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HOUSE BILL 939

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

James Roger Madalena

AN ACT

RELATING TO FLOOD CONTROL DISTRICTS; CREATING THE EASTERN SANDOVAL COUNTY ARROYO FLOOD CONTROL AUTHORITY; PROVIDING POWERS AND DUTIES; PROVIDING FOR A FLOOD CONTROL SYSTEM; DECLARING AN EMERGENCY.

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

Section 1. SHORT TITLE.--This act may be cited as the "Eastern Sandoval County Arroyo Flood Control Act".

Section 2. LEGISLATIVE DECLARATION.--It is declared as a matter of legislative determination that:

A. the organization of the authority hereby created having the purposes, powers, duties, privileges, immunities, rights, liabilities and disabilities provided in the Eastern Sandoval County Arroyo Flood Control Act will serve a public use and will promote the health, safety, prosperity, security

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1 and general welfare of the inhabitants thereof and of the  
2 state;

3 B. the acquisition, improvement, maintenance and  
4 operation of any project authorized in the Eastern Sandoval  
5 County Arroyo Flood Control Act is in the public interest and  
6 constitutes a part of the established and permanent policy of  
7 the state;

8 C. the authority hereby organized shall be a body  
9 corporate and politic, a quasi-municipal corporation and a  
10 political subdivision of the state;

11 D. the flood control system hereby authorized and  
12 directed to be acquired will be of special benefit to the  
13 property within the boundaries of the authority organized and  
14 created in the Eastern Sandoval County Arroyo Flood Control  
15 Act;

16 E. the notice provided for in the Eastern Sandoval  
17 County Arroyo Flood Control Act for each hearing and action to  
18 be taken is reasonably calculated to inform any person of  
19 interest in any proceedings under that act that may directly  
20 and adversely affect that person's legally protected interests;

21 F. a general law cannot be made applicable to the  
22 designated flood control system and the provisions appertaining  
23 thereto in the Eastern Sandoval County Arroyo Flood Control Act  
24 because of a number of atypical and special conditions  
25 concerning them; and

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1 G. for the accomplishment of these purposes, the  
2 provisions of the Eastern Sandoval County Arroyo Flood Control  
3 Act shall be broadly construed.

4 Section 3. DECISION OF BOARD OR GOVERNING BODY FINAL.--  
5 The action and decision of the board as to all matters passed  
6 upon by it in relation to any action, matter or thing provided  
7 in the Eastern Sandoval County Arroyo Flood Control Act shall  
8 be final and conclusive unless arbitrary, capricious or  
9 fraudulent.

10 Section 4. DEFINITIONS.--Except where the context  
11 otherwise requires, as used in the Eastern Sandoval County  
12 Arroyo Flood Control Act:

13 A. "acquisition" or "acquire" means the opening,  
14 laying out, establishment, purchase, construction, securing,  
15 installation, reconstruction, lease, gift, grant from the  
16 federal government, any public body or person, endowment,  
17 bequest, devise, condemnation, transfer, assignment, option to  
18 purchase, other contract or other acquirement, or any  
19 combination thereof, of facilities, other property, any project  
20 or an interest therein authorized by the Eastern Sandoval  
21 County Arroyo Flood Control Act;

22 B. "authority" means the eastern Sandoval county  
23 arroyo flood control authority;

24 C. "board" means the board of directors of the  
25 authority;

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1           D. "chair" means the chair of the board and  
2 president of the authority;

3           E. "condemnation" or "condemn" means the  
4 acquisition by the exercise of the power of eminent domain of  
5 property for any facilities, other property, project or an  
6 interest therein authorized by the Eastern Sandoval County  
7 Arroyo Flood Control Act. The authority may exercise in the  
8 state the power of eminent domain, either within or without the  
9 authority and, in the manner provided by law for the  
10 condemnation of private property for public use, may take any  
11 property necessary to carry out any of the objects or purposes  
12 of the Eastern Sandoval County Arroyo Flood Control Act. In  
13 the event the construction of any facility or project  
14 authorized by the Eastern Sandoval County Arroyo Flood Control  
15 Act, or any part thereof, makes necessary the removal and  
16 relocation of any public utilities, whether on private or  
17 public right of way, the authority shall reimburse the owner of  
18 the public utility facility for the expense of removal and  
19 relocation, including the cost of any necessary land or rights  
20 in land;

21           F. "cost" or "cost of the project", or words of  
22 similar import, means all, or any part designated by the board,  
23 of the cost of any facilities, project or interest therein  
24 being acquired and of all or any property, rights, easements,  
25 privileges, agreements and franchises deemed by the authority

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1 to be necessary or useful and convenient therefor or in  
2 connection therewith, which cost, at the option of the board,  
3 may include all or any part of the incidental costs pertaining  
4 to the project, including without limiting the generality of  
5 the foregoing, preliminary expenses advanced by any  
6 municipality or other public body from funds available for use  
7 therefor in the making of surveys, preliminary plans, estimates  
8 of cost, other preliminaries, the costs of appraising,  
9 printing, employing engineers, architects, fiscal agents,  
10 attorneys at law, clerical help, other agents or employees, the  
11 costs of capitalizing interest or any discount on securities,  
12 of inspection, of any administrative, operating and other  
13 expenses of the authority prior to the levy and collection of  
14 taxes, and of reserves for working capital, operation,  
15 maintenance or replacement expenses or for payment or security  
16 of principal of or interest on any securities, the costs of  
17 making, publishing, posting, mailing and otherwise giving any  
18 notice in connection with the project, the taking of options,  
19 the issuance of securities, the filing or recordation of  
20 instruments, the levy and collection of taxes and installments  
21 thereof, the costs of reimbursements by the authority to any  
22 public body, the federal government or any person of any money  
23 theretofore expended for or in connection with any facility or  
24 project and all other expenses necessary or desirable and  
25 appertaining to any project, as estimated or otherwise

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1       ascertained by the board;

2               G. "director" means a member of the board;

3               H. "disposal" or "dispose" means the sale,  
4       destruction, razing, loan, lease, gift, grant, transfer,  
5       assignment, mortgage, option to sell, other contract or other  
6       disposition, or any combination thereof, of facilities, other  
7       property, any project or an interest therein authorized by the  
8       Eastern Sandoval County Arroyo Flood Control Act;

9               I. "engineer" means any engineer in the permanent  
10       employ of the authority or any independent competent engineer  
11       or firm of such engineers employed by the authority in  
12       connection with any facility, property, project or power  
13       authorized by the Eastern Sandoval County Arroyo Flood Control  
14       Act;

15              J. "equipment" or "equip" means the furnishing of  
16       all necessary or desirable, related or appurtenant, facilities,  
17       or any combination thereof, appertaining to any facilities,  
18       property, project or interest therein authorized by the Eastern  
19       Sandoval County Arroyo Flood Control Act;

20              K. "facility" means any of the water facilities,  
21       sewer facilities or other property appertaining to the flood  
22       control system of the authority;

23              L. "federal government" means the United States or  
24       any agency, instrumentality or corporation thereof;

25              M. "federal securities" means the bills,

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1 certificates of indebtedness, notes or bonds that are direct  
2 obligations of, or the principal and interest of which  
3 obligations are unconditionally guaranteed by, the United  
4 States;

5 N. "governing body" means the city council, city  
6 commission, board of commissioners, board of trustees, board of  
7 directors or other legislative body of the public body  
8 proceeding under the Eastern Sandoval County Arroyo Flood  
9 Control Act, in which body the legislative powers of the public  
10 body are vested;

11 O. "improvement" or "improve" means the extension,  
12 widening, lengthening, betterment, alteration, reconstruction,  
13 repair or other improvement, or any combination thereof of  
14 facilities, other property, project or any interest therein  
15 authorized by the Eastern Sandoval County Arroyo Flood Control  
16 Act;

17 P. "mailed notice" or notice by "mail" means the  
18 giving by the engineer, secretary or any deputy thereof, as  
19 determined by the board, of any designated written or printed  
20 notice addressed to the last known owner of each tract of real  
21 property in question or other designated person at the last  
22 known address, by deposit, at least ten days prior to the  
23 designated hearing or other time or event, in the United States  
24 mail, postage prepaid, as first-class mail. In the absence of  
25 fraud, the failure to mail any such notice shall not invalidate

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1 any proceedings under the Eastern Sandoval County Arroyo Flood  
2 Control Act. The names and addresses of those property owners  
3 shall be obtained from the records of the county assessor or  
4 from such other source as the secretary or the engineer deems  
5 reliable. Any list of such names and addresses may be revised  
6 from time to time, but such a list need not be revised more  
7 frequently than at twelve-month intervals. Any mailing of any  
8 notice required shall be verified by the affidavit or  
9 certificate of the engineer, secretary, deputy or other person  
10 mailing the notice, which verification shall be retained in the  
11 records of the authority at least until all taxes and  
12 securities appertaining thereto have been paid in full or any  
13 claim is barred by a statute of limitations;

14 Q. "municipality" means any incorporated city, town  
15 or village in the state, whether incorporated or governed under  
16 a general act, special legislative act or special charter of  
17 any type. "Municipal" pertains to municipality;

18 R. "person" means any human being, association,  
19 partnership, firm or corporation, excluding a public body and  
20 excluding the federal government;

21 S. "president" means the president of the authority  
22 and the chair of the board;

23 T. "project" means any structure, facility,  
24 undertaking or system that the authority is authorized to  
25 acquire, improve, equip, maintain or operate. A project may

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1 consist of all kinds of personal and real property. A project  
2 shall appertain to the flood control system that the authority  
3 is authorized and directed to provide within and without the  
4 authority's boundaries;

5 U. "property" means real property and personal  
6 property;

7 V. "publication" or "publish" means publication in  
8 at least the one newspaper designated as the authority's  
9 official newspaper and published in the authority in the  
10 English language at least once a week and of general  
11 circulation in the authority. Except as otherwise specifically  
12 provided or necessarily implied, "publication" or "publish"  
13 also means publication for at least once a week for three  
14 consecutive weeks by three weekly insertions, the first  
15 publication being at least fifteen days prior to the designated  
16 time or event, unless otherwise so stated. It is not necessary  
17 that publication be made on the same day of the week in each of  
18 the three calendar weeks, but not less than fourteen days shall  
19 intervene between the first publication and the last  
20 publication, and publication shall be complete on the day of  
21 the last publication. Any publication required shall be  
22 verified by the affidavit of the publisher and filed with the  
23 secretary;

24 W. "public body" means the state or any agency,  
25 instrumentality or corporation thereof or any municipality,

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1 school district, other type of district or any other political  
2 subdivision of the state, excluding the authority and excluding  
3 the federal government;

4 X. "qualified elector" means a person qualified to  
5 vote in general elections in the state, who is a resident of  
6 the authority at the time of any election held under the  
7 provisions of the Eastern Sandoval County Arroyo Flood Control  
8 Act or at any other time in reference to which the term  
9 "qualified elector" is used;

10 Y. "real property" means:

- 11 (1) land, including land under water;  
12 (2) buildings, structures, fixtures and  
13 improvements on land;  
14 (3) any property appurtenant to or used in  
15 connection with land; and  
16 (4) every estate, interest, privilege,  
17 easement, franchise and right in land, legal or equitable,  
18 including without limiting the generality of the foregoing,  
19 rights of way, terms for years and liens, charges or  
20 encumbrances by way of judgment, mortgage or otherwise and the  
21 indebtedness secured by such liens;

22 Z. "secretary" means the secretary of the  
23 authority;

24 AA. "secretary of state" means the secretary of  
25 state of New Mexico;

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1           BB. "securities" means any notes, warrants, bonds,  
2 temporary bonds or interim debentures or other obligations of  
3 the authority or any public body appertaining to any project or  
4 interest therein authorized by the Eastern Sandoval County  
5 Arroyo Flood Control Act;

6           CC. "sewer facilities" means any one or more of the  
7 various devices used in the collection, channeling, impounding  
8 or disposition of storm, flood or surface drainage waters,  
9 including all inlets, collection, drainage or disposal lines,  
10 canals, intercepting sewers, outfall sewers, all pumping, power  
11 and other equipment and appurtenances, all extensions,  
12 improvements, remodeling, additions and alterations thereof and  
13 any rights or interest in such sewer facilities;

14           DD. "sewer improvement" or "improve any sewer"  
15 means the acquisition, reacquisition, improvement,  
16 reimprovement or repair of any storm sewer or combination storm  
17 and sanitary sewer, including but not limited to collecting and  
18 intercepting sewer lines or mains, submains, trunks, laterals,  
19 outlets, ditches, ventilation stations, pumping facilities,  
20 ejector stations and all other appurtenances and machinery  
21 necessary, useful or convenient for the collection,  
22 transportation and disposal of storm water;

23           EE. "state" means the state of New Mexico or any  
24 agency, instrumentality or corporation thereof;

25           FF. "street" means any street, avenue, boulevard,

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1 alley, highway or other public right of way used for any  
2 vehicular traffic;

3 GG. "taxes" means general (ad valorem) taxes  
4 pertaining to any project authorized by the Eastern Sandoval  
5 County Arroyo Flood Control Act; and

6 HH. "treasurer" means the treasurer of the  
7 authority.

8 Section 5. CREATION OF AUTHORITY.--There is created a  
9 flood control authority to be known and designated as the  
10 "eastern Sandoval county arroyo flood control authority".

11 Section 6. BOUNDARIES OF AUTHORITY.--The boundaries of  
12 the authority are as follows: a portion of southern Sandoval  
13 county bounded on the east by a line following the eastern  
14 boundary of range 5 east of the New Mexico principal meridian,  
15 on the south by the Pueblo of Sandia and the Cibola national  
16 forest, on the west by the Rio Grande and on the north by a  
17 line following the northern boundary of township 13 north of  
18 the New Mexico principal meridian. The boundary of the  
19 district is more particularly described as follows: beginning  
20 at the southeast corner of projected section 1, township 12  
21 north, range 5 east of the New Mexico principal meridian, that  
22 point also being the southeast corner of herein described  
23 boundary; thence proceeding in a westerly direction along a  
24 line coincident with the northern boundary of the Cibola  
25 national forest and of the Pueblo of Sandia to a point along

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1 the west bank of the Rio Grande within projected section 1,  
2 township 12 north, range 3 east of the New Mexico principal  
3 meridian; thence in a northeasterly direction along the west  
4 bank of the Rio Grande to a point in the northwest corner of  
5 section 1, township 13 north, range 4 east of the New Mexico  
6 principal meridian; thence east along a line following the  
7 northern boundary of township 13 north of the New Mexico  
8 principal meridian for approximately seven miles to a point in  
9 the northeast corner of section 1, township 13 north, range 5  
10 east of the New Mexico principal meridian; thence in a  
11 southerly direction approximately seven miles to the southeast  
12 corner of projected section 1, township 12 north, range 5 east  
13 of the New Mexico principal meridian, which point is the  
14 southeast corner and point of beginning of the district. All  
15 lands held in trust or ownership by the federal government or  
16 an Indian pueblo located within the boundaries identified in  
17 this section shall be excluded from the authority of the  
18 authority.

19 Section 7. PETITION FOR EXCLUSION.--Within one hundred  
20 eighty days from the effective date of the Eastern Sandoval  
21 County Arroyo Flood Control Act, a written, signed and  
22 acknowledged petition against the acquiring of the flood  
23 control system provided for in Section 19 of that act may be  
24 filed with the board by the owners of property of at least  
25 thirty percent of the value of the property provided to be

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1     taxed in that act, based upon the assessed valuation of that  
2     property for general taxes for the year preceding the year of  
3     making the petition. If there is real estate in the authority  
4     that has not been separately assessed by the taxing  
5     authorities, the board shall value such real estate for the  
6     purpose of such petition on the same basis of valuation as  
7     other real estate similarly situated that has been separately  
8     assessed. The board shall, as soon as possible, examine such  
9     petition, if made, and canvass and pass upon and determine its  
10    sufficiency, and its action shall be final. If the petition is  
11    found to contain the names of the owners of property of thirty  
12    percent of the total valuation of the property to be taxed  
13    under the Eastern Sandoval County Arroyo Flood Control Act and  
14    is found to be sufficient, then the flood control system shall  
15    not be acquired; provided that no action under the terms of  
16    that act shall be delayed during the period of one hundred  
17    eighty days, except that no bonds shall be issued during that  
18    time.

19           Section 8. BOARD OF DIRECTORS.--The governing body of the  
20    authority is a board of directors consisting of five qualified  
21    electors of the authority. All powers, rights, privileges and  
22    duties vested in or imposed upon the authority are exercised  
23    and performed by and through the board of directors; provided  
24    that the exercise of any executive, administrative and  
25    ministerial powers may be, by the board, delegated and

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1 redelegated to officers and employees of the authority or to  
2 any officer or employee contracted by agreement to manage and  
3 administer the operations of the authority. Except for the  
4 first directors appointed as provided for in Section 9 of the  
5 Eastern Sandoval County Arroyo Flood Control Act or elected as  
6 provided in Section 10 of that act and except for any director  
7 chosen to fill an unexpired term, the term of each director  
8 commences on the first day of January next following a general  
9 election in the state and runs for six years. Each director,  
10 subject to such exceptions, shall serve a six-year term ending  
11 on the first day of January next following a general election,  
12 and each director shall serve until a successor has been duly  
13 chosen and qualified.

14 Section 9. APPOINTMENT OF FIRST BOARD--INITIAL  
15 MANAGEMENT.--

16 A. When the Eastern Sandoval County Arroyo Flood  
17 Control Act goes into effect, the governor shall forthwith  
18 appoint five qualified electors of the authority as the  
19 directors comprising the first board. They shall serve until  
20 their successors have been elected and qualified. Immediately  
21 upon their appointment, the five directors shall meet, qualify  
22 and choose officers, as provided for organizational meetings in  
23 Section 13 of the Eastern Sandoval County Arroyo Flood Control  
24 Act.

25 B. Immediately following the appointment of the

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1 first board of directors, the management and administration of  
2 the authority may be performed by the southern Sandoval county  
3 arroyo flood control authority, for a reasonable fee, until the  
4 first board election for the authority is held. Subsequent to  
5 the election of the first board of the authority, the authority  
6 may enter into an agreement with the southern Sandoval county  
7 arroyo flood control authority for the continued management and  
8 administration of the authority.

9 Section 10. ELECTION OF OFFICERS.--At the time that a  
10 proposal to incur debt is first submitted to the qualified  
11 electors or at the first general election next following the  
12 effective date of the Eastern Sandoval County Arroyo Flood  
13 Control Act, whichever occurs first, the qualified electors of  
14 the authority shall elect five qualified directors, two to  
15 serve a term ending January 1, 2011, two to serve a term ending  
16 January 1, 2013 and one to serve a term ending January 1, 2015.  
17 At the first election, the five candidates receiving the  
18 highest number of votes shall be elected as directors. The  
19 terms of the directors shall be determined by lot at their  
20 organizational meeting. At each general election thereafter,  
21 the qualified electors of the authority shall elect similarly  
22 one or two qualified electors as directors to serve six-year  
23 terms as directors and as successors to the directors whose  
24 terms end on the first day of January next following each such  
25 election. Nothing in the Eastern Sandoval County Arroyo Flood

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1 Control Act shall be construed as preventing a qualified  
2 elector of the authority from being elected or reelected as a  
3 director to succeed himself. If there is only one vacancy on  
4 the board, the candidate receiving the highest number of votes  
5 shall be elected as director. If there are two vacancies on  
6 the board, the candidate receiving the highest number of votes  
7 and the candidate receiving the next highest number of votes  
8 shall be elected as directors.

9 Section 11. NOMINATION OF DIRECTORS.--Not later than  
10 forty-five days before a proposal to incur debt is first  
11 submitted to the qualified electors or at the first general  
12 election next following the effective date of the Eastern  
13 Sandoval County Arroyo Flood Control Act, whichever occurs  
14 first, written nominations of any candidate as director may be  
15 filed with the secretary of the board. Each nomination of any  
16 candidate shall be signed by not less than fifty qualified  
17 electors, regardless of whether or not nominated therein, shall  
18 designate therein the name of the candidates thereby nominated  
19 and shall recite that the subscribers thereto are qualified  
20 electors and that the candidate or candidates designated  
21 therein are qualified electors of the authority. No written  
22 nomination may designate more qualified electors as candidates  
23 than there are vacancies. No qualified elector may nominate  
24 more than one candidate for any vacancy. If a candidate does  
25 not withdraw the candidate's name before the first publication

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1 of the notice of election, the candidate's name shall be placed  
2 on the ballot. For any election held after November 2008,  
3 nominations shall be made by qualified electors in accordance  
4 with the procedures and limitations of this section, except  
5 that such nominations shall be filed with the secretary of the  
6 board not later than the fourth Tuesday in June preceding the  
7 general election.

8 Section 12. FILLING VACANCIES ON THE BOARD.--Upon a  
9 vacancy occurring in the board by reason of death, change of  
10 residence, resignation or for any other reason, the governor  
11 shall appoint a qualified elector of the authority as successor  
12 to serve the unexpired term.

13 Section 13. ORGANIZATIONAL MEETINGS.--Except for the  
14 first board, each board shall meet on the first business day  
15 next following the first day of January in each odd-numbered  
16 year, at the office of the board within the authority. Each  
17 member of the board, before entering upon the member's official  
18 duties, shall take and subscribe on oath that the member will  
19 support the constitution of the United States and the  
20 constitution and laws of New Mexico and that the member will  
21 faithfully and impartially discharge the duties of the office  
22 to the best of the member's ability, which oath shall be filed  
23 in the office of the secretary of state. Each director shall,  
24 before entering upon the director's official duties, give a  
25 bond to the authority in the sum of ten thousand dollars

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1 (\$10,000) with good and sufficient surety, conditioned for the  
2 faithful performance of all of the duties of the director's  
3 office, without fraud, deceit or oppression, and the accounting  
4 for all money and property coming into the director's hands and  
5 the prompt and faithful payment of all money and the delivering  
6 of all property coming into the director's custody or control  
7 belonging to the authority to the director's successors in  
8 office. Premiums on all bonds provided for in this section  
9 shall be paid by the authority and all such bonds shall be kept  
10 on file in the office of the secretary of state.

11 Section 14. BOARD'S ADMINISTRATIVE POWERS.--The board may  
12 exercise the following powers:

13 A. fix the time and place at which its regular  
14 meetings will be held within the authority and provide for the  
15 calling and holding of special meetings;

16 B. adopt and amend or otherwise modify bylaws and  
17 rules for procedure;

18 C. select one director as chair of the board and  
19 president of the authority, and another director as chair pro  
20 tem of the board and president pro tem of the authority, and  
21 choose a secretary and a treasurer of the board and authority,  
22 each of which two positions may be filled by a person who is,  
23 or is not, a director, and both of which positions may, or may  
24 not, be filled by one person;

25 D. prescribe by resolution a system of business

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1 administration and create all necessary offices and establish  
2 and re-establish the powers, duties and compensation of all  
3 officers and employees;

4 E. require and fix the amount of all official bonds  
5 necessary or desirable and convenient in the opinion of the  
6 board for the protection of the funds and property of the  
7 authority, subject to the provisions of Section 13 of the  
8 Eastern Sandoval County Arroyo Flood Control Act;

9 F. prescribe a method of auditing and allowing or  
10 rejecting claims and demands;

11 G. provide a method for the letting of contracts on  
12 a fair and competitive basis for the construction of works, any  
13 facility or any project or any interest therein or the  
14 performance or furnishing of labor, materials or supplies as  
15 required in the Eastern Sandoval County Arroyo Flood Control  
16 Act;

17 H. designate an official newspaper published in the  
18 authority in the English language and direct additional  
19 publication in any newspaper where it deems that the public  
20 necessity may so require; and

21 I. make and pass resolutions and orders on behalf  
22 of the authority not repugnant to the provisions of the Eastern  
23 Sandoval County Arroyo Flood Control Act, necessary or proper  
24 for the government and management of the affairs of the  
25 authority, for the execution of the powers vested in the

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1 authority and for carrying into effect the provisions of that  
2 act.

3 Section 15. RECORDS OF BOARD.--On all resolutions and  
4 orders, the roll shall be called, and the ayes and nays shall  
5 be recorded. All resolutions and orders, as soon as may be  
6 after their passage, shall be recorded in a book kept for that  
7 purpose and be authenticated by the signature of the presiding  
8 officer of the board and the secretary. Every legislative act  
9 of the board of a general or permanent nature shall be by  
10 resolution. The book of resolutions and orders is a public  
11 record. A record shall also be made of all other proceedings  
12 of the board, minutes of all meetings, certificates, contracts,  
13 bonds given by officers, employees and any other agents of the  
14 authority, and all corporate acts, which record is also a  
15 public record. The treasurer shall keep strict and accurate  
16 accounts of all money received by and disbursed for and on  
17 behalf of the authority in a permanent record, which is also a  
18 public record. Any permanent record of the authority shall be  
19 open for inspection by any qualified elector thereof, by any  
20 other interested person or by any representative of the federal  
21 government or any public body. All records are subject to  
22 audit as provided by law for political subdivisions.

23 Section 16. MEETINGS OF THE BOARD.--All meetings of the  
24 board shall be held within the authority and shall be open to  
25 the public. No business of the board shall be transacted

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1       except at a regular or special meeting at which a quorum  
2       consisting of at least three-fifths of the total membership of  
3       the board is present. Any action of the board requires the  
4       affirmative vote of a majority of the directors present and  
5       voting. A smaller number of directors than a quorum may  
6       adjourn from time to time and may compel the attendance of  
7       absent members in the manner and under such penalties as the  
8       board may provide.

9               Section 17. COMPENSATION OF DIRECTORS.--Directors shall  
10       receive no compensation for their services as a director,  
11       officer, engineer, attorney, employee or other agent of the  
12       authority. Directors may be reimbursed for expenses incurred  
13       by them on authority business with approval of the board.

14               Section 18. INTEREST IN CONTRACTS AND PROPERTY  
15       DISQUALIFICATIONS.--No director or officer, employee or agent  
16       of the authority may be interested in any contract or  
17       transaction with the authority except in the director's or  
18       officer's official representative capacity or as provided,  
19       except for any contract of employment with the authority.  
20       Neither the holding of any office nor employment in the  
21       government of any public body or the federal government nor the  
22       owning of any property within the state, within or without the  
23       authority, may be deemed a disqualification for membership on  
24       the board or employment by the authority, or a disqualification  
25       for compensation for services as an officer, employee or agent

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1 of the authority, except as provided in Section 17 of the  
2 Eastern Sandoval County Arroyo Flood Control Act.

3 Section 19. FLOOD CONTROL SYSTEM--HEARINGS.--The  
4 authority is authorized, empowered and directed, subject to the  
5 provisions of Section 7 of the Eastern Sandoval County Arroyo  
6 Flood Control Act, to acquire, equip, maintain and operate a  
7 flood control system for the benefit of the authority and the  
8 inhabitants thereof, after the board has made such preliminary  
9 studies and otherwise taken such action as it determines to be  
10 necessary or desirable as preliminaries. The flood control  
11 system consists of such facilities as the board may determine.  
12 When a comprehensive program for the acquisition of the flood  
13 control system satisfactory to the board is available, it shall  
14 be tentatively adopted. The program need only describe the  
15 proposed flood control system in general terms and not in  
16 detail. A public hearing on the proposed program shall be  
17 scheduled, and notice of the hearing shall be given by  
18 publication. After the hearing and any adjournments of that  
19 hearing that may be ordered, the board may either require  
20 changes to be made in the program as the board may consider  
21 desirable or the board may approve the program as prepared. If  
22 any substantial changes to the program are ordered at any time,  
23 a further hearing shall be held pursuant to notice that shall  
24 be given by publication.

25 Section 20. IMPLEMENTING POWERS.--The board may:

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1           A. acquire, improve, equip, maintain and operate  
2 any project or facility for the control of flood and storm  
3 waters of the authority and the flood and storm waters of  
4 streams that have their sources outside of the authority but  
5 which streams and the flood waters thereof flow into the  
6 authority;

7           B. protect from such floods or storm waters the  
8 water courses, watersheds, public highways, life and property  
9 in the authority; and

10          C. exercise the right of eminent domain, either  
11 within or without the authority, in the manner provided by law  
12 for the condemnation of private property for public use.

13          Section 21. PROTECTION OF PROPERTY RIGHTS.--It is  
14 declared that the use of the property, lands, rights of way,  
15 easements or materials that may be condemned, taken or  
16 appropriated under the provisions of the Eastern Sandoval  
17 County Arroyo Flood Control Act is a public use subject to the  
18 regulation and control of the state in the manner prescribed by  
19 law; but nothing in that act shall be deemed to authorize the  
20 authority or public body or person to divert the waters of any  
21 river, creek, stream, arroyo, irrigation system, canal or ditch  
22 from its channel to the detriment of any person, any public  
23 body or the federal government having any interest in such  
24 river, creek, stream, arroyo, irrigation system, canal or  
25 ditch, or the waters thereof or therein, unless compensation is

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1       ascertained and paid therefor under the laws authorizing the  
2       taking of private property for public use.

3               Section 22. ADDITIONAL POWERS OF THE AUTHORITY.--The  
4       authority may exercise the following duties, privileges,  
5       immunities, rights, liabilities and disabilities appertaining  
6       to a public body politic and corporate and constituting a  
7       quasi-municipal corporation and political subdivision of the  
8       state established as an instrumentality exercising public and  
9       essential governmental and proprietary functions to provide for  
10      the public health, safety and general welfare:

11                   A. perpetual existence and succession;

12                   B. adopt, have and use a corporate seal and alter  
13      the same at pleasure;

14                   C. sue and be sued and be a party to suits, actions  
15      and proceedings;

16                   D. commence, maintain, intervene in, defend,  
17      compromise, terminate by settlement or otherwise and otherwise  
18      participate in and assume the cost and expense of any and all  
19      actions and proceedings now or hereafter begun and appertaining  
20      to the authority, its board, its officers, agents or employees,  
21      or any of the authority's duties, privileges, immunities,  
22      rights, liabilities and disabilities, or the authority's flood  
23      control system, other property of the authority or any project;

24                   E. enter into contracts and agreements, including  
25      but not limited to contracts with the federal government, the

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1 state and any other public body;

2 F. borrow money and issue securities evidencing any  
3 loan to or amount due by the authority, provide for and secure  
4 the payment of any securities and the rights of the holders of  
5 those securities and purchase, hold and dispose of securities  
6 as provided in the Eastern Sandoval County Arroyo Flood Control  
7 Act;

8 G. refund any loan or obligation of the authority  
9 and issue refunding securities to evidence such loan or  
10 obligation without any election;

11 H. purchase, trade, exchange, encumber and  
12 otherwise acquire, maintain and dispose of property and  
13 interests in that property;

14 I. levy and cause to be collected general ad  
15 valorem taxes on all property subject to property taxation  
16 within the authority; provided that the total tax levy,  
17 excluding any levy for the payment of any debt of the authority  
18 authorized pursuant to the Eastern Sandoval County Arroyo Flood  
19 Control Act, for any fiscal year shall not exceed an aggregate  
20 total of two dollars (\$2.00), or any lower amount required by  
21 operation of the rate limitation provisions of Section 7-37-7.1  
22 NMSA 1978 upon this tax levy, for each one thousand dollars  
23 (\$1,000) of net taxable value, as that term is defined in the  
24 Property Tax Code, by certifying, on or before the fifteenth  
25 day of July in each year in which the board determines to levy

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1 a tax, to the board of county commissioners of Sandoval county,  
2 or by such other date as the laws of the state may prescribe to  
3 such other body having authority to levy taxes within each  
4 county wherein the authority has any territory, the rate so  
5 fixed, with directions that, at the time and in the manner  
6 required by law for levying taxes for other purposes, such body  
7 having authority to levy taxes shall levy the tax upon the net  
8 taxable value of all property subject to property taxation  
9 within the authority, in addition to such other taxes as may be  
10 levied by such body, as provided in Sections 23 through 27 of  
11 the Eastern Sandoval County Arroyo Flood Control Act. No taxes  
12 may be levied and collected for any purpose, or any contract  
13 made, until a bond issue has been submitted to and approved by  
14 the qualified electors as provided in the Eastern Sandoval  
15 County Arroyo Flood Control Act;

16 J. hire and retain officers, agents, employees,  
17 engineers, attorneys and any other persons, permanent or  
18 temporary, necessary or desirable to effect the purposes of the  
19 Eastern Sandoval County Arroyo Flood Control Act, defray any  
20 expenses incurred thereby in connection with the authority and  
21 acquire office space, equipment, services, supplies, fire and  
22 extended coverage insurance, use and occupancy insurance,  
23 workers' compensation insurance, property damage insurance,  
24 public liability insurance for the authority and its officers,  
25 agents and employees and other types of insurance, as the board

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1 may determine; provided, however, that no provision in that act  
2 authorizing the acquisition of insurance shall be construed as  
3 waiving any immunity of the authority or any director, officer  
4 or agent thereof and otherwise existing under the laws of the  
5 state;

6 K. condemn property for public use;

7 L. acquire, improve, equip, hold, operate, maintain  
8 and dispose of a flood control system, storm sewer facilities,  
9 project and appurtenant works, or any interest therein, wholly  
10 within the authority, or partially within and partially without  
11 the authority, and wholly within, wholly without or partially  
12 within and partially without any public body all or any part of  
13 the area of which is situated within the authority;

14 M. pay or otherwise defray the cost of any project;

15 N. pay or otherwise defray and contract so to pay  
16 or defray, for any term not exceeding fifty years, without an  
17 election, except as otherwise provided in the Eastern Sandoval  
18 County Arroyo Flood Control Act, the principal of, any interest  
19 on and any other charges appertaining to, any securities or  
20 other obligations of the federal government, any public body or  
21 person incurred in connection with any such property so  
22 acquired by the authority;

23 O. establish and maintain facilities within or  
24 without the authority, across or along any public street,  
25 highway, bridge, viaduct or other public right of way or in,

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1 upon, under or over any vacant public lands, which public lands  
2 are now or may become the property of the state, or across any  
3 stream of water or water course, without first obtaining a  
4 franchise from the municipality, county or other public body  
5 having jurisdiction over the same; provided that the authority  
6 shall cooperate with any public body having such jurisdiction,  
7 shall promptly restore any such street, highway, bridge,  
8 viaduct or other public right of way to its former state of  
9 usefulness as nearly as may be and shall not use the same in  
10 such manner as to impair completely or unnecessarily the  
11 usefulness thereof;

12 P. deposit any money of the authority, subject to  
13 the limitations in Article 8, Section 4 of the constitution of  
14 New Mexico, in any banking institution within or without the  
15 state and secured in such manner and subject to such terms and  
16 conditions as the board may determine, with or without the  
17 payment of any interest on any such deposit;

18 Q. invest any surplus money in the authority  
19 treasury, including such money in any sinking or reserve fund  
20 established for the purpose of retiring any securities of the  
21 authority, not required for the immediate necessities of the  
22 authority, in its own securities or in federal securities, by  
23 direct purchase of any issue of such securities, or part  
24 thereof, at the original sale of the same, or by the subsequent  
25 purchase of such securities;

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1           R. sell any such securities thus purchased and  
2 held, from time to time;

3           S. reinvest the proceeds of any such sale in other  
4 securities of the authority or in federal securities, as  
5 provided in Subsection Q of this section;

6           T. sell in season from time to time such securities  
7 thus purchased and held, so that the proceeds may be applied to  
8 the purposes for which the money with which such securities  
9 were originally purchased was placed in the treasury of the  
10 authority;

11          U. accept contributions or loans from the federal  
12 government for the purpose of financing the planning,  
13 acquisition, improvement, equipment, maintenance and operation  
14 of any enterprise in which the authority is authorized to  
15 engage and enter into contracts and cooperate with and accept  
16 cooperation and participation from the federal government for  
17 these purposes;

18          V. enter, without any election, into joint  
19 operating or service contracts and agreements, acquisition,  
20 improvement, equipment or disposal contracts or other  
21 arrangements, for any term not exceeding fifty years, with the  
22 federal government, any public body or any person concerning  
23 storm sewer facilities, or any project, whether acquired by the  
24 authority or by the federal government, any public body or any  
25 person, and accept grants and contributions from the federal

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1 government, any public body or any person in connection  
2 therewith;

3 W. enter into and perform, without any election,  
4 when determined by the board to be in the public interest and  
5 necessary for the protection of the public health, contracts  
6 and agreements, for any term not exceeding fifty years, with  
7 the federal government, any public body or any person for the  
8 provision and operation by the authority of storm sewer  
9 facilities;

10 X. enter into and perform, without any election,  
11 contracts and agreements with the federal government, any  
12 public body or any person for or concerning the planning,  
13 construction, lease or other acquisition, improvement,  
14 equipment, operation, maintenance, disposal, and the financing  
15 of any project, including but not necessarily limited to any  
16 contract or agreement for any term not exceeding fifty years;

17 Y. enter upon any land, make surveys, borings,  
18 soundings and examinations for the purposes of the authority,  
19 locate the necessary works of any project and roadways and  
20 other rights of way appertaining to any project authorized in  
21 the Eastern Sandoval County Arroyo Flood Control Act; and  
22 acquire all property necessary or convenient for the  
23 acquisition, improvement or equipment of such works;

24 Z. cooperate with and act in conjunction with the  
25 state, or any of its engineers, officers, boards, commissions

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1 or departments, or with the federal government or any of its  
2 engineers, officers, boards, commissions or departments, or  
3 with any other public body or any person in the acquisition,  
4 improvement or equipment of any project for the controlling of  
5 flood or storm waters of the authority, or for the protection  
6 of life or property therein, or for any other works, acts or  
7 purposes provided for in the Eastern Sandoval County Arroyo  
8 Flood Control Act, and adopt and carry out any definite plan or  
9 system of work for any such purpose;

10 AA. cooperate with the federal government or any  
11 public body by an agreement therewith by which the authority  
12 may:

13 (1) acquire and provide, without cost to the  
14 cooperating entity, the land, easements and rights of way  
15 necessary for the acquisition, improvement or equipment of the  
16 flood control system or any project;

17 (2) hold and save harmless the cooperating  
18 entity free from any claim for damages arising from the  
19 acquisition, improvement, equipment, maintenance and operation  
20 of the flood control system or any project;

21 (3) maintain and operate any project in  
22 accordance with regulations prescribed by the cooperating  
23 entity; and

24 (4) establish and enforce flood channel limits  
25 and regulations, if any, satisfactory to the cooperating

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1 entity;

2 BB. carry on technical and other investigations of  
3 all kinds, make measurements, collect data and make analyses,  
4 studies and inspections pertaining to control of floods, sewer  
5 facilities, and any project, both within and without the  
6 authority, and for this purpose the authority has the right of  
7 access through its authorized representative to all lands and  
8 premises within the state;

9 CC. have the right to provide from revenues or  
10 other available funds an adequate fund for the improvement and  
11 equipment of the authority's flood control system or of any  
12 parts of the works and properties of the authority;

13 DD. prescribe and enforce reasonable rules and  
14 regulations for the prevention of further encroachment upon  
15 existing defined waterways, by their enlargement or other  
16 modification, for additional waterway facilities to prevent  
17 flooding;

18 EE. require any person desiring to make a  
19 connection to any storm water drain or flood control facility  
20 of the authority or to cause storm waters to be emptied into  
21 any ditch, drain, canal, floodway or other appurtenant  
22 structure of the authority firstly to make application to the  
23 board to make the connection and to require the connection to  
24 be made in such manner as the board may direct;

25 FF. refuse, if reasonably justified by the

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1 circumstances, permission to make any connection designated in  
2 Subsection DD or EE of this section;

3 GG. make and keep records in connection with any  
4 project or otherwise concerning the authority;

5 HH. arbitrate any differences arising in connection  
6 with any project or otherwise concerning the authority;

7 II. have the management, control and supervision of  
8 all the business and affairs appertaining to any project herein  
9 authorized, or otherwise concerning the authority, and of the  
10 acquisition, improvement, equipment, operation and maintenance  
11 of any such project;

12 JJ. prescribe the duties of officers, agents,  
13 employees and other persons and fix their compensation;  
14 provided that the compensation of employees and officers shall  
15 be established at prevailing rates of pay for equivalent work;

16 KK. enter into contracts of indemnity and guaranty,  
17 in such form as may be approved by the board, relating to or  
18 connected with the performance of any contract or agreement  
19 that the authority is empowered to enter into under the  
20 provisions of the Eastern Sandoval County Arroyo Flood Control  
21 Act or of any other law of the state;

22 LL. provide, by any contract for any term not  
23 exceeding fifty years, or otherwise, without an election:

24 (1) for the joint use of personnel, equipment  
25 and facilities of the authority and any public body, including

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1 without limitation public buildings constructed by or under the  
2 supervision of the board of the authority or the governing body  
3 of the public body concerned, upon such terms and agreements  
4 and within such areas within the authority as may be  
5 determined, for the promotion and protection of health,  
6 comfort, safety, life, welfare and property of the inhabitants  
7 of the authority and any such public body; and

8 (2) for the joint employment of clerks,  
9 stenographers and other employees appertaining to any project,  
10 now existing or hereafter established in the authority, upon  
11 such terms and conditions as may be determined for the  
12 equitable apportionment of the expenses therefrom resulting;

13 MM. obtain financial statements, appraisals,  
14 economic feasibility reports and valuations of any type  
15 appertaining to any project or any property pertaining thereto;

16 NN. adopt any resolution authorizing a project or  
17 the issuance of securities, or both, or otherwise appertaining  
18 thereto, or otherwise concerning the authority;

19 OO. make and execute a mortgage, deed of trust,  
20 indenture or other trust instrument appertaining to a project  
21 or to any securities authorized in the Eastern Sandoval County  
22 Arroyo Flood Control Act, or to both, except as provided in  
23 Subsection PP of this section and in Section 54 of that act;

24 PP. make all contracts, execute all instruments and  
25 do all things necessary or convenient in the exercise of the

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1 powers granted in the Eastern Sandoval County Arroyo Flood  
2 Control Act, or in the performance of the authority's covenants  
3 or duties, or in order to secure the payment of its securities;  
4 provided, no encumbrance, mortgage or other pledge of property,  
5 excluding any money, of the authority is created thereby and  
6 provided no property, excluding money, of the authority is  
7 liable to be forfeited or taken in payment of such securities;

8 QQ. have and exercise all rights and powers  
9 necessary or incidental to or implied from the specific powers  
10 granted in the Eastern Sandoval County Arroyo Flood Control  
11 Act, which specific powers shall not be considered as a  
12 limitation upon any power necessary or appropriate to carry out  
13 the purposes and intent of that act; and

14 RR. exercise all or any part or combination of the  
15 powers granted in the Eastern Sandoval County Arroyo Flood  
16 Control Act.

17 Section 23. LEVY AND COLLECTION OF TAXES.--To levy and  
18 collect taxes, the board shall determine in each year the  
19 amount of money necessary to be raised by taxation, taking into  
20 consideration other sources of revenue of the authority, and  
21 shall fix a rate of levy, without limitation as to rate or  
22 amount, except for the limitation in Subsection I of Section 22  
23 of the Eastern Sandoval County Arroyo Flood Control Act and for  
24 any constitutional limitation, that, when levied upon the net  
25 taxable value, as that term is defined in the Property Tax

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1 Code, of all property subject to property taxation within the  
2 authority, and together with other revenues, will raise the  
3 amount required by the authority annually to supply funds for  
4 paying expenses of organization and the costs of acquiring,  
5 improving, equipping, operating and maintaining any project or  
6 facility of the authority, and promptly to pay in full, when  
7 due, all interest on and principal of bonds and other  
8 securities of the authority, and in the event of accruing  
9 defaults or deficiencies, an additional levy may be made as  
10 provided in Section 24 of the Eastern Sandoval County Arroyo  
11 Flood Control Act.

12 Section 24. LEVIES TO COVER DEFICIENCIES.--The board, in  
13 certifying annual levies, shall take into account the maturing  
14 indebtedness for the ensuing year as provided in its contracts,  
15 maturing securities and interest on securities, and  
16 deficiencies and defaults of prior years and shall make ample  
17 provision for the payment thereof. In case the money produced  
18 from such levies, together with other revenues of the  
19 authority, is not sufficient punctually to pay the annual  
20 installments of its contracts or securities, and interest  
21 thereon, and to pay defaults and deficiencies, the board shall  
22 make such additional levies of taxes as may be necessary for  
23 such purposes, and notwithstanding any limitations, except the  
24 limitation in Subsection I of Section 22 of the Eastern  
25 Sandoval County Arroyo Flood Control Act, and any

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1 constitutional limitation, such taxes shall be made and  
2 continue to be levied until the indebtedness of the authority  
3 is fully paid.

4 Section 25. SINKING FUND.--Whenever any indebtedness has  
5 been incurred by the authority, it is lawful for the board to  
6 levy taxes and to collect revenue for the purpose of creating a  
7 reserve fund in such amount as the board may determine, which  
8 may be used to meet the obligations of the authority, for  
9 maintenance and operating charges and depreciation, and to  
10 provide improvements for the authority.

11 Section 26. MANNER OF LEVYING AND COLLECTING TAXES.--It  
12 is the duty of the body having authority to levy taxes within  
13 each county to levy the taxes provided in Subsection I of  
14 Section 22 of the Eastern Sandoval County Arroyo Flood Control  
15 Act, and elsewhere in that act. It is the duty of all officials  
16 charged with collecting taxes to collect such taxes at the time  
17 and in the form and manner and with like interest and penalties  
18 as other general (ad valorem) taxes are collected, and when  
19 collected, to pay the same to the authority. The payment of  
20 such collection shall be made monthly to the treasurer of the  
21 authority and paid into the depository thereof to the credit of  
22 the authority. All general (ad valorem) taxes levied under the  
23 Eastern Sandoval County Arroyo Flood Control Act, together with  
24 interest thereon and penalties for default in payment thereof,  
25 and all costs of collecting the same constitute until paid a

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1 perpetual lien on and against the property taxed, and such lien  
2 is on a parity with the tax lien of other general (ad valorem)  
3 taxes.

4 Section 27. DELINQUENT TAXES.--If the general (ad  
5 valorem) taxes levied are not paid, then delinquent real  
6 property shall be sold at the regular tax sale for the payment  
7 of such taxes, interest and penalties, in the manner provided  
8 by the statutes of the state for selling real property for the  
9 nonpayment of general taxes. If there are no bids at the tax  
10 sale for the property so offered, the property shall be struck  
11 off to the county, and the county shall account to the  
12 authority in the same manner as provided by law for accounting  
13 for school, town and city taxes. Delinquent personal property  
14 shall be distrained and sold as provided by law.

15 Section 28. ELECTIONS.--Each biennial election of  
16 directors shall be conducted at the time of the general  
17 election under the direction of the Sandoval county clerk and  
18 in accordance with the election laws of New Mexico. Any other  
19 election of the authority, including an election to seek  
20 approval for the issuance of bonds, shall be conducted at any  
21 time approved by the board in accordance with the election laws  
22 of New Mexico. Elections for the issuance of bonds may be by  
23 mail-in ballot pursuant to the procedures set forth in the Mail  
24 Ballot Election Act.

25 Section 29. ELECTION RESOLUTION.--The board shall call

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1 any election by resolution adopted at least fifty days prior to  
2 the election. The resolution shall recite the objects and  
3 purposes of the election and the date upon which the election  
4 shall be held.

5 Section 30. CONDUCT OF ELECTION.--An election held  
6 pursuant to the Eastern Sandoval County Arroyo Flood Control  
7 Act shall be conducted in the manner provided by the laws of  
8 the state for the conduct of general elections.

9 Section 31. NOTICE OF ELECTION.--Notice of an election  
10 pursuant to Section 30 of the Eastern Sandoval County Arroyo  
11 Flood Control Act shall be given by publication. No other  
12 notice of an election held under the Eastern Sandoval County  
13 Arroyo Flood Control Act need be given unless otherwise  
14 provided by the board.

15 Section 32. POLLING PLACES.--All polling places shall be  
16 within the area included within the authority. The authority  
17 may consolidate the precincts for any election of the authority  
18 not conducted at the time of the general election. If  
19 precincts are consolidated, the notice of the election shall  
20 state which precincts have been consolidated and the  
21 designation of the polling place.

22 Section 33. ELECTION SUPPLIES.--The secretary shall  
23 provide to the Sandoval county clerk such supplies and  
24 assistance as necessary to conduct elections authorized by the  
25 Eastern Sandoval County Arroyo Flood Control Act.

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1           Section 34. ELECTION RETURNS.--For authority elections  
2 held at the time of the general election, the regular general  
3 election precinct board shall certify the results of the  
4 authority election to the county canvassing board. The county  
5 canvassing board shall certify directly to the secretary that  
6 portion of the returns pertaining to the authority election.  
7 Electronic voting machines shall be used in the conduct of any  
8 authority election. For authority elections held at a  
9 different time than the general election, the authority shall  
10 appoint an authority precinct board at the authority's expense  
11 for each polling place. The authority precinct board shall  
12 conduct the election as provided in the Election Code. The  
13 separate authority precinct board shall certify the results of  
14 the election in that precinct to the secretary within twelve  
15 hours after the close of the polls. The secretary shall  
16 canvass the results of the authority election as certified by  
17 each of the separate authority precinct boards and shall  
18 declare the results of the election at any regular or special  
19 meeting held not less than five days following the date of the  
20 election. Except as otherwise provided, any proposal submitted  
21 at any election held pursuant to the Eastern Sandoval County  
22 Arroyo Flood Control Act shall not carry unless the proposal  
23 has been approved by a majority of the qualified electors of  
24 the district voting on the proposal.

25           Section 35. DISSOLUTION OF AUTHORITY.--If a petition is

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1 received pursuant to Section 7 of the Eastern Sandoval County  
2 Arroyo Flood Control Act denying the board the power to acquire  
3 a flood control system or if the first proposal for the  
4 issuance of bonds fails to receive a favorable vote by a  
5 majority of the qualified electors voting on the proposal, the  
6 board shall proceed to dissolve the authority.

7 Section 36. FILING OF DISSOLUTION RESOLUTION.--Within  
8 thirty days after the effective date of any resolution  
9 dissolving the authority, the secretary shall file a copy of  
10 the resolution in the office of the county clerk and shall file  
11 an additional copy of the resolution in the office of the  
12 secretary of state, which filings shall be without fee and be  
13 otherwise in the same manner as articles of incorporation are  
14 required to be filed under the laws of the state.

15 Section 37. DISPOSITION OF PROPERTY, FUNDS AND TAXES OF  
16 AUTHORITY.--All property and all funds remaining in the  
17 treasury of the authority so dissolved shall be surrendered and  
18 transferred to the county in which the authority is located and  
19 shall become a part of the general fund of the county.

20 Section 38. POWERS OF PUBLIC BODIES.--The governing body  
21 of any municipality, federally authorized Indian nation, pueblo  
22 or tribe or other public body, upon its behalf and in its name,  
23 for the purpose of aiding and cooperating in the determination  
24 of any authority boundary or any project authorized in the  
25 Eastern Sandoval County Arroyo Flood Control Act, upon the

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1 terms and with or without consideration and with or without an  
2 election, as the governing body determines, may exercise the  
3 following powers:

4 A. sell, lease, loan, donate, grant, convey,  
5 assign, transfer and otherwise dispose to the authority, sewer  
6 facilities or any other property, or any interest therein,  
7 appertaining to a flood control system;

8 B. make available for temporary use or otherwise  
9 dispose to the authority of any machinery, equipment,  
10 facilities and other property, and any agents, employees,  
11 persons with professional training, and any other persons, to  
12 effect the purposes of the Eastern Sandoval County Arroyo Flood  
13 Control Act. Any such property and persons owned or in the  
14 employ of any public body while engaged in performing for the  
15 authority any service, activity or undertaking authorized in  
16 the Eastern Sandoval County Arroyo Flood Control Act, pursuant  
17 to contract or otherwise, shall have and retain all of the  
18 powers, privileges, immunities, rights and duties of and shall  
19 be deemed to be engaged in the service and employment of such  
20 public body, notwithstanding such service, activity or  
21 undertaking is being performed in or for the authority;

22 C. enter into any agreement or joint agreement  
23 between or among the federal government, the authority and any  
24 other public body, or any combination thereof, extending over  
25 any period not exceeding fifty years, which is mutually agreed

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1       thereby, notwithstanding any law to the contrary, respecting  
2       action or proceedings appertaining to any power granted in the  
3       Eastern Sandoval County Arroyo Flood Control Act, and the use  
4       or joint use of any facilities, project or other property  
5       authorized in that act;

6               D.   sell, lease, loan, donate, grant, convey,  
7       assign, transfer or pay over to the authority any facilities or  
8       any project authorized in the Eastern Sandoval County Arroyo  
9       Flood Control Act, or any part thereof, or any interest in real  
10      or personal property, or any funds available for acquisition,  
11      improvement or equipment purposes, including the proceeds of  
12      any securities previously or hereafter issued for acquisition,  
13      improvement or equipment purposes that may be used by the  
14      authority in the acquisition, improvement, equipment,  
15      maintenance or operation of any facilities or project  
16      authorized in that act;

17              E.   transfer, grant, convey or assign and set over  
18      to the authority any contracts that may have been awarded by  
19      the public body for the acquisition, improvement or equipment  
20      of any project not begun or if begun, not completed;

21              F.   budget and appropriate, and each municipality or  
22      other public body is hereby required and directed to budget and  
23      appropriate, from time to time, general (ad valorem) tax  
24      proceeds, and other revenues legally available therefor to pay  
25      all obligations arising from the exercise of any powers granted

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1 in the Eastern Sandoval County Arroyo Flood Control Act as such  
2 obligations shall accrue and become due;

3 G. provide for an agency, by any agreement  
4 authorized in the Eastern Sandoval County Arroyo Flood Control  
5 Act, to administer or execute that or any collateral agreement,  
6 which agency may be one of the parties to the agreement, or a  
7 commission or board constituted pursuant to the agreement;

8 H. provide that any such agency shall possess the  
9 common power specified in the agreement, and may exercise it in  
10 the manner or according to the method provided in the  
11 agreement. Such power is subject to the restrictions upon the  
12 manner of exercising the power of any one of the contracting  
13 parties, which party shall be designated by the agreement; and

14 I. continue any agreement authorized in the Eastern  
15 Sandoval County Arroyo Flood Control Act for a definite term  
16 not exceeding fifty years, or until rescinded or terminated,  
17 which agreement may provide for the method by which it may be  
18 rescinded or terminated by any party.

19 Section 39. EFFECTS OF EXTRATERRITORIAL FUNCTIONS.--All  
20 of the powers, privileges, immunities and rights, exemptions  
21 from laws, ordinances and rules, all pension, relief,  
22 disability, workers' compensation and other benefits that apply  
23 to the activity of officers, agents or employees of the  
24 authority or any such public body when performing their  
25 respective functions within the territorial limits of the

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1        respective public agencies apply to them to the same degree and  
2        extent while engaged in the performance of any of their  
3        functions and duties extraterritorially under the Eastern  
4        Sandoval County Arroyo Flood Control Act.

5                Section 40. FORMS OF BORROWING.--Upon the conditions and  
6        under the circumstances set forth in the Eastern Sandoval  
7        County Arroyo Flood Control Act, the authority, to carry out  
8        the purposes of that act, from time to time may borrow money to  
9        defray the cost of any project, or any part thereof, as the  
10       board may determine and issue the following securities to  
11       evidence such borrowing:

- 12                A. notes;
- 13                B. warrants;
- 14                C. bonds;
- 15                D. temporary bonds; and
- 16                E. interim debentures.

17                Section 41. ISSUANCE OF NOTES.--The authority is  
18        authorized to borrow money without an election in anticipation  
19        of taxes or other revenues, or both, and to issue notes to  
20        evidence the amount so borrowed.

21                Section 42. ISSUANCE OF WARRANTS.--The authority is  
22        authorized to defray the cost of any services, supplies,  
23        equipment or other materials furnished to or for the benefit of  
24        the authority by the issuance of warrants to evidence the  
25        amount due therefor, without an election, in anticipation of

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1 taxes or other revenues, or both.

2 Section 43. MATURITIES OF NOTES AND WARRANTS.--Notes and  
3 warrants may mature at such time not exceeding one year from  
4 the respective dates of their issuance as the board may  
5 determine. They shall not be extended or funded except by the  
6 issuance of bonds or interim debentures in compliance with  
7 Section 44 or 46 of the Eastern Sandoval County Arroyo Flood  
8 Control Act.

9 Section 44. ISSUANCE OF BONDS AND INCURRENCE OF DEBT.--  
10 The authority is authorized to borrow money in anticipation of  
11 taxes or other revenues, or both, and to issue bonds to  
12 evidence the amount so borrowed. No bonded indebtedness or any  
13 other indebtedness not payable in full within one year, except  
14 for interim debentures as provided in Sections 46 and 89  
15 through 91 of the Eastern Sandoval County Arroyo Flood Control  
16 Act, shall be created by the authority without first submitting  
17 a proposition of issuing such bonds to the qualified electors  
18 of the authority and being approved by a majority of such  
19 electors voting thereon at an election held for that purpose in  
20 accordance with Sections 28 through 34 of that act and all laws  
21 amendatory thereof and supplemental thereto. Bonds so  
22 authorized may be issued in one series or more and may mature  
23 at such time or times not exceeding forty years from their  
24 issuance as the board may determine. The total of all  
25 outstanding indebtedness at any one time shall not exceed fifty

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1 million dollars (\$50,000,000) without prior approval of the  
2 state legislature.

3 Section 45. ISSUANCE OF TEMPORARY BONDS.--The authority  
4 is authorized to issue temporary bonds, pending preparation of  
5 definitive bond or bonds and exchangeable for the definitive  
6 bond or bonds when prepared, as the board may determine. Each  
7 temporary bond shall set forth substantially the same  
8 conditions, terms and provisions as the definitive bond for  
9 which it is exchanged. Each holder of any such temporary  
10 security shall have all the rights and remedies that the holder  
11 would have as a holder of the definitive bond or bonds.

12 Section 46. ISSUANCE OF INTERIM DEBENTURES.--The  
13 authority is authorized to borrow money and to issue interim  
14 debentures evidencing "construction" or short-term loans for  
15 the acquisition or improvement and equipment of the flood  
16 control system or any project in supplementation of long-term  
17 financing and the issuance of bonds as provided in Sections 89  
18 through 91 of the Eastern Sandoval County Arroyo Flood Control  
19 Act.

20 Section 47. PAYMENT OF SECURITIES.--All securities issued  
21 by the authority shall be authorized by resolution. The  
22 authority may pledge its full faith and credit for the payment  
23 of any securities authorized in the Eastern Sandoval County  
24 Arroyo Flood Control Act, the interest thereon, any prior  
25 redemption premium or premiums and any charges appertaining

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1 thereto. Securities may constitute the direct and general  
2 obligations of the authority. Their payment may be secured by  
3 a specific pledge of tax proceeds and other revenues of the  
4 authority as the board may determine.

5 Section 48. ADDITIONALLY SECURED SECURITIES.--The board,  
6 in connection with such additionally secured securities, in the  
7 resolution authorizing their issuance or other instrument  
8 appertaining thereto, may pledge all or a portion of such  
9 revenues, subject to any prior pledges, as additional security  
10 for such payment of such securities, and at its option may  
11 deposit such revenues in a fund created to pay the securities  
12 or created to secure additionally their payment.

13 Section 49. PLEDGE OF REVENUES.--Any such revenues  
14 pledged directly or as additional security for the payment of  
15 securities of any one issue or series, which revenues are not  
16 exclusively pledged therefor, may subsequently be pledged  
17 directly or as additional security for the payment of the  
18 securities of one or more issue or series subsequently  
19 authorized.

20 Section 50. RANKING AMONG DIFFERENT ISSUES.--All  
21 securities of the same issue or series shall, subject to the  
22 prior and superior rights of outstanding securities, claims and  
23 other obligations, have a prior, paramount and superior lien on  
24 the revenues pledged for the payment of the securities over and  
25 ahead of any lien thereagainst subsequently incurred of any

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1 other securities; provided, however, the resolution  
2 authorizing, or other instrument appertaining to, the issuance  
3 of any securities may provide for the subsequent authorization  
4 of bonds or other securities the lien for the payment of which  
5 on such revenues is on a parity with the lien thereon of the  
6 subject securities upon such conditions and subject to such  
7 limitations as the resolution or other instrument may provide.

8 Section 51. RANKING AMONG SECURITIES OF SAME ISSUE.--All  
9 securities of the same issue or series shall be equally and  
10 ratably secured without priority by reason of number, date of  
11 maturity, date of securities, of sale, of execution or of  
12 delivery, by a lien on such revenues in accordance with the  
13 provisions of the Eastern Sandoval County Arroyo Flood Control  
14 Act and the resolution authorizing, or other instrument  
15 appertaining to, such securities, except to the extent such  
16 resolution or other instrument otherwise expressly provides.

17 Section 52. PAYMENT RECITAL IN SECURITIES.--Each security  
18 issued under the Eastern Sandoval County Arroyo Flood Control  
19 Act shall recite in substance that the security and the  
20 interest on that security are payable solely from the revenues  
21 or other money pledged to the payment of those revenues.  
22 Securities specifically pledging the full faith and credit of  
23 the authority for their payment shall so state.

24 Section 53. INCONTESTABLE RECITAL IN SECURITIES.--Any  
25 resolution authorizing, or other instrument appertaining to,

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1 any securities under the Eastern Sandoval County Arroyo Flood  
2 Control Act may provide that each security authorized by such a  
3 resolution shall recite that it is issued under authority of  
4 that act. Such recital shall conclusively impart full  
5 compliance with all of the provisions of the Eastern Sandoval  
6 County Arroyo Flood Control Act, and all securities issued  
7 containing such recital shall be incontestable for any cause  
8 whatsoever after their delivery for value.

9 Section 54. LIMITATIONS UPON PAYMENT OF SECURITIES.--The  
10 payment of securities shall not be secured by an encumbrance,  
11 mortgage or other pledge of property of the authority, except  
12 for revenues, income, tax proceeds and other money pledged for  
13 the payment of securities. No property of the authority,  
14 subject to such exception, shall be liable to be forfeited or  
15 taken in payment of the securities.

16 Section 55. LIMITATIONS UPON INCURRING ANY DEBT.--Nothing  
17 in the Eastern Sandoval County Arroyo Flood Control Act shall  
18 be construed as creating or authorizing the creation of an  
19 indebtedness on the part of any municipality or other public  
20 body included in the authority or elsewhere located.

21 Section 56. SECURITY DETAILS.--Any securities authorized  
22 to be issued in the Eastern Sandoval County Arroyo Flood  
23 Control Act shall bear the date or dates, shall be in the  
24 denomination or denominations, shall mature at the time or  
25 times but in no event exceeding forty years from their date or

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1 any shorter limitation provided in that act, shall bear  
2 interest that may be evidenced by one or two sets of coupons,  
3 payable annually or semiannually, except that the first coupon  
4 or coupons, if any, appertaining to any security may represent  
5 interest for any period not in excess of one year, as may be  
6 prescribed by resolution or other instrument; and the  
7 securities and any coupons shall be payable in the medium of  
8 payment at any banking institution or other place or places  
9 within or without the state, including but not limited to the  
10 office of the treasurer of the county in which the authority is  
11 located wholly or in part, as determined by the board, and the  
12 securities at the option of the board may be in one or more  
13 series, may be made subject to prior redemption in advance of  
14 maturity in the order or by lot or otherwise at the time or  
15 times without or with the payment of the premium or premiums  
16 not exceeding six percent of the principal amount of each  
17 security so redeemed, as determined by the board.

18 Section 57. CAPITALIZATION OF COSTS.--Any resolution  
19 authorizing the issuance of securities or other instrument  
20 appertaining thereto may capitalize interest on any securities  
21 during any period of construction or other acquisition  
22 estimated by the board and one year thereafter and any other  
23 cost of any project by providing for the payment of the amount  
24 capitalized from the proceeds of the securities.

25 Section 58. OTHER SECURITY DETAILS.--Securities may be

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1 issued in such manner, in such form, with such recitals, terms,  
2 covenants and conditions and with such other details as may be  
3 provided by the board in the resolution authorizing the  
4 securities, or other instrument appertaining thereto, except as  
5 otherwise provided in the Eastern Sandoval County Arroyo Flood  
6 Control Act.

7 Section 59. REISSUANCE OF SECURITIES.--Any resolution  
8 authorizing the issuance of securities or any other instrument  
9 appertaining thereto may provide for their reissuance in other  
10 denominations in negotiable or nonnegotiable form and otherwise  
11 in such manner and form as the board may determine.

12 Section 60. NEGOTIABILITY.--Subject to the payment  
13 provisions specifically provided in the Eastern Sandoval County  
14 Arroyo Flood Control Act, the notes, warrants, bonds, any  
15 interest coupons thereto attached, temporary bonds and interim  
16 debentures shall be fully negotiable within the meaning of and  
17 for all the purposes of the Uniform Commercial Code, except as  
18 the board may otherwise provide. Each holder of such security,  
19 or of any coupon appertaining thereto, by accepting such  
20 security or coupon shall be conclusively deemed to have agreed  
21 that such security or coupon, except as otherwise provided, is  
22 and shall be fully negotiable within the meaning and for all  
23 purposes of the Uniform Commercial Code.

24 Section 61. SINGLE BONDS.--Notwithstanding any other  
25 provision of law, the board in any proceedings authorizing

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1 securities under the Eastern Sandoval County Arroyo Flood

2 Control Act:

3 A. may provide for the initial issuance of one or  
4 more securities, in this section called "bond", aggregating the  
5 amount of the entire issue or a designated portion thereof;

6 B. may make such provision for installment payments  
7 of the principal amount of any such bond as it may consider  
8 desirable;

9 C. may provide for the making of any such bond  
10 payable to bearer or otherwise, registrable as to principal or  
11 as to both principal and interest, and where interest accruing  
12 thereon is not represented by interest coupons, for the  
13 endorsing of payments of interest on such bonds; and

14 D. may further make provision in any such  
15 proceedings for the manner and circumstances in and under which  
16 any such bond may in the future, at the request of the holder  
17 thereof, be converted into securities of smaller denominations,  
18 which securities of smaller denominations may in turn be either  
19 coupon bonds or bonds registrable as to principal or principal  
20 and interest or both.

21 Section 62. LOST OR DESTROYED SECURITIES.--If lost or  
22 completely destroyed, any security may be reissued in the form  
23 and tenor of the lost or destroyed security upon the owner  
24 furnishing to the satisfaction of the board:

25 A. proof of ownership;

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- 1           B. proof of loss or destruction;
- 2           C. a surety bond in twice the face amount of the
- 3 security and any coupons; and
- 4           D. payment of the cost of preparing and issuing the
- 5 new security.

6           Section 63. EXECUTION OF SECURITIES.--Any security shall  
7 be executed in the name of and on behalf of the authority and  
8 signed by the chair, with the seal of the authority affixed  
9 thereto and attested by the secretary, except for securities  
10 issued in book entry or similar form without the delivery of  
11 physical securities.

12           Section 64. INTEREST COUPONS.--Except for any bonds that  
13 are registrable for payment of interest, interest coupons  
14 payable to bearer and appertaining to the bonds shall be issued  
15 and shall bear the original or facsimile signature of the  
16 chair.

17           Section 65. FACSIMILE SIGNATURES.--Any of the officers,  
18 after filing with the secretary of state the officer's manual  
19 signature certified by the officer under oath, may execute or  
20 cause to be executed with a facsimile signature in lieu of the  
21 officer's manual signature any security authorized in the  
22 Eastern Sandoval County Arroyo Flood Control Act; provided that  
23 such a filing is not a condition of execution with a facsimile  
24 signature of any interest coupon, and provided that at least  
25 one signature required or permitted to be placed on each such

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1 security, excluding any interest coupon, shall be manually  
2 subscribed. An officer's facsimile signature has the same  
3 legal effect as the officer's manual signature.

4 Section 66. FACSIMILE SEAL.--The secretary may cause the  
5 seal of the authority to be printed, engraved, stamped or  
6 otherwise placed in facsimile on any security. The facsimile  
7 seal has the same legal effect as the impression of the seal.

8 Section 67. SIGNATURES OF PREDECESSORS IN OFFICE.--The  
9 securities and any coupons bearing the signatures of the  
10 officers in office at the time of the signing shall be the  
11 valid and binding obligations of the authority, notwithstanding  
12 that before the delivery thereof and payment therefor, any or  
13 all of the persons whose signatures appear on those securities  
14 or coupons shall have ceased to fill their respective offices.

15 Section 68. FACSIMILE SIGNATURES OF PREDECESSORS.--Any  
16 officer authorized or permitted in the Eastern Sandoval County  
17 Arroyo Flood Control Act to sign any security or interest  
18 coupon, at the time of its execution and of the execution of a  
19 signature certificate, may adopt as and for the officer's own  
20 facsimile signature the facsimile signature of the officer's  
21 predecessor in office in the event that such facsimile  
22 signature appears upon the security or coupons appertaining  
23 thereto, or upon both the security and such coupons.

24 Section 69. REPURCHASE OF SECURITIES.--The securities may  
25 be repurchased by the authority out of any funds available for

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1 such purpose from the project to which they pertain at a price  
2 of not more than the principal amount thereof and accrued  
3 interest, plus the amount of the premium, if any, that might,  
4 on the next redemption date of such securities, be paid to the  
5 holders thereof if such securities should be called for  
6 redemption on such date pursuant to their terms, and all  
7 securities so repurchased shall be canceled.

8 Section 70. CUSTOMARY PROVISIONS.--The resolution  
9 authorizing the securities or other instrument appertaining  
10 thereto may contain any agreement or provision customarily  
11 contained in instruments securing securities, including without  
12 limiting the generality of the foregoing, covenants designated  
13 in Section 76 of the Eastern Sandoval County Arroyo Flood  
14 Control Act.

15 Section 71. SALE OF SECURITIES.--Any securities  
16 authorized in the Eastern Sandoval County Arroyo Flood Control  
17 Act, except for warrants not issued for cash and except for  
18 temporary bonds issued pending preparation of definitive bond  
19 or bonds, shall be sold at public or private sale at, above or  
20 below par at a net effective interest rate not exceeding the  
21 maximum net effective interest rate permitted by the Public  
22 Securities Act, as amended and supplemented by the Eastern  
23 Sandoval County Arroyo Flood Control Act.

24 Section 72. SALE DISCOUNT OR COMMISSION PROHIBITED.--No  
25 discount, except as provided by the Eastern Sandoval County

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1 Arroyo Flood Control Act, or commission shall be allowed or  
2 paid on or for any security sale to any purchaser or bidder,  
3 directly or indirectly, but nothing contained in that act shall  
4 be construed as prohibiting the board from employing legal,  
5 fiscal, engineering and other expert services in connection  
6 with any project or facilities authorized in that act and with  
7 the authorization, issuance and sale of securities.

8 Section 73. APPLICATION OF PROCEEDS.--All money received  
9 from the issuance of any securities authorized in the Eastern  
10 Sandoval County Arroyo Flood Control Act shall be used solely  
11 for the purpose for which issued and the cost of any project  
12 thereby delineated. Any accrued interest and any premium shall  
13 be applied to the payment of the interest on, or the principal  
14 of, the securities, or both interest and principal, or shall be  
15 deposited in a reserve therefor, as the board may determine.

16 Section 74. USE OF UNEXPENDED PROCEEDS.--Any unexpended  
17 balance of such security proceeds remaining after the  
18 completion of the acquisition or improvement and equipment of  
19 the project or the completion of the purpose for which such  
20 securities were issued shall be paid immediately into the fund  
21 created for the payment of the principal of such securities and  
22 shall be used therefor, subject to the provisions as to the  
23 times and methods for their payment as stated in the securities  
24 and the proceedings authorizing or otherwise appertaining to  
25 their issuance, or so paid into a reserve therefor.

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1           Section 75. VALIDITY UNAFFECTED BY USE OF PROCEEDS.--The  
2 validity of such securities shall not be dependent on nor  
3 affected by the validity or regularity of any proceedings  
4 relating to the acquisition or improvement and equipment of the  
5 project or the proper completion of any project for which the  
6 securities are issued. The purchaser or purchasers of the  
7 securities shall in no manner be responsible for the  
8 application of the proceeds of the securities by the authority  
9 or any of its officers, agents and employees.

10           Section 76. COVENANTS IN SECURITY PROCEEDINGS.--Any  
11 resolution or trust indenture authorizing the issuance of  
12 securities or any other instrument appertaining thereto may  
13 contain covenants and other provisions, notwithstanding such  
14 covenants and provisions may limit the exercise of powers  
15 conferred by the Eastern Sandoval County Arroyo Flood Control  
16 Act, in order to secure the payment of such securities in  
17 agreement with the holders and owners of such securities, as  
18 the board may determine, including without limiting the  
19 generality of the foregoing, all such acts and things as may be  
20 necessary or convenient or desirable in order to secure the  
21 authority's securities, or in the discretion of the board tend  
22 to make the securities more marketable, notwithstanding that  
23 such covenant, act or thing may not be enumerated in that act,  
24 it being the intention of that act to give the authority power  
25 to do all things in the issuance of securities and for their

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1 security except as specifically limited in that act.

2 Section 77. REMEDIES OF SECURITY HOLDERS.--Subject to any  
3 contractual limitations binding upon the holders of any issue  
4 or series of securities, or trustee therefor, including the  
5 restriction of the exercise of any remedy to a specified  
6 proportion, percentage or number of such holders, and subject  
7 to any prior or superior rights of others, any holder of  
8 securities, or trustee therefor, shall have the right and power  
9 for the equal benefit and protection of all holders of  
10 securities similarly situated:

11 A. by mandamus or other suit, action or proceeding  
12 at law or in equity to enforce the holder's rights against the  
13 authority and the board and any of its officers, agents and  
14 employees, and to require and compel the authority or the board  
15 or any such officers, agents or employees to perform and carry  
16 out its and their duties, obligations or other commitments  
17 under the Eastern Sandoval County Arroyo Flood Control Act and  
18 its and their covenants and agreements with the holder of any  
19 security;

20 B. by action or suit in equity to require the  
21 authority and the board to account as if they were the trustee  
22 of an express trust;

23 C. by action or suit in equity to have appointed a  
24 receiver, which receiver may enter and take possession of any  
25 system or project or services revenues from which are pledged

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1 for the payment of the securities, prescribe sufficient fees  
2 derived from the operation thereof, and collect, receive and  
3 apply all revenues or other money pledged for the payment of  
4 the securities in the same manner as the authority itself might  
5 do in accordance with the obligations of the authority; and

6 D. by action or suit in equity to enjoin any acts  
7 or things that may be unlawful or in violation of the rights of  
8 the holder of any security and to bring suit thereupon.

9 Section 78. LIMITATIONS UPON LIABILITIES.--Neither the  
10 directors nor any person executing securities issued under the  
11 Eastern Sandoval County Arroyo Flood Control Act shall be  
12 liable personally on the securities by reason of the issuance  
13 thereof. Securities issued pursuant to the Eastern Sandoval  
14 County Arroyo Flood Control Act shall not be in any way a debt  
15 or liability of the state or of any municipality or other  
16 public body and shall not create or constitute any  
17 indebtedness, liability or obligation of the state or of any  
18 such municipality or other public body, either legal, moral or  
19 otherwise, and nothing contained in that act shall be construed  
20 to authorize the authority to incur any indebtedness on behalf  
21 of or in any way to obligate the state or any municipality or  
22 other public body, except the authority and except as otherwise  
23 expressly stated or necessarily implied in that act.

24 Section 79. CANCELLATION OF PAID SECURITIES.--Whenever  
25 the treasurer shall redeem and pay any of the securities issued

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1 under the provisions of the Eastern Sandoval County Arroyo  
2 Flood Control Act, the treasurer shall cancel the same by  
3 writing across the face thereof or stamping thereon the word  
4 "paid", together with the date of its payment, sign the  
5 treasurer's name thereto and transmit the same to the  
6 secretary, taking the secretary's receipt therefor, which  
7 receipt shall be filed in the records of the authority. The  
8 secretary shall credit the treasurer on the secretary's books  
9 for the amount so paid.

10 Section 80. INTEREST AFTER MATURITY.--No interest shall  
11 accrue on any security in the Eastern Sandoval County Arroyo  
12 Flood Control Act authorized after it becomes due and payable;  
13 provided that funds for the payment of the principal of and the  
14 interest on the security and any prior redemption premium due  
15 are available to the paying agent for such payment without  
16 default.

17 Section 81. REFUNDING BONDS.--Any bonds issued under the  
18 Eastern Sandoval County Arroyo Flood Control Act may be  
19 refunded, without an election, but subject to provisions  
20 concerning their payment and to any other contractual  
21 limitations in the proceedings authorizing their issuance or  
22 otherwise appertaining thereto, pursuant to a resolution or  
23 resolutions to be adopted by the board in the manner provided  
24 in that act for the issuance of other securities, to refund,  
25 pay or discharge all or any part of the authority's outstanding

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1 bonds, heretofore or hereafter issued, including any interest  
2 thereon in arrears or about to become due, or for the purpose  
3 of reducing interest costs or effecting other economies or of  
4 modifying or eliminating restrictive contractual limitations  
5 appertaining to the issuance of additional bonds or any  
6 project, or any combination thereof.

7 Section 82. METHOD OF ISSUANCE.--Any bonds issued for  
8 refunding purposes may either be delivered in exchange for the  
9 outstanding bonds authorized to be refunded or may be sold as  
10 provided in the Eastern Sandoval County Arroyo Flood Control  
11 Act for the sale of other bonds.

12 Section 83. LIMITATIONS UPON ISSUANCE.--No bonds may be  
13 refunded under the Eastern Sandoval County Arroyo Flood Control  
14 Act unless the holders of the bonds voluntarily surrender them  
15 for exchange or payment or unless they either mature or are  
16 callable for prior redemption under their terms within ten  
17 years from the date of issuance of the refunding bonds.

18 Provision shall be made for paying the bonds within that period  
19 of time. No maturity of any bonds refunded may be extended  
20 over fifteen years nor may any interest on the bonds be  
21 increased to any coupon rate exceeding the maximum net  
22 effective interest rate permitted by the Public Securities Act.  
23 The principal amount of the refunding bonds may exceed the  
24 principal amount of the refunded bonds if the aggregate  
25 principal and interest costs of the refunding bonds do not

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1 exceed such unaccrued costs of the bonds refunded. The  
2 principal amount of the refunding bonds may also be less than  
3 or the same as the principal amount of the bonds refunded so  
4 long as provision is duly and sufficiently made for their  
5 payment.

6 Section 84. USE OF REFUNDING BOND PROCEEDS.--The proceeds  
7 of refunding bonds shall either be immediately applied to the  
8 retirement of the bonds to be refunded or be placed in escrow  
9 to be applied to the payment of the bonds upon their  
10 presentation; provided, however, any accrued interest and any  
11 premium appertaining to a sale of refunding bonds may be  
12 applied to the payment of the interest or the principal or both  
13 interest and principal or may be deposited in a reserve  
14 therefor as the board may determine. The escrow shall not  
15 necessarily be limited to refunding bond proceeds but may  
16 include other money made available for such purpose. Any  
17 escrowed proceeds pending such use may be invested or  
18 reinvested in federal securities. Escrowed proceeds and  
19 investments, together with any interest to be derived from any  
20 such investment, shall be in an amount at all times sufficient  
21 as to principal, interest, any prior redemption premium due and  
22 any charges of the escrow agent payable therefrom to pay the  
23 bonds refunded as they become due at their respective  
24 maturities or due at designated prior redemption date or dates  
25 upon which the board shall exercise a prior redemption option.

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1 Upon establishment of an escrow in accordance with this  
2 section, the refunded bonds payable therefrom no longer  
3 constitute outstanding indebtedness of the authority.

4 Section 85. PAYMENT OF REFUNDING BONDS.--Refunding  
5 revenue bonds may be made payable from any revenues derived  
6 from the operation of the flood control system or any project,  
7 notwithstanding the pledge of such revenues for the payment of  
8 the outstanding bonds issued by the authority that are to be  
9 refunded is thereby modified. Any refunding revenue bonds  
10 shall not be made payable from taxes unless the bonds thereby  
11 refunded are payable from taxes.

12 Section 86. COMBINATION OF REFUNDING AND OTHER BONDS.--  
13 Bonds for refunding and bonds for any other purpose or purposes  
14 authorized in the Eastern Sandoval County Arroyo Flood Control  
15 Act may be issued separately or issued in combination in one  
16 series or more.

17 Section 87. SUPPLEMENTAL PROVISIONS.--Except as  
18 specifically provided or necessarily implied in the Eastern  
19 Sandoval County Arroyo Flood Control Act, the relevant  
20 provisions of that act pertaining to bonds generally shall be  
21 equally applicable in the authorization and issuance of  
22 refunding bonds, including their terms and security, the bond  
23 resolution, trust indenture, taxes and service charges and  
24 other aspects of the bonds.

25 Section 88. BOARD'S DETERMINATION FINAL.--The

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1 determination of the board that the limitations imposed upon  
2 the issuance of refunding bonds under the Eastern Sandoval  
3 County Arroyo Flood Control Act have been met shall be  
4 conclusive in the absence of fraud or arbitrary and gross abuse  
5 of discretion.

6 Section 89. ISSUANCE OF INTERIM DEBENTURES AND PLEDGE OF  
7 BONDS AS COLLATERAL SECURITY.--Notwithstanding any limitation  
8 or other provision in the Eastern Sandoval County Arroyo Flood  
9 Control Act, whenever a majority of the qualified electors of  
10 the authority voting on a proposal to issue bonds has  
11 authorized the authority to issue bonds for any purpose  
12 authorized in that act, the authority is authorized to borrow  
13 money without any other election in anticipation of taxes, the  
14 proceeds of the bonds or any other revenues of the authority,  
15 or any combination thereof, and to issue interim debentures to  
16 evidence the amount so borrowed. Interim debentures may mature  
17 at such time not exceeding a period of time equal to the  
18 estimated time needed to effect the purpose for which the bonds  
19 are so authorized to be issued, plus two years, as the board  
20 may determine. Except as otherwise provided in this section  
21 and in Sections 90 and 91 of the Eastern Sandoval County Arroyo  
22 Flood Control Act, interim debentures shall be issued as  
23 provided in that act for securities in Sections 47 through 80  
24 of the Eastern Sandoval County Arroyo Flood Control Act.  
25 Taxes, other revenues of the authority, including without

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1 limiting the generality of the foregoing proceeds of bonds to  
2 be thereafter issued or reissued or bonds issued for the  
3 purpose of securing the payment of interim debentures may be  
4 pledged for the purpose of securing the payment of the interim  
5 debentures. Any bonds pledged as collateral security for the  
6 payment of any interim debentures shall mature at such time as  
7 the board may determine, but in no event exceeding forty years  
8 from the date of either any of such bonds or any of such  
9 interim debentures, whichever date is earlier. Any such bonds  
10 pledged as collateral security shall not be issued in an  
11 aggregate principal amount exceeding the aggregate principal  
12 amount of the interim debenture secured by a pledge of such  
13 bonds nor shall they bear interest at any time which with any  
14 interest accruing at the same time on the interim debenture so  
15 secured exceeds six percent per year.

16 Section 90. INTERIM DEBENTURES NOT TO BE EXTENDED.--No  
17 interim debenture issued pursuant to the provisions of Section  
18 89 of the Eastern Sandoval County Arroyo Flood Control Act  
19 shall be extended or funded except by the issuance or  
20 reissuance of a bond or bonds in compliance with Section 91 of  
21 that act.

22 Section 91. FUNDING.--For the purpose of funding any  
23 interim debenture or interim debentures, any bond or bonds  
24 pledged as collateral security to secure the payment of such  
25 interim debenture or interim debentures may be reissued without

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1 an election, and any bonds not previously issued but authorized  
2 to be issued at an election for a purpose the same as or  
3 encompassing the purpose for which the interim debentures were  
4 issued may be issued for such a funding. Any such bonds shall  
5 mature at such time as the board may determine, but in no event  
6 exceeding forty years from the date of either any of the  
7 interim debentures so funded or any of the bonds so pledged as  
8 collateral security, whichever date is earlier. Bonds for  
9 funding, including but not necessarily limited to any such  
10 reissued bonds, and bonds for any other purpose or purposes  
11 authorized in the Eastern Sandoval County Arroyo Flood Control  
12 Act may be issued separately or issued in combination in one  
13 series or more. Except as otherwise provided in Sections 89  
14 and 90 of the Eastern Sandoval County Arroyo Flood Control Act  
15 and in this section, any such funding bonds shall be issued as  
16 is provided for refunding bonds in Sections 81, 82, 84, 85, 87  
17 and 88 of that act and provided for securities in Sections 47  
18 through 80 of that act.

19 Section 92. PUBLICATION OF RESOLUTION OR PROCEEDINGS.--In  
20 its discretion, the board may provide for the publication once  
21 in full of either any resolution or other proceedings adopted  
22 by the board ordering the issuance of any securities or, in the  
23 alternative, of notice thereof, which resolution, other  
24 proceedings or notice so published shall state the fact and  
25 date of such adoption and the place where such resolution or

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1 other proceedings have been filed for public inspection and  
2 also the date of the first publication of such resolution,  
3 other proceedings or notice and also state that any action or  
4 proceeding of any kind or nature in any court questioning the  
5 validity of the creation and establishment of the authority, or  
6 the validity or proper authorization of securities provided for  
7 by the resolution or other proceedings, or the validity of any  
8 covenants, agreements or contracts provided for by the  
9 resolution or other proceedings, shall be commenced within  
10 twenty days after the first publication of such resolution,  
11 other proceedings or notice.

12 Section 93. FAILURE TO CONTEST LEGALITY CONSTITUTES  
13 BAR.--If no such action or proceedings are commenced or  
14 instituted within twenty days after the first publication of  
15 such resolution, other proceedings or notice, then all  
16 residents and taxpayers and owners of property in the authority  
17 and all public bodies and all other persons whatsoever shall be  
18 forever barred and foreclosed from instituting or commencing  
19 any action or proceeding in any court or from pleading any  
20 defense to any action or proceedings questioning the validity  
21 of the creation and establishment of the authority, the  
22 validity or proper authorization of such securities or the  
23 validity of any such covenants, agreements or contracts. The  
24 securities, covenants, agreements and contracts shall be  
25 conclusively deemed to be valid and binding obligations in

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1 accordance with their terms and tenor.

2 Section 94. CONFIRMATION OF CONTRACT PROCEEDINGS.--In its  
3 discretion, the board may file a petition at any time in the  
4 district court in and for any county in which the authority is  
5 located wholly or in part, praying a judicial examination and  
6 determination of any power conferred or of any tax or rates or  
7 charges levied or of any act, proceeding or contract of the  
8 authority, whether or not the contract has been executed,  
9 including proposed contracts for the acquisition, improvement,  
10 equipment, maintenance, operation or disposal of any project  
11 for the authority. Such petition shall set forth the facts  
12 whereon the validity of such power, assessment, act, proceeding  
13 or contract is founded and shall be verified by the chair of  
14 the board. Such action shall be in the nature of a proceeding  
15 in rem, and jurisdiction of all parties interested may be had  
16 by publication and posting as provided in the Eastern Sandoval  
17 County Arroyo Flood Control Act. Notice of the filing of the  
18 petition shall be given by the clerk of the court, under the  
19 seal thereof, stating in brief outline the contents of the  
20 petition and showing where a full copy of any contract therein  
21 mentioned may be examined. The notice shall be served by  
22 publication in at least five consecutive issues of a weekly  
23 newspaper of general circulation published in the county in  
24 which the principal office of the authority is located, and by  
25 posting the same in the office of the authority at least thirty

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1 days prior to the date fixed in the notice for the hearing on  
2 the petition. Jurisdiction shall be complete after such  
3 publication and posting. Any owner of property in the  
4 authority or person interested in the contract or proposed  
5 contract or in the premises may appear and move to dismiss or  
6 answer the petition at any time prior to the date fixed for the  
7 hearing or within such further time as may be allowed by the  
8 court, and the petition shall be taken as confessed by all  
9 persons who fail so to appear.

10 Section 95. REVIEW AND JUDGMENT OF COURT.--The petition  
11 and notice shall be sufficient to give the court jurisdiction,  
12 and upon hearing the court shall examine into and determine all  
13 matters and things affecting the question submitted, shall make  
14 such findings with reference thereto and render such judgment  
15 and decree thereon as the case warrants. Costs may be divided  
16 or apportioned among any contesting parties in the discretion  
17 of the trial court. Review of the judgment of the court may be  
18 had as in other similar cases, except that such review shall be  
19 applied for within thirty days after the time of the rendition  
20 of such judgment or within such additional time as may be  
21 allowed by the court within thirty days. The rules of civil  
22 procedure shall govern in matters of pleading and practice  
23 where not otherwise specified in the Eastern Sandoval County  
24 Arroyo Flood Control Act. The court shall disregard any error,  
25 irregularity or omission that does not affect the substantial

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1 rights of the parties.

2 Section 96. PURPOSE OF TAX EXEMPTIONS.--The effectuation  
3 of the powers authorized in the Eastern Sandoval County Arroyo  
4 Flood Control Act shall and will be in all respects for the  
5 benefit of the people of the state, including but not  
6 necessarily limited to those residing in the authority  
7 exercising any power under that act, for the improvement of  
8 their health and living conditions and for the increase of  
9 their commerce and prosperity.

10 Section 97. PROPERTY EXEMPT FROM GENERAL TAXES.--The  
11 authority shall not be required to pay any general (ad valorem)  
12 taxes upon any property appertaining to any project authorized  
13 in the Eastern Sandoval County Arroyo Flood Control Act and  
14 acquired within the state nor the authority's interest therein.

15 Section 98. SECURITIES AND INCOME THEREFROM EXEMPT.--  
16 Securities issued under the Eastern Sandoval County Arroyo  
17 Flood Control Act and the income therefrom shall forever be and  
18 remain free and exempt from taxation by the state, the  
19 authority and any other public body, except transfer,  
20 inheritance and estate taxes.

21 Section 99. FREEDOM FROM JUDICIAL PROCESS.--Execution or  
22 other judicial process shall not issue against any property of  
23 the authority authorized in the Eastern Sandoval County Arroyo  
24 Flood Control Act, nor shall any judgment against the authority  
25 be a charge or lien upon its property.

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1           Section 100. RESORT TO JUDICIAL PROCESS.--Section 99 of  
2 the Eastern Sandoval County Arroyo Flood Control Act does not  
3 apply to or limit the right of the holder of any security, the  
4 holder's trustee or any assignee of all or part of the holder's  
5 interest, the federal government when it is a party to any  
6 contract with the authority, and any other obligee under that  
7 act to foreclose, otherwise to enforce, and to pursue any  
8 remedies for the enforcement of any pledge or lien given by the  
9 authority on the proceeds of taxes, service charges or other  
10 revenues.

11           Section 101. LEGAL INVESTMENTS IN SECURITIES.--It shall  
12 be legal for the state and any of its agencies, departments,  
13 instrumentalities, corporations or political subdivisions or  
14 any political or public corporation, any bank, trust company,  
15 banker, savings bank or institution, any building and loan  
16 association, savings and loan association, investment company  
17 and any other person carrying on a banking or investment  
18 business, any insurance company, insurance association or any  
19 other person carrying on an insurance business and any  
20 executor, administrator, curator, trustee or any other  
21 fiduciary to invest funds or money in their custody in any of  
22 the securities authorized to be issued pursuant to the  
23 provisions of the Eastern Sandoval County Arroyo Flood Control  
24 Act. Such securities shall be authorized security for all  
25 public deposits. Nothing contained in this section with regard

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1 to legal investments shall be construed as relieving any public  
2 body or other person of any duty of exercising reasonable care  
3 in selecting securities.

4 Section 102. CIVIL RIGHTS.--The authority damaged by any  
5 such act may also bring a civil action for damages sustained by  
6 any such act, and in such proceeding the prevailing party shall  
7 also be entitled to reasonable attorney fees and costs of  
8 court.

9 Section 103. LIBERAL CONSTRUCTION.--The Eastern Sandoval  
10 County Arroyo Flood Control Act, being necessary to secure and  
11 preserve the public health, safety and general welfare, the  
12 rule of strict consideration shall have no application to that  
13 act, but it shall be liberally construed to effect the purposes  
14 and objects for which that act is intended.

15 Section 104. EMERGENCY.--It is necessary for the public  
16 peace, health and safety that this act take effect immediately.