remaining term for which is more than
13 two years and four months. If the board of county
14 commissioners fails to fill any vacancy within thirty days
15 after it occurs, the court having jurisdiction shall fill the
16 vacancy.

17 F. The district court of the county in which the
18 authority is created may remove a director from the board for
19 cause shown after notice and hearing.

20 Section 6. BOARD--ORGANIZATION--OFFICERS--DUTIES.--

21 A. After taking oath and filing bonds, the board
22 shall choose one of its members as chairman of the board and
23 shall elect a secretary and a treasurer of the board who may or
24 may not be members of the board. The secretary and treasurer
25 may be one person.

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1 B. The secretary shall keep a record of all of its
2 proceedings, minutes of all meetings, certificates, contracts,
3 bonds given by employees and all corporate acts, which shall be
4 open to inspection to all members of the public.

5 C. The treasurer shall keep strict and accurate
6 accounts of all money received by and disbursed for and on
7 behalf of the authority, in permanent records. The treasurer
8 shall file with the clerk of court, at the expense of the
9 district, a corporate fidelity bond in an amount not less than
10 five thousand dollars (\$5,000), conditioned on the faithful
11 performance of the duties of his office.

12 D. Members of the board shall serve without
13 compensation unless otherwise provided by the ordinance
14 creating the authority. Members shall be allowed their actual
15 and necessary expenses incurred in performance of their duties.

16 E. The board shall meet once each month at a time
17 and place to be designated by the board. Special meetings may
18 be held as often as the needs of the authority require on
19 notice to each member of the board. A majority of the board
20 shall constitute a quorum at any meeting.

21 Section 7. BOARD--POWERS--DUTIES.--

22 A. All powers, privileges and duties vested in or
23 imposed upon the authority shall be exercised and performed by
24 the board. The board may delegate its powers by resolution to
25 an officer or agent of the board, with the exception of the

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1 following:

2 (1) adoption of board policies and procedures;

3 (2) ratification of acquisition of property;

4 (3) initiation or continuation of legal

5 action;

6 (4) establishment of policies regarding fees,

7 tolls, rates or charges; and

8 (5) issuance of bonds.

9 B. The board shall promulgate and adhere to
10 policies and procedures that govern its conduct and provide
11 meaningful opportunities for public input. These policies
12 shall include standards and procedures for calling emergency
13 meetings.

14 C. A director of the board shall not vote on an
15 issue when the director has a conflict of interest. A person
16 who is a director of the board, officer of the board or
17 employee of the board shall not:

18 (1) acquire a financial interest in a new or
19 existing business venture or business property of any kind when
20 the new financial interest will be directly affected by the
21 person's official act;

22 (2) use confidential information acquired by
23 virtue of the person's office or employment for his or
24 another's private gain; or

25 (3) contract with the authority without public

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1 notice and competitive bidding and full disclosure of the
2 person's financial or other interest in the business that is
3 party to the contract.

4 D. The attorney general shall investigate and
5 prosecute, when appropriate, a complaint involving a violation
6 of Subsection C of this section. Violation of the provisions
7 of Subsection C of this section by a director of the board,
8 officer of the board or employee of the board is grounds for
9 removal or suspension of the director or officer and dismissal,
10 demotion or suspension of the employee.

11 E. In addition to all other powers conferred by the
12 County Water and Sanitation Authority Act, the board may:

- 13 (1) adopt bylaws;
- 14 (2) fix the time and place of meetings and the
15 method of providing notice of the meetings;
- 16 (3) make and pass orders and resolutions
17 necessary for the government and management of the affairs of
18 the authority and the execution of the powers vested in the
19 authority;
- 20 (4) adopt and use a seal;
- 21 (5) maintain offices at a place as the board
22 may designate;
- 23 (6) appoint, hire and retain employees,
24 agents, engineers, attorneys, accountants, financial advisors,
25 investment bankers and other consultants; and

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1 (7) prescribe, in accordance with the
2 Procurement Code, methods for auditing and allowing or
3 rejecting claims and demands for:

4 (a) the awarding of contracts for the
5 construction of improvements, works or structures;

6 (b) the acquisition of equipment; or

7 (c) the performance or furnishing of
8 labor, materials or supplies as may be required for carrying
9 out the purposes of the County Water and Sanitation Authority
10 Act.

11 Section 8. POWERS OF AUTHORITY.--An authority is a body
12 politic and corporate, and a political subdivision of the
13 state. In addition to other powers granted to the authority
14 pursuant to the County Water and Sanitation Authority Act, the
15 authority may:

16 A. have perpetual existence;

17 B. sue and be sued;

18 C. enter into contracts and agreements affecting
19 the affairs of the authority;

20 D. establish, collect and increase or decrease
21 fees, tolls, rates or charges for the use of water and
22 wastewater systems financed, constructed, operated or
23 maintained by the authority; provided that fees, tolls, rates
24 or charges imposed for the use of water and wastewater systems
25 shall be fixed and adjusted to pay for bonds issued by the

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1 authority;

2 E. borrow money and issue bonds in accordance with
3 the provisions of that act;

4 F. refund any bonded indebtedness or revenue bonds
5 of the authority;

6 G. acquire, dispose of or encumber real and
7 personal property and any interest in them, including leases
8 and easements;

9 H. design, develop, construct, operate, maintain or
10 contract for water and wastewater facilities and design,
11 develop, construct, operate, maintain or contract for pipelines
12 to interconnect authority sources and facilities and customers;

13 I. collect, treat and recover wastewater and to
14 apply for and receive return flow credits for such activity;

15 J. engage in local water distribution;

16 K. design, develop, construct, operate, maintain or
17 contract for alternative sources of potable water, including
18 desalinized water, and pipelines to interconnect authority
19 sources and facilities;

20 L. undertake regional water and wastewater
21 planning;

22 M. receive from any state agency, municipality,
23 political subdivision of the state, public corporation or
24 person, a title, easements or licenses to property within this
25 state for use by the authority in furthering the purposes set

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1 forth in the County Water and Sanitation Authority Act;

2 N. enter into agreements pursuant to the Joint
3 Powers Agreements Act with municipalities, counties, Indian
4 nations, tribes or pueblos, political subdivisions of the state
5 or other parties to further the purposes of the authority or to
6 provide such party preferential rights to receive water or
7 dispose of wastewater;

8 O. design, construct, operate and maintain
9 facilities in the locations and at the times necessary to
10 ensure that an adequate water supply will be available to all
11 citizens within the territory of the authority;

12 P. receive revenue from a county within the
13 territory of the authority or a county having a contract for
14 service with the authority. Such revenue may be derived from
15 any source, including revenue derived from a county gross
16 receipts tax or the county property tax, county bonding,
17 general obligation bond or other source;

18 Q. apply for and receive federal, state and local
19 grants, loans or other forms of assistance;

20 R. finance, construct, operate or maintain water
21 and wastewater systems within the boundaries of the authority;

22 S. have and exercise the power of eminent domain
23 and, in the manner provided by law for the condemnation of
24 private property for public use, take any property necessary
25 for the exercise of the powers granted in that act within the

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1 territory of an authority;

2 T. construct and maintain works and establish and
3 maintain facilities across or along any public street or
4 highway and through any vacant public lands which are now or
5 may become the property of the state, and to construct works
6 and establish and maintain facilities across any stream of
7 water or watercourse; provided, however, that the district or
8 authority shall promptly restore any such street or highway to
9 its former state of usefulness as nearly as may be possible and
10 shall not use the street or highway in such manner as to
11 completely or unnecessarily impair its usefulness;

12 U. set rates and impose fees on water deliveries
13 and wastewater disposal, which will apportion to parties and
14 nonparties an equitable share of the capital cost and operating
15 expense of the authority's work to the purchaser;

16 V. fix and from time to time to increase or
17 decrease water and sewer rates, tolls or charges for services
18 or facilities furnished or made available by the authority,
19 including standby charges for both water and sewers, and to
20 pledge that revenue for the payment of any indebtedness of the
21 authority. Until paid, all rates, tolls or charges constitute
22 a perpetual lien on and against the property served, and any
23 such lien may be foreclosed in the same manner as provided by
24 the laws of New Mexico for the foreclosure of real estate
25 mortgages. The board shall shut off or discontinue service for

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1 delinquencies in the payment of the rates, tolls or charges
2 imposed pursuant to the County Water and Sanitation Authority
3 Act and prescribe and enforce rules for the connection with,
4 and the disconnection from, properties of the facilities of the
5 authority. For health and sanitary purposes, the board shall
6 have the power to compel the owners of inhabited property
7 within the territory of an authority to connect their property
8 with the sewer system of the authority, and, upon a failure so
9 to connect within sixty days after written notice by the board,
10 the board may cause the connection to be made and a lien to be
11 filed against the property for the expense incurred in making
12 the connection; provided, however, that no owner shall be
13 compelled to connect his property with such system unless a
14 service line is brought by the district or authority to a point
15 within four hundred feet of his dwelling place; and

16 W. have and exercise all rights and powers
17 necessary or incidental to or implied from the specific powers
18 granted in this section. Such specific powers shall not be
19 considered as a limitation upon any power necessary or
20 appropriate to carry out the purposes and intent of the County
21 Water and Sanitation Authority Act.

22 Section 9. COUNTY WATER AND SANITATION AUTHORITY--
23 TERRITORY AND EXCLUSIVE RIGHT TO PROVIDE SERVICE--JOINING AN
24 AUTHORITY--COOPERATION WITH ADJOINING COUNTIES.--

25 A. The initial service area of a county water and

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1 sanitation authority shall be established by ordinance of the
2 board of county commissioners and may consist of the
3 territorial limits of the county in which an authority is
4 established except the territory encompassed within a
5 municipality, an existing water and sanitation district or the
6 territory actually served on the effective date of the County
7 Water and Sanitation Authority Act by an existing mutual
8 domestic consumer water association. A county water and
9 sanitation authority shall have the exclusive right to provide
10 water and sanitation services within the territory served by
11 that authority.

12 B. Counties, municipalities, water and sanitation
13 districts and mutual domestic consumer associations may
14 contract with or join and be part of the service area of a
15 county water and sanitation authority if approved by resolution
16 of the governing boards of the authority and by the party
17 requesting to contract with or join the authority.

18 C. An authority may cooperate with an adjoining
19 county in regional water planning and in providing water and
20 wastewater services and facilities to the territory of that
21 county by contract.

22 Section 10. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF
23 REVENUES--LIMITATION ON TIME OF ISSUANCE.--

24 A. Revenue bonds may be issued by the authority for
25 acquiring real and personal property needed for an authority

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1 project, including the purchase of water rights, for extending,
2 enlarging, bettering, repairing or otherwise improving a water
3 or wastewater project or for any combination of those purposes.
4 The authority may pledge irrevocably any or all of the net
5 revenues from the operation of the water or wastewater system
6 for payment of the interest on and principal of the revenue
7 bonds.

8 B. Except for the purpose of refunding previous
9 revenue bond issues, the authority may not sell revenue bonds
10 payable from pledged revenues after the expiration of two years
11 from the date of the resolution authorizing the issuance of the
12 bonds. However, any period of time during which a particular
13 revenue bond issue is in litigation shall not be counted in
14 determining the expiration date of that issue.

15 C. The authority shall not impair the rights of any
16 holders of bonds or other obligations payable from the net
17 revenues of the water or wastewater system previously issued or
18 incurred by the authority.

19 D. If required by the terms, covenants and
20 provisions of revenue bonds or other obligations previously
21 issued by the authority, all additional bonds or other
22 obligations issued or incurred by the authority pursuant to the
23 County Water and Sanitation Authority Act shall contain any
24 required terms, covenants or provisions required to avoid
25 impairment of the previously issued or incurred bonds or other

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1 obligations.

2 Section 11. USE OF PROCEEDS OF REVENUE BOND ISSUE.--It is
3 unlawful to divert, use or expend any money received from the
4 issuance of revenue bonds for any purpose other than the
5 purpose for which the revenue bonds were issued.

6 Section 12. REVENUE BONDS--TERMS.--Revenue bonds:

7 A. may have interest, appreciated principal value
8 or any part thereof payable at intervals or at maturity as may
9 be determined by the authority;

10 B. may be subject to prior redemption at the
11 authority's option at such time or times and upon such terms
12 and conditions with or without the payment of such premium or
13 premiums as may be determined by the authority;

14 C. may mature at any time or times not exceeding
15 forty years after the date of issuance;

16 D. may be serial in form and maturity or may
17 consist of one bond payable at one time or in installments or
18 may be in such other form as may be determined by the
19 authority;

20 E. shall be sold for cash at above or below par and
21 at a price that results in a net effective interest rate that
22 does not exceed the maximum permitted by the Public Securities
23 Act; and

24 F. may be sold at public or negotiated sale.

25 Section 13. EXEMPTION FROM TAXATION.--The bonds

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1 authorized by the County Water and Sanitation Authority Act and
2 the income from the bonds shall be exempt from all taxation by
3 the state or any political subdivision of the state.

4 Section 14. RESOLUTION AUTHORIZING REVENUE BONDS.--

5 A. At a regular or special meeting called for the
6 purpose of issuing revenue bonds, the authority may adopt a
7 resolution that:

8 (1) declares the necessity for issuing revenue
9 bonds; and

10 (2) authorizes the issuance of revenue bonds
11 by an affirmative vote of two-thirds of all members of the
12 authority.

13 B. Revenue bonds and the resolution authorizing
14 their issuance shall be subject to approval by the state board
15 of finance.

16 Section 15. REVENUE BONDS NOT GENERAL OBLIGATIONS--
17 AUTHENTICATION.--

18 A. Revenue bonds or refunding revenue bonds issued
19 as authorized in the County Water and Sanitation Authority Act
20 are:

21 (1) not general obligations of the state or
22 other political subdivision of the state; and

23 (2) collectible only from the pledged revenues
24 of the water or wastewater system, and each bond shall state
25 that it is payable solely from the pledged revenues of the

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1 water or wastewater system and that the bondholders may not
2 look to any other fund of the state or political subdivision of
3 the state for the payment of the interest and principal of the
4 bond.

5 B. The bonds shall be executed by the chairman of
6 the board and may be authenticated by the secretary of the
7 board or any public or private transfer agent or registrar or
8 its successor, which shall be named or otherwise designated by
9 the board. The bonds may be executed as provided under the
10 Uniform Facsimile Signature of Public Officials Act.

11 Section 16. REVENUE BONDS--MANDATORY RATES FOR THE WATER
12 OR WASTEWATER SYSTEM--MANDAMUS--IMPAIRMENT OF PAYMENT.--

13 A. The authority shall establish rates for services
14 rendered by the water or wastewater system to provide revenue
15 sufficient to meet the following requirements, and such rates
16 shall remain in effect until the bond issue is liquidated.

17 Revenue shall be sufficient to:

18 (1) pay all reasonable expenses of operation
19 of the water or wastewater system;

20 (2) pay all interest on the water or
21 wastewater system revenue bonds as it comes due; and

22 (3) provide a sinking fund adequate to
23 discharge the revenue bonds as they mature.

24 B. In the event the authority fails or refuses to
25 establish rates for the water or wastewater system as required

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1 in this section, any bondholder may apply to the district court
2 for a mandatory order requiring the authority to establish
3 rates that will provide revenues adequate to meet the
4 requirements of this section.

5 C. Any law that authorizes the pledge of any or all
6 of the pledged water or wastewater system revenues to the
7 payment of any revenue bonds issued pursuant to the County
8 Water and Sanitation Authority Act or that affects the pledged
9 revenues of the water or wastewater system, or any law
10 supplemental to or otherwise appertaining to that act, shall
11 not be repealed or amended or otherwise directly or indirectly
12 modified in such a manner as to impair adversely any such
13 outstanding revenue bonds, unless the outstanding revenue bonds
14 have been discharged in full or provision has been fully made
15 for payment of the bonds.

16 Section 17. REVENUE BONDS--REFUNDING AUTHORIZATION.--

17 A. The authority may issue refunding revenue bonds
18 for the purpose of refinancing, paying and discharging all or
19 any part of outstanding bonds or other obligations payable from
20 the net revenues of the water or wastewater system previously
21 issued or incurred by the authority.

22 B. The authority may pledge irrevocably for the
23 payment of interest and principal on refunding bonds the
24 pledged revenues of the water or wastewater system.

25 C. Bonds for refunding and bonds for any purpose

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1 permitted by the County Water and Sanitation Authority Act may
2 be issued separately or issued in combination in one series or
3 more.

4 Section 18. REFUNDING BONDS--ESCROW--DETAIL.--

5 A. Refunding bonds issued pursuant to the County
6 Water and Sanitation Authority Act shall be authorized by
7 resolution. Any bonds that are refunded pursuant to the
8 provisions of this section shall be paid at maturity or on any
9 permitted prior redemption date in the amounts, at the times
10 and places and, if called prior to maturity, in accordance with
11 any applicable notice provisions, all as provided in the
12 proceedings authorizing the issuance of the refunded bonds or
13 otherwise appertaining to the bonds, except for any such bond
14 that is voluntarily surrendered for exchange or payment by the
15 holder or owner.

16 B. Provision shall be made for paying the bonds
17 refunded at the time or times provided in Subsection A of this
18 section. The principal amount of the refunding bonds may
19 exceed the principal amount of the refunded bonds and may also
20 be less than or the same as the principal amount of the bonds
21 being refunded so long as provision is duly and sufficiently
22 made for the payment of the refunded bonds.

23 C. The proceeds of refunding bonds, including any
24 accrued interest and premium appertaining to the sale of
25 refunding bonds, shall either be immediately applied to the

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1 retirement of the bonds being refunded or be placed in escrow
2 in a commercial bank or trust company, which possesses and is
3 exercising trust powers and which is a member of the federal
4 deposit insurance corporation, to be applied to the payment of
5 the principal of, interest on and any prior redemption premium
6 due in connection with the bonds being refunded; provided that
7 such refunding bond proceeds, including any accrued interest
8 and any premium appertaining to a sale of refunding bonds, may
9 be applied to the establishment and maintenance of a reserve
10 fund and to the payment of expenses incidental to the refunding
11 and the issuance of the refunding bonds, the interest on the
12 bonds and the principal of the bonds or both interest and
13 principal as the authority may determine. Nothing in this
14 section requires the establishment of an escrow if the refunded
15 bonds become due and payable within one year from the date of
16 the refunding bonds and if the amounts necessary to retire the
17 refunded bonds within that time are deposited with the paying
18 agent for the refunded bonds. Any such escrow shall not
19 necessarily be limited to proceeds of refunding bonds but may
20 include other money available for its purpose. Any proceeds in
21 escrow pending such use may be invested or reinvested in bills,
22 certificates of indebtedness, notes or bonds that are direct
23 obligations of or the principal and interest of which
24 obligations are unconditionally guaranteed by the United States
25 of America or in certificates of deposit of banks that are

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1 members of the federal deposit insurance corporation, the par
2 value of which certificates of deposit is collateralized by a
3 pledge of obligations of or the payment of which is
4 unconditionally guaranteed by the United States of America, the
5 par value of which obligations is at least seventy-five percent
6 of the par value of the certificates of deposit. Such proceeds
7 and investments in escrow together with any interest or other
8 income to be derived from any such investment shall be in an
9 amount at all times sufficient as to principal, interest, any
10 prior redemption premium due and any charges of the escrow
11 agent payable therefrom to pay the bonds being refunded as they
12 become due at their respective maturities or due at any
13 designated prior redemption date or dates in connection with
14 which the authority shall exercise a prior redemption option.
15 Any purchaser of any refunding bond is in no manner responsible
16 for the application of the proceeds thereof by the authority or
17 any of its officers, agents or employees.

18 D. Refunding bonds may bear such additional terms
19 and provisions as may be determined by the authority and the
20 refunding bonds are not subject to the provisions of any other
21 statute except as may be incorporated by reference in the
22 County Water and Sanitation Authority Act.

23 Section 19. REFUNDING REVENUE BONDS--TERMS.--Refunding
24 revenue bonds:

25 A. may have interest, appreciated principal value

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1 or any part thereof payable at intervals or at maturity as may
2 be determined by the authority;

3 B. may be subject to prior redemption at the
4 authority's option at such time or times and upon such terms
5 and conditions with or without the payment of premium or
6 premiums as may be determined by the authority;

7 C. may mature at any time or times not exceeding
8 forty years after the date of issuance;

9 D. may be serial in form and maturity or may
10 consist of a single bond payable in one or more installments or
11 may be in such other form as may be determined by the
12 authority; and

13 E. shall be exchanged for the bonds and any matured
14 unpaid interest being refunded at not less than par or sold at
15 public or negotiated sale at, above or below par and at a price
16 that results in a net effective interest rate that does not
17 exceed the maximum permitted by the Public Securities Act.

18 Section 20. REFUNDING REVENUE BONDS--RESOLUTION.--At any
19 regular or special meeting called for the purpose of issuing
20 refunding revenue bonds, the board by a two-thirds vote of all
21 the members of the authority may adopt a resolution authorizing
22 the issuance of the refunding revenue bonds.

23 Section 21. PUBLIC REGULATION COMMISSION JURISDICTION.--

24 A. An authority organized under the provisions of
25 the County Water and Sanitation District Act is not subject to

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1 the jurisdiction of the public regulation commission or the
2 terms and provisions of the Public Utility Act except as
3 provided in Subsections B and C of this section.

4 B. The authority may elect by resolution adopted by
5 its board to become subject to the jurisdiction of the public
6 regulation commission and to the terms and provisions of the
7 Public Utility Act; provided, however, that in no event shall
8 Sections 62-9-1 through 62-9-7 NMSA 1978 apply to any authority
9 making such an election.

10 C. If the board has not elected to become subject
11 to the jurisdiction of the public regulation commission, the
12 authority shall nevertheless file with the commission any
13 rates, tolls and charges proposed by the board, which shall be
14 subject to approval by the commission if twenty-five qualified
15 electors or five percent of the qualified electors of the
16 county, whichever is less, file a petition protesting the
17 rates, tolls or charges with the commission within thirty days
18 after the board proposes the rates. Upon the filing of such a
19 petition, the commission shall hold a hearing pursuant to rules
20 that it shall promulgate to implement this subsection.

21 Section 22. EFFECTIVE DATE.--The effective date of the
22 provisions of this act is July 1, 2004.

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