

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

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

C. the authority hereby organized shall be a body corporate and politic, a quasi-municipal corporation and a

political subdivision of the state;

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

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

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

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

Section 3. DECISION OF BOARD OR GOVERNING BODY FINAL.--  
The action and decision of the board as to all matters passed upon by it in relation to any action, matter or thing provided in the Eastern Sandoval County Arroyo Flood Control Act shall be final and conclusive, if supported by substantial evidence,

unless the action and decision are arbitrary, capricious or fraudulent.

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

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

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

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

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

E. "condemnation" or "condemn" means the acquisition by the exercise of the power of eminent domain of property for any facilities, other property, project or an interest therein authorized by the Eastern Sandoval County Arroyo Flood Control Act. The authority may exercise in the

state the power of eminent domain, either within or without the authority and, in the manner provided by law for the condemnation of private property for public use, may take any property necessary to carry out any of the objects or purposes of the Eastern Sandoval County Arroyo Flood Control Act. In the event the construction of any facility or project authorized by the Eastern Sandoval County Arroyo Flood Control Act, or any part thereof, makes necessary the removal and relocation of any public utilities, whether on private or public right of way, the authority shall reimburse the owner of the public utility facility for the expense of removal and relocation, including the cost of any necessary land or rights in land;

F. "cost" or "cost of the project", or words of similar import, means all, or any part designated by the board, of the cost of any facilities, project or interest therein being acquired and of all or any property, rights, easements, privileges, agreements and franchises deemed by the authority to be necessary or useful and convenient therefor or in connection therewith, which cost, at the option of the board, may include all or any part of the incidental costs pertaining to the project, including without limiting the generality of the foregoing, preliminary expenses advanced by any municipality or other public body from funds available for use therefor in the making of surveys, preliminary plans,

estimates of cost, other preliminaries, the costs of appraising, printing, employing engineers, architects, fiscal agents, attorneys at law, clerical help, other agents or employees, the costs of capitalizing interest or any discount on securities, of inspection, of any administrative, operating and other expenses of the authority prior to the levy and collection of taxes, and of reserves for working capital, operation, maintenance or replacement expenses or for payment or security of principal of or interest on any securities, the costs of making, publishing, posting, mailing and otherwise giving any notice in connection with the project, the taking of options, the issuance of securities, the filing or recordation of instruments, the levy and collection of taxes and installments thereof, the costs of reimbursements by the authority to any public body, the federal government or any person of any money theretofore expended for or in connection with any facility or project and all other expenses necessary or desirable and appertaining to any project, as estimated or otherwise ascertained by the board;

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

H. "disposal" or "dispose" means the sale, destruction, razing, loan, lease, gift, grant, transfer, assignment, mortgage, option to sell, other contract or other disposition, or any combination thereof, of facilities, other property, any project or an interest therein authorized by the

Eastern Sandoval County Arroyo Flood Control Act;

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

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

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

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

M. "federal securities" means the bills, certificates of indebtedness, notes or bonds that are direct obligations of, or the principal and interest of which obligations are unconditionally guaranteed by, the United States;

N. "governing body" means the city council, city commission, board of commissioners, board of trustees, board of directors or other legislative body of the public body

proceeding under the Eastern Sandoval County Arroyo Flood Control Act, in which body the legislative powers of the public body are vested;

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

P. "mailed notice" or notice by "mail" means the giving by the engineer, secretary or any deputy thereof, as determined by the board, of any designated written or printed notice addressed to the last known owner of each tract of real property in question or other designated person at the last known address, by deposit, at least ten days prior to the designated hearing or other time or event, in the United States mail, postage prepaid, as first-class mail. In the absence of fraud, the failure to mail any such notice shall not invalidate any proceedings under the Eastern Sandoval County Arroyo Flood Control Act. The names and addresses of those property owners shall be obtained from the records of the county assessor or from such other source as the secretary or the engineer deems reliable. Any list of such names and addresses may be revised from time to time, but such a list need not be revised more frequently than at twelve-month

intervals. Any mailing of any notice required shall be verified by the affidavit or certificate of the engineer, secretary, deputy or other person mailing the notice, which verification shall be retained in the records of the authority at least until all taxes and securities appertaining thereto have been paid in full or any claim is barred by a statute of limitations;

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

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

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

T. "project" means any structure, facility, undertaking or system that the authority is authorized to acquire, improve, equip, maintain or operate. A project may consist of all kinds of personal and real property. A project shall appertain to the flood control system that the authority is authorized and directed to provide within and without the authority's boundaries;

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



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

W. "public body" means the state or any agency, instrumentality or corporation thereof or any municipality, school district, other type of district or any other political subdivision of the state, excluding the authority and excluding the federal government;

X. "qualified elector" means a person qualified to vote in general elections in the state, who is a resident of the authority at the time of any election held under the

provisions of the Eastern Sandoval County Arroyo Flood Control Act or at any other time in reference to which the term "qualified elector" is used;

Y. "real property" means:

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

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

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

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

CC. "sewer facilities" means any one or more of

the various devices used in the collection, channeling, impounding or disposition of storm, flood or surface drainage waters, including all inlets, collection, drainage or disposal lines, canals, intercepting sewers, outfall sewers, all pumping, power and other equipment and appurtenances, all extensions, improvements, remodeling, additions and alterations thereof and any rights or interest in such sewer facilities;

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

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

FF. "street" means any street, avenue, boulevard, alley, highway or other public right of way used for any vehicular traffic;

GG. "taxes" means general (ad valorem) taxes pertaining to any project authorized by the Eastern Sandoval

County Arroyo Flood Control Act; and

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

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

Section 6. BOUNDARIES OF AUTHORITY.--The boundaries of the authority are as follows: a portion of southern Sandoval county bounded on the east by a line following the eastern boundary of range 5 east of the New Mexico principal meridian, on the south by the Pueblo of Sandia and the Cibola national forest, on the west by the Rio Grande and on the north by a line following the northern boundary of township 13 north of the New Mexico principal meridian. The boundary of the district is more particularly described as follows: beginning at the southeast corner of projected section 1, township 12 north, range 5 east of the New Mexico principal meridian, that point also being the southeast corner of herein described boundary; thence proceeding in a westerly direction along a line coincident with the northern boundary of the Cibola national forest and of the Pueblo of Sandia to a point along the west bank of the Rio Grande within projected section 1, township 12 north, range 3 east of the New Mexico principal meridian; thence in a northeasterly direction along the west bank of the Rio Grande to a point in the northwest corner of

section 1, township 13 north, range 4 east of the New Mexico principal meridian; thence east along a line following the northern boundary of township 13 north of the New Mexico principal meridian for approximately seven miles to a point in the northeast corner of section 1, township 13 north, range 5 east of the New Mexico principal meridian; thence in a southerly direction approximately seven miles to the southeast corner of projected section 1, township 12 north, range 5 east of the New Mexico principal meridian, which point is the southeast corner and point of beginning of the district. All lands held in trust or ownership by the federal government or an Indian pueblo located within the boundaries identified in this section shall be excluded from the authority of the authority.

Section 7. PETITION FOR EXCLUSION.--Within one hundred eighty days from the effective date of the Eastern Sandoval County Arroyo Flood Control Act, a written, signed and acknowledged petition against the acquiring of the flood control system provided for in Section 19 of that act may be filed with the board by the owners of property of at least thirty percent of the value of the property provided to be taxed in that act, based upon the assessed valuation of that property for general taxes for the year preceding the year of making the petition. If there is real estate in the authority that has not been separately assessed by the taxing

authorities, the board shall value such real estate for the purpose of such petition on the same basis of valuation as other real estate similarly situated that has been separately assessed. The board shall, as soon as possible, examine such petition, if made, and canvass and pass upon and determine its sufficiency, and its action shall be final. If the petition is found to contain the names of the owners of property of thirty percent of the total valuation of the property to be taxed under the Eastern Sandoval County Arroyo Flood Control Act and is found to be sufficient, then the flood control system shall not be acquired; provided that no action under the terms of that act shall be delayed during the period of one hundred eighty days, except that no bonds shall be issued during that time.

Section 8. BOARD OF DIRECTORS.--The governing body of the authority is a board of directors consisting of five qualified electors of the authority. All powers, rights, privileges and duties vested in or imposed upon the authority are exercised and performed by and through the board of directors; provided that the exercise of any executive, administrative and ministerial powers may be, by the board, delegated and redelegated to officers and employees of the authority or to any officer or employee contracted by agreement to manage and administer the operations of the authority. Except for the first directors appointed as

provided for in Section 9 of the Eastern Sandoval County Arroyo Flood Control Act or elected as provided in Section 10 of that act and except for any director chosen to fill an unexpired term, the term of each director commences on the first day of January next following a general election in the state and runs for six years. Each director, subject to such exceptions, shall serve a six-year term ending on the first day of January next following a general election, and each director shall serve until a successor has been duly chosen and qualified.

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

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

B. Immediately following the appointment of the first board of directors, the management and administration of the authority may be performed by the southern Sandoval county arroyo flood control authority, for a reasonable fee, until

the first board election for the authority is held. Subsequent to the election of the first board of the authority, the authority may enter into an agreement with the southern Sandoval county arroyo flood control authority for the continued management and administration of the authority.

Section 10. ELECTION OF OFFICERS.--At the time that a proposal to incur debt is first submitted to the qualified electors or at the first general election next following the effective date of the Eastern Sandoval County Arroyo Flood Control Act, whichever occurs first, the qualified electors of the authority shall elect five qualified directors, two to serve a term ending January 1, 2011, two to serve a term ending January 1, 2013 and one to serve a term ending January 1, 2015. At the first election, the five candidates receiving the highest number of votes shall be elected as directors. The terms of the directors shall be determined by lot at their organizational meeting. At each general election thereafter, the qualified electors of the authority shall elect similarly one or two qualified electors as directors to serve six-year terms as directors and as successors to the directors whose terms end on the first day of January next following each such election. Nothing in the Eastern Sandoval County Arroyo Flood Control Act shall be construed as preventing a qualified elector of the authority from being elected or reelected as a director to succeed himself. If there is only one vacancy on



the board, the candidate receiving the highest number of votes shall be elected as director. If there are two vacancies on the board, the candidate receiving the highest number of votes and the candidate receiving the next highest number of votes shall be elected as directors.

Section 11. NOMINATION OF DIRECTORS.--Not later than forty-five days before a proposal to incur debt is first submitted to the qualified electors or at the first general election next following the effective date of the Eastern Sandoval County Arroyo Flood Control Act, whichever occurs first, written nominations of any candidate as director may be filed with the secretary of the board. Each nomination of any candidate shall be signed by not less than fifty qualified electors, regardless of whether or not nominated therein, shall designate therein the name of the candidates thereby nominated and shall recite that the subscribers thereto are qualified electors and that the candidate or candidates designated therein are qualified electors of the authority. No written nomination may designate more qualified electors as candidates than there are vacancies. No qualified elector may nominate more than one candidate for any vacancy. If a candidate does not withdraw the candidate's name before the first publication of the notice of election, the candidate's name shall be placed on the ballot. For any election held after November 2008, nominations shall be made by qualified

electors in accordance with the procedures and limitations of this section, except that such nominations shall be filed with the secretary of the board not later than the fourth Tuesday in June preceding the general election.

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

Section 13. ORGANIZATIONAL MEETINGS.--Except for the first board, each board shall meet on the first business day next following the first day of January in each odd-numbered year, at the office of the board within the authority. Each member of the board, before entering upon the member's official duties, shall take and subscribe on oath that the member will support the constitution of the United States and the constitution and laws of New Mexico and that the member will faithfully and impartially discharge the duties of the office to the best of the member's ability, which oath shall be filed in the office of the secretary of state. Each director shall, before entering upon the director's official duties, give a bond to the authority in the sum of ten thousand dollars (\$10,000) with good and sufficient surety, conditioned for the faithful performance of all of the duties of the director's office, without fraud, deceit or oppression,

and the accounting for all money and property coming into the director's hands and the prompt and faithful payment of all money and the delivering of all property coming into the director's custody or control belonging to the authority to the director's successors in office. Premiums on all bonds provided for in this section shall be paid by the authority and all such bonds shall be kept on file in the office of the secretary of state.

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

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

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

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

D. prescribe by resolution a system of business administration and create all necessary offices and establish and re-establish the powers, duties and compensation of all

officers and employees;

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

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

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

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

I. make and pass resolutions and orders on behalf of the authority not repugnant to the provisions of the Eastern Sandoval County Arroyo Flood Control Act, necessary or proper for the government and management of the affairs of the authority, for the execution of the powers vested in the authority and for carrying into effect the provisions of that act.

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

Section 16. MEETINGS OF THE BOARD.--All meetings of the board shall be held within the authority and shall be open to the public. No business of the board shall be transacted except at a regular or special meeting at which a quorum

consisting of at least three-fifths of the total membership of the board is present. Any action of the board requires the affirmative vote of a majority of the directors present and voting. A smaller number of directors than a quorum may adjourn from time to time and may compel the attendance of absent members in the manner and under such penalties as the board may provide.

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

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

Section 17 of the Eastern Sandoval County Arroyo Flood Control Act.

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

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

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

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

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

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



ditch, or the waters thereof or therein, unless compensation is ascertained and paid therefor under the laws authorizing the taking of private property for public use.

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

A. perpetual existence and succession;

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

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

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

E. enter into contracts and agreements, including but not limited to contracts with the federal government, the state and any other public body;

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

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

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

I. levy and cause to be collected general ad valorem taxes on all property subject to property taxation within the authority; provided that the total tax levy, excluding any levy for the payment of any debt of the authority authorized pursuant to the Eastern Sandoval County Arroyo Flood Control Act, for any fiscal year shall not exceed an aggregate total of two dollars (\$2.00), or any lower amount required by operation of the rate limitation provisions of Section 7-37-7.1 NMSA 1978 upon this tax levy, for each one thousand dollars (\$1,000) of net taxable value, as that term

is defined in the Property Tax Code, by certifying, on or before the fifteenth day of July in each year in which the board determines to levy a tax, to the board of county commissioners of Sandoval county, or by such other date as the laws of the state may prescribe to such other body having authority to levy taxes within each county wherein the authority has any territory, the rate so fixed, with directions that, at the time and in the manner required by law for levying taxes for other purposes, such body having authority to levy taxes shall levy the tax upon the net taxable value of all property subject to property taxation within the authority, in addition to such other taxes as may be levied by such body, as provided in Sections 23 through 27 of the Eastern Sandoval County Arroyo Flood Control Act. No taxes may be levied and collected for any purpose, or any contract made, until a bond issue has been submitted to and approved by the qualified electors as provided in the Eastern Sandoval County Arroyo Flood Control Act;

J. hire and retain officers, agents, employees, engineers, attorneys and any other persons, permanent or temporary, necessary or desirable to effect the purposes of the Eastern Sandoval County Arroyo Flood Control Act, defray any expenses incurred thereby in connection with the authority and acquire office space, equipment, services, supplies, fire and extended coverage insurance, use and occupancy insurance,

workers' compensation insurance, property damage insurance, public liability insurance for the authority and its officers, agents and employees and other types of insurance, as the board may determine; provided, however, that no provision in that act authorizing the acquisition of insurance shall be construed as waiving any immunity of the authority or any director, officer or agent thereof and otherwise existing under the laws of the state;

K. condemn property for public use;

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

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

N. pay or otherwise defray and contract so to pay or defray, for any term not exceeding fifty years, without an election, except as otherwise provided in the Eastern Sandoval County Arroyo Flood Control Act, the principal of, any interest on and any other charges appertaining to, any securities or other obligations of the federal government, any

public body or person incurred in connection with any such property so acquired by the authority;

O. establish and maintain facilities within or without the authority, across or along any public street, highway, bridge, viaduct or other public right of way or in, upon, under or over any vacant public lands, which public lands are now or may become the property of the state, or across any stream of water or water course, without first obtaining a franchise from the municipality, county or other public body having jurisdiction over the same; provided that the authority shall cooperate with any public body having such jurisdiction, shall promptly restore any such street, highway, bridge, viaduct or other public right of way to its former state of usefulness as nearly as may be and shall not use the same in such manner as to impair completely or unnecessarily the usefulness thereof;

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

Q. invest any surplus money in the authority treasury, including such money in any sinking or reserve fund established for the purpose of retiring any securities of the

authority, not required for the immediate necessities of the authority, in its own securities or in federal securities, by direct purchase of any issue of such securities, or part thereof, at the original sale of the same, or by the subsequent purchase of such securities;

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

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

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

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

V. enter, without any election, into joint operating or service contracts and agreements, acquisition, improvement, equipment or disposal contracts or other

arrangements, for any term not exceeding fifty years, with the federal government, any public body or any person concerning storm sewer facilities, or any project, whether acquired by the authority or by the federal government, any public body or any person, and accept grants and contributions from the federal government, any public body or any person in connection therewith;

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

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

Y. enter upon any land, make surveys, borings, soundings and examinations for the purposes of the authority, locate the necessary works of any project and roadways and other rights of way appertaining to any project authorized in

the Eastern Sandoval County Arroyo Flood Control Act; and acquire all property necessary or convenient for the acquisition, improvement or equipment of such works;

Z. cooperate with and act in conjunction with the state, or any of its engineers, officers, boards, commissions or departments, or with the federal government or any of its engineers, officers, boards, commissions or departments, or with any other public body or any person in the acquisition, improvement or equipment of any project for the controlling of flood or storm waters of the authority, or for the protection of life or property therein, or for any other works, acts or purposes provided for in the Eastern Sandoval County Arroyo Flood Control Act, and adopt and carry out any definite plan or system of work for any such purpose;

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

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

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



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

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

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

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

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

EE. require any person desiring to make a connection to any storm water drain or flood control facility of the authority or to cause storm waters to be emptied into

any ditch, drain, canal, floodway or other appurtenant structure of the authority firstly to make application to the board to make the connection and to require the connection to be made in such manner as the board may direct;

FF. refuse, if reasonably justified by the circumstances, permission to make any connection designated in Subsection DD or EE of this section;

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

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

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

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

KK. enter into contracts of indemnity and guaranty, in such form as may be approved by the board, relating to or connected with the performance of any contract or agreement that the authority is empowered to enter into

under the provisions of the Eastern Sandoval County Arroyo Flood Control Act or of any other law of the state;

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

(1) for the joint use of personnel, equipment and facilities of the authority and any public body, including without limitation public buildings constructed by or under the supervision of the board of the authority or the governing body of the public body concerned, upon such terms and agreements and within such areas within the authority as may be determined, for the promotion and protection of health, comfort, safety, life, welfare and property of the inhabitants of the authority and any such public body; and

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

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

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

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

PP. make all contracts, execute all instruments and do all things necessary or convenient in the exercise of the powers granted in the Eastern Sandoval County Arroyo Flood Control Act, or in the performance of the authority's covenants or duties, or in order to secure the payment of its securities; provided, no encumbrance, mortgage or other pledge of property, excluding any money, of the authority is created thereby and provided no property, excluding money, of the authority is liable to be forfeited or taken in payment of such securities;

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

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

collect taxes, the board shall determine in each year the amount of money necessary to be raised by taxation, taking into consideration other sources of revenue of the authority, and shall fix a rate of levy, without limitation as to rate or amount, except for the limitation in Subsection I of Section 22 of the Eastern Sandoval County Arroyo Flood Control Act and for any constitutional limitation, that, when levied upon the net taxable value, as that term is defined in the Property Tax Code, of all property subject to property taxation within the authority, and together with other revenues, will raise the amount required by the authority annually to supply funds for paying expenses of organization and the costs of acquiring, improving, equipping, operating and maintaining any project or facility of the authority, and promptly to pay in full, when due, all interest on and principal of bonds and other securities of the authority, and in the event of accruing defaults or deficiencies, an additional levy may be made as provided in Section 24 of the Eastern Sandoval County Arroyo Flood Control Act.

Section 24. LEVIES TO COVER DEFICIENCIES.--The board, in certifying annual levies, shall take into account the maturing indebtedness for the ensuing year as provided in its contracts, maturing securities and interest on securities, and deficiencies and defaults of prior years and shall make ample provision for the payment thereof. In case the money produced

from such levies, together with other revenues of the authority, is not sufficient punctually to pay the annual installments of its contracts or securities, and interest thereon, and to pay defaults and deficiencies, the board shall make such additional levies of taxes as may be necessary for such purposes, and notwithstanding any limitations, except the limitation in Subsection I of Section 22 of the Eastern Sandoval County Arroyo Flood Control Act, and any constitutional limitation, such taxes shall be made and continue to be levied until the indebtedness of the authority is fully paid.

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

Section 26. MANNER OF LEVYING AND COLLECTING TAXES.--It is the duty of the body having authority to levy taxes within each county to levy the taxes provided in Subsection I of Section 22 of the Eastern Sandoval County Arroyo Flood Control Act, and elsewhere in that act. It is the duty of all officials charged with collecting taxes to collect such taxes at the time and in the form and manner and with like interest

and penalties as other general (ad valorem) taxes are collected, and when collected, to pay the same to the authority. The payment of such collection shall be made monthly to the treasurer of the authority and paid into the depository thereof to the credit of the authority. All general (ad valorem) taxes levied under the Eastern Sandoval County Arroyo Flood Control Act, together with interest thereon and penalties for default in payment thereof, and all costs of collecting the same constitute until paid a perpetual lien on and against the property taxed, and such lien is on a parity with the tax lien of other general (ad valorem) taxes.

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

Section 28. ELECTIONS.--Each biennial election of directors shall be conducted at the time of the general election under the direction of the Sandoval county clerk and

in accordance with the election laws of New Mexico. Any other election of the authority, including an election to seek approval for the issuance of bonds, shall be conducted at any time approved by the board in accordance with the election laws of New Mexico. Elections for the issuance of bonds may be by mail-in ballot pursuant to the procedures set forth in the Mail Ballot Election Act.

Section 29. ELECTION RESOLUTION.--The board shall call any election by resolution adopted at least fifty days prior to the election. The resolution shall recite the objects and purposes of the election and the date upon which the election shall be held.

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

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

Section 32. POLLING PLACES.--All polling places shall be within the area included within the authority. The authority may consolidate the precincts for any election of



the authority not conducted at the time of the general election. If precincts are consolidated, the notice of the election shall state which precincts have been consolidated and the designation of the polling place.

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

Section 34. ELECTION RETURNS.--For authority elections held at the time of the general election, the regular general election precinct board shall certify the results of the authority election to the county canvassing board. The county canvassing board shall certify directly to the secretary that portion of the returns pertaining to the authority election. For authority elections held at a different time than the general election, the authority shall appoint an authority precinct board at the authority's expense for each polling place. The authority precinct board shall conduct the election as provided in the Election Code. The separate authority precinct board shall certify the results of the election in that precinct to the secretary within twelve hours after the close of the polls. The secretary shall canvass the results of the authority election as certified by each of the separate authority precinct boards and shall declare the results of the election at any regular or special meeting held

not less than five days following the date of the election. Except as otherwise provided, any proposal submitted at any election held pursuant to the Eastern Sandoval County Arroyo Flood Control Act shall not carry unless the proposal has been approved by a majority of the qualified electors of the district voting on the proposal.

Section 35. DISSOLUTION OF AUTHORITY.--If a petition is received pursuant to Section 7 of the Eastern Sandoval County Arroyo Flood Control Act denying the board the power to acquire a flood control system or if the first proposal for the issuance of bonds fails to receive a favorable vote by a majority of the qualified electors voting on the proposal, the board shall proceed to dissolve the authority.

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

Section 37. DISPOSITION OF PROPERTY, FUNDS AND TAXES OF AUTHORITY.--All property and all funds remaining in the treasury of the authority so dissolved shall be surrendered and transferred to the county in which the authority is

located and shall become a part of the general fund of the county.

Section 38. POWERS OF PUBLIC BODIES.--The governing body of any municipality, federally authorized Indian nation, pueblo or tribe or other public body, upon its behalf and in its name, for the purpose of aiding and cooperating in the determination of any authority boundary or any project authorized in the Eastern Sandoval County Arroyo Flood Control Act, upon the terms and with or without consideration and with or without an election, as the governing body determines, may exercise the following powers:

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

B. make available for temporary use or otherwise dispose to the authority of any machinery, equipment, facilities and other property, and any agents, employees, persons with professional training, and any other persons, to effect the purposes of the Eastern Sandoval County Arroyo Flood Control Act. Any such property and persons owned or in the employ of any public body while engaged in performing for the authority any service, activity or undertaking authorized in the Eastern Sandoval County Arroyo Flood Control Act, pursuant to contract or otherwise, shall have and retain all

of the powers, privileges, immunities, rights and duties of and shall be deemed to be engaged in the service and employment of such public body, notwithstanding such service, activity or undertaking is being performed in or for the authority;

C. enter into any agreement or joint agreement between or among the federal government, the authority and any other public body, or any combination thereof, extending over any period not exceeding fifty years, which is mutually agreed thereby, notwithstanding any law to the contrary, respecting action or proceedings appertaining to any power granted in the Eastern Sandoval County Arroyo Flood Control Act, and the use or joint use of any facilities, project or other property authorized in that act;

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

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

F. budget and appropriate, and each municipality or other public body is hereby required and directed to budget and appropriate, from time to time, general (ad valorem) tax proceeds, and other revenues legally available therefor to pay all obligations arising from the exercise of any powers granted in the Eastern Sandoval County Arroyo Flood Control Act as such obligations shall accrue and become due;

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

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

I. continue any agreement authorized in the Eastern Sandoval County Arroyo Flood Control Act for a

definite term not exceeding fifty years, or until rescinded or terminated, which agreement may provide for the method by which it may be rescinded or terminated by any party.

Section 39. EFFECTS OF EXTRATERRITORIAL FUNCTIONS.--All of the powers, privileges, immunities and rights, exemptions from laws, ordinances and rules, all pension, relief, disability, workers' compensation and other benefits that apply to the activity of officers, agents or employees of the authority or any such public body when performing their respective functions within the territorial limits of the respective public agencies apply to them to the same degree and extent while engaged in the performance of any of their functions and duties extraterritorially under the Eastern Sandoval County Arroyo Flood Control Act.

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

- A. notes;
- B. warrants;
- C. bonds;
- D. temporary bonds; and

E. interim debentures.

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

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

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

Section 44. ISSUANCE OF BONDS AND INCURRENCE OF DEBT.--The authority is authorized to borrow money in anticipation of taxes or other revenues, or both, and to issue bonds to evidence the amount so borrowed. No bonded indebtedness or any other indebtedness not payable in full within one year, except for interim debentures as provided in Sections 46 and 89 through 91 of the Eastern Sandoval County Arroyo Flood

Control Act, shall be created by the authority without first submitting a proposition of issuing such bonds to the qualified electors of the authority and being approved by a majority of such electors voting thereon at an election held for that purpose in accordance with Sections 28 through 34 of that act and all laws amendatory thereof and supplemental thereto. Bonds so authorized may be issued in one series or more and may mature at such time or times not exceeding forty years from their issuance as the board may determine. The total of all outstanding indebtedness at any one time shall not exceed fifty million dollars (\$50,000,000) without prior approval of the state legislature.

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

Section 46. ISSUANCE OF INTERIM DEBENTURES.--The authority is authorized to borrow money and to issue interim debentures evidencing "construction" or short-term loans for the acquisition or improvement and equipment of the flood



control system or any project in supplementation of long-term financing and the issuance of bonds as provided in Sections 89 through 91 of the Eastern Sandoval County Arroyo Flood Control Act.

Section 47. PAYMENT OF SECURITIES.--All securities issued by the authority shall be authorized by resolution. The authority may pledge its full faith and credit for the payment of any securities authorized in the Eastern Sandoval County Arroyo Flood Control Act, the interest thereon, any prior redemption premium or premiums and any charges appertaining thereto. Securities may constitute the direct and general obligations of the authority. Their payment may be secured by a specific pledge of tax proceeds and other revenues of the authority as the board may determine.

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

Section 49. PLEDGE OF REVENUES.--Any such revenues pledged directly or as additional security for the payment of

securities of any one issue or series, which revenues are not exclusively pledged therefor, may subsequently be pledged directly or as additional security for the payment of the securities of one or more issue or series subsequently authorized.

Section 50. RANKING AMONG DIFFERENT ISSUES.--All securities of the same issue or series shall, subject to the prior and superior rights of outstanding securities, claims and other obligations, have a prior, paramount and superior lien on the revenues pledged for the payment of the securities over and ahead of any lien thereagainst subsequently incurred of any other securities; provided, however, the resolution authorizing, or other instrument appertaining to, the issuance of any securities may provide for the subsequent authorization of bonds or other securities the lien for the payment of which on such revenues is on a parity with the lien thereon of the subject securities upon such conditions and subject to such limitations as the resolution or other instrument may provide.

Section 51. RANKING AMONG SECURITIES OF SAME ISSUE.--All securities of the same issue or series shall be equally and ratably secured without priority by reason of number, date of maturity, date of securities, of sale, of execution or of delivery, by a lien on such revenues in accordance with the provisions of the Eastern Sandoval County Arroyo Flood Control Act and the resolution authorizing, or other instrument

appertaining to, such securities, except to the extent such resolution or other instrument otherwise expressly provides.

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

Section 53. INCONTESTABLE RECITAL IN SECURITIES.--Any resolution authorizing, or other instrument appertaining to, any securities under the Eastern Sandoval County Arroyo Flood Control Act may provide that each security authorized by such a resolution shall recite that it is issued under authority of that act. Such recital shall conclusively impart full compliance with all of the provisions of the Eastern Sandoval County Arroyo Flood Control Act, and all securities issued containing such recital shall be incontestable for any cause whatsoever after their delivery for value.

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

be forfeited or taken in payment of the securities.

Section 55. LIMITATIONS UPON INCURRING ANY DEBT.--

Nothing in the Eastern Sandoval County Arroyo Flood Control Act shall be construed as creating or authorizing the creation of an indebtedness on the part of any municipality or other public body included in the authority or elsewhere located.

Section 56. SECURITY DETAILS.--Any securities

authorized to be issued in the Eastern Sandoval County Arroyo Flood Control Act shall bear the date or dates, shall be in the denomination or denominations, shall mature at the time or times but in no event exceeding forty years from their date or any shorter limitation provided in that act, shall bear interest that may be evidenced by one or two sets of coupons, payable annually or semiannually, except that the first coupon or coupons, if any, appertaining to any security may represent interest for any period not in excess of one year, as may be prescribed by resolution or other instrument; and the securities and any coupons shall be payable in the medium of payment at any banking institution or other place or places within or without the state, including but not limited to the office of the treasurer of the county in which the authority is located wholly or in part, as determined by the board, and the securities at the option of the board may be in one or more series, may be made subject to prior redemption in advance of maturity in the order or by lot or otherwise at the

time or times without or with the payment of the premium or premiums not exceeding six percent of the principal amount of each security so redeemed, as determined by the board.

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

Section 58. OTHER SECURITY DETAILS.--Securities may be issued in such manner, in such form, with such recitals, terms, covenants and conditions and with such other details as may be provided by the board in the resolution authorizing the securities, or other instrument appertaining thereto, except as otherwise provided in the Eastern Sandoval County Arroyo Flood Control Act.

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

Section 60. NEGOTIABILITY.--Subject to the payment provisions specifically provided in the Eastern Sandoval County Arroyo Flood Control Act, the notes, warrants, bonds,

any interest coupons thereto attached, temporary bonds and interim debentures shall be fully negotiable within the meaning of and for all the purposes of the Uniform Commercial Code, except as the board may otherwise provide. Each holder of such security, or of any coupon appertaining thereto, by accepting such security or coupon shall be conclusively deemed to have agreed that such security or coupon, except as otherwise provided, is and shall be fully negotiable within the meaning and for all purposes of the Uniform Commercial Code.

Section 61. SINGLE BONDS.--Notwithstanding any other provision of law, the board in any proceedings authorizing securities under the Eastern Sandoval County Arroyo Flood Control Act:

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

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

C. may provide for the making of any such bond payable to bearer or otherwise, registrable as to principal or as to both principal and interest, and where interest accruing thereon is not represented by interest coupons, for the

endorsing of payments of interest on such bonds; and

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

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

A. proof of ownership;

B. proof of loss or destruction;

C. a surety bond in twice the face amount of the security and any coupons; and

D. payment of the cost of preparing and issuing the new security.

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

Section 64. INTEREST COUPONS.--Except for any bonds

that are registrable for payment of interest, interest coupons payable to bearer and appertaining to the bonds shall be issued and shall bear the original or facsimile signature of the chair.

Section 65. FACSIMILE SIGNATURES.--Any of the officers, after filing with the secretary of state the officer's manual signature certified by the officer under oath, may execute or cause to be executed with a facsimile signature in lieu of the officer's manual signature any security authorized in the Eastern Sandoval County Arroyo Flood Control Act; provided that such a filing is not a condition of execution with a facsimile signature of any interest coupon, and provided that at least one signature required or permitted to be placed on each such security, excluding any interest coupon, shall be manually subscribed. An officer's facsimile signature has the same legal effect as the officer's manual signature.

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

Section 67. SIGNATURES OF PREDECESSORS IN OFFICE.--The securities and any coupons bearing the signatures of the officers in office at the time of the signing shall be the valid and binding obligations of the authority, notwithstanding that before the delivery thereof and payment



therefor, any or all of the persons whose signatures appear on those securities or coupons shall have ceased to fill their respective offices.

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

Section 69. REPURCHASE OF SECURITIES.--The securities may be repurchased by the authority out of any funds available for such purpose from the project to which they pertain at a price of not more than the principal amount thereof and accrued interest, plus the amount of the premium, if any, that might, on the next redemption date of such securities, be paid to the holders thereof if such securities should be called for redemption on such date pursuant to their terms, and all securities so repurchased shall be canceled.

Section 70. CUSTOMARY PROVISIONS.--The resolution authorizing the securities or other instrument appertaining thereto may contain any agreement or provision customarily contained in instruments securing securities, including

without limiting the generality of the foregoing, covenants designated in Section 76 of the Eastern Sandoval County Arroyo Flood Control Act.

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

Section 72. SALE DISCOUNT OR COMMISSION PROHIBITED.--No discount, except as provided by the Eastern Sandoval County Arroyo Flood Control Act, or commission shall be allowed or paid on or for any security sale to any purchaser or bidder, directly or indirectly, but nothing contained in that act shall be construed as prohibiting the board from employing legal, fiscal, engineering and other expert services in connection with any project or facilities authorized in that act and with the authorization, issuance and sale of securities.

Section 73. APPLICATION OF PROCEEDS.--All money received from the issuance of any securities authorized in the Eastern Sandoval County Arroyo Flood Control Act shall be used

solely for the purpose for which issued and the cost of any project thereby delineated. Any accrued interest and any premium shall be applied to the payment of the interest on, or the principal of, the securities, or both interest and principal, or shall be deposited in a reserve therefor, as the board may determine.

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

Section 75. VALIDITY UNAFFECTED BY USE OF PROCEEDS.--The validity of such securities shall not be dependent on nor affected by the validity or regularity of any proceedings relating to the acquisition or improvement and equipment of the project or the proper completion of any project for which the securities are issued. The purchaser or purchasers of the securities shall in no manner be responsible for the application of the proceeds of the securities by the authority

or any of its officers, agents and employees.

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

Section 77. REMEDIES OF SECURITY HOLDERS.--Subject to any contractual limitations binding upon the holders of any issue or series of securities, or trustee therefor, including the restriction of the exercise of any remedy to a specified proportion, percentage or number of such holders, and subject to any prior or superior rights of others, any holder of securities, or trustee therefor, shall have the right and

power for the equal benefit and protection of all holders of securities similarly situated:

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

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

C. by action or suit in equity to have appointed a receiver, which receiver may enter and take possession of any system or project or services revenues from which are pledged for the payment of the securities, prescribe sufficient fees derived from the operation thereof, and collect, receive and apply all revenues or other money pledged for the payment of the securities in the same manner as the authority itself might do in accordance with the obligations of the authority; and

D. by action or suit in equity to enjoin any acts or things that may be unlawful or in violation of the rights

of the holder of any security and to bring suit thereupon.

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

Section 79. CANCELLATION OF PAID SECURITIES.--Whenever the treasurer shall redeem and pay any of the securities issued under the provisions of the Eastern Sandoval County Arroyo Flood Control Act, the treasurer shall cancel the same by writing across the face thereof or stamping thereon the word "paid", together with the date of its payment, sign the treasurer's name thereto and transmit the same to the secretary, taking the secretary's receipt therefor, which

receipt shall be filed in the records of the authority. The secretary shall credit the treasurer on the secretary's books for the amount so paid.

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

Section 81. REFUNDING BONDS.--Any bonds issued under the Eastern Sandoval County Arroyo Flood Control Act may be refunded, without an election, but subject to provisions concerning their payment and to any other contractual limitations in the proceedings authorizing their issuance or otherwise appertaining thereto, pursuant to a resolution or resolutions to be adopted by the board in the manner provided in that act for the issuance of other securities, to refund, pay or discharge all or any part of the authority's outstanding bonds, heretofore or hereafter issued, including any interest thereon in arrears or about to become due, or for the purpose of reducing interest costs or effecting other economies or of modifying or eliminating restrictive contractual limitations appertaining to the issuance of additional bonds or any project, or any combination thereof.

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

Section 83. LIMITATIONS UPON ISSUANCE.--No bonds may be refunded under the Eastern Sandoval County Arroyo Flood Control Act unless the holders of the bonds voluntarily surrender them for exchange or payment or unless they either mature or are callable for prior redemption under their terms within ten years from the date of issuance of the refunding bonds. Provision shall be made for paying the bonds within that period of time. No maturity of any bonds refunded may be extended over fifteen years nor may any interest on the bonds be increased to any coupon rate exceeding the maximum net effective interest rate permitted by the Public Securities Act. The principal amount of the refunding bonds may exceed the principal amount of the refunded bonds if the aggregate principal and interest costs of the refunding bonds do not exceed such unaccrued costs of the bonds refunded. The principal amount of the refunding bonds may also be less than or the same as the principal amount of the bonds refunded so long as provision is duly and sufficiently made for their payment.

Section 84. USE OF REFUNDING BOND PROCEEDS.--The



proceeds of refunding bonds shall either be immediately applied to the retirement of the bonds to be refunded or be placed in escrow to be applied to the payment of the bonds upon their presentation; provided, however, any accrued interest and any premium appertaining to a sale of refunding bonds may be applied to the payment of the interest or the principal or both interest and principal or may be deposited in a reserve therefor as the board may determine. The escrow shall not necessarily be limited to refunding bond proceeds but may include other money made available for such purpose. Any escrowed proceeds pending such use may be invested or reinvested in federal securities. Escrowed proceeds and investments, together with any interest to be derived from any such investment, shall be in an amount at all times sufficient as to principal, interest, any prior redemption premium due and any charges of the escrow agent payable therefrom to pay the bonds refunded as they become due at their respective maturities or due at designated prior redemption date or dates upon which the board shall exercise a prior redemption option. Upon establishment of an escrow in accordance with this section, the refunded bonds payable therefrom no longer constitute outstanding indebtedness of the authority.

Section 85. PAYMENT OF REFUNDING BONDS.--Refunding revenue bonds may be made payable from any revenues derived from the operation of the flood control system or any project, HB 939  
Page 65

notwithstanding the pledge of such revenues for the payment of the outstanding bonds issued by the authority that are to be refunded is thereby modified. Any refunding revenue bonds shall not be made payable from taxes unless the bonds thereby refunded are payable from taxes.

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

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

Section 88. BOARD'S DETERMINATION FINAL.--The determination of the board that the limitations imposed upon the issuance of refunding bonds under the Eastern Sandoval County Arroyo Flood Control Act have been met shall be conclusive in the absence of fraud or arbitrary and gross abuse of discretion.

Section 89. ISSUANCE OF INTERIM DEBENTURES AND PLEDGE

OF BONDS AS COLLATERAL SECURITY.--Notwithstanding any limitation or other provision in the Eastern Sandoval County Arroyo Flood Control Act, whenever a majority of the qualified electors of the authority voting on a proposal to issue bonds has authorized the authority to issue bonds for any purpose authorized in that act, the authority is authorized to borrow money without any other election in anticipation of taxes, the proceeds of the bonds or any other revenues of the authority, or any combination thereof, and to issue interim debentures to evidence the amount so borrowed. Interim debentures may mature at such time not exceeding a period of time equal to the estimated time needed to effect the purpose for which the bonds are so authorized to be issued, plus two years, as the board may determine. Except as otherwise provided in this section and in Sections 90 and 91 of the Eastern Sandoval County Arroyo Flood Control Act, interim debentures shall be issued as provided in that act for securities in Sections 47 through 80 of the Eastern Sandoval County Arroyo Flood Control Act. Taxes, other revenues of the authority, including without limiting the generality of the foregoing proceeds of bonds to be thereafter issued or reissued or bonds issued for the purpose of securing the payment of interim debentures may be pledged for the purpose of securing the payment of the interim debentures. Any bonds pledged as collateral security for the payment of any interim debentures shall mature at such

time as the board may determine, but in no event exceeding forty years from the date of either any of such bonds or any of such interim debentures, whichever date is earlier. Any such bonds pledged as collateral security shall not be issued in an aggregate principal amount exceeding the aggregate principal amount of the interim debenture secured by a pledge of such bonds nor shall they bear interest at any time which with any interest accruing at the same time on the interim debenture so secured exceeds six percent per year.

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

Section 91. FUNDING.--For the purpose of funding any interim debenture or interim debentures, any bond or bonds pledged as collateral security to secure the payment of such interim debenture or interim debentures may be reissued without an election, and any bonds not previously issued but authorized to be issued at an election for a purpose the same as or encompassing the purpose for which the interim debentures were issued may be issued for such a funding. Any such bonds shall mature at such time as the board may determine, but in no event exceeding forty years from the date

of either any of the interim debentures so funded or any of the bonds so pledged as collateral security, whichever date is earlier. Bonds for funding, including but not necessarily limited to any such reissued bonds, and bonds for any other purpose or purposes authorized in the Eastern Sandoval County Arroyo Flood Control Act may be issued separately or issued in combination in one series or more. Except as otherwise provided in Sections 89 and 90 of the Eastern Sandoval County Arroyo Flood Control Act and in this section, any such funding bonds shall be issued as is provided for refunding bonds in Sections 81, 82, 84, 85, 87 and 88 of that act and provided for securities in Sections 47 through 80 of that act.

Section 92. PUBLICATION OF RESOLUTION OR PROCEEDINGS.-- In its discretion, the board may provide for the publication once in full of either any resolution or other proceedings adopted by the board ordering the issuance of any securities or, in the alternative, of notice thereof, which resolution, other proceedings or notice so published shall state the fact and date of such adoption and the place where such resolution or other proceedings have been filed for public inspection and also the date of the first publication of such resolution, other proceedings or notice and also state that any action or proceeding of any kind or nature in any court questioning the validity of the creation and establishment of the authority, or the validity or proper authorization of securities provided

for by the resolution or other proceedings, or the validity of any covenants, agreements or contracts provided for by the resolution or other proceedings, shall be commenced within sixty days after the first publication of such resolution, other proceedings or notice.

Section 93. FAILURE TO CONTEST LEGALITY CONSTITUTES BAR.--If no such action or proceedings are commenced or instituted within sixty days after the first publication of such resolution, other proceedings or notice, then all residents and taxpayers and owners of property in the authority and all public bodies and all other persons whatsoever shall be forever barred and foreclosed from instituting or commencing any action or proceeding in any court or from pleading any defense to any action or proceedings questioning the validity of the creation and establishment of the authority, the validity or proper authorization of such securities or the validity of any such covenants, agreements or contracts. The securities, covenants, agreements and contracts shall be conclusively deemed to be valid and binding obligations in accordance with their terms and tenor.

Section 94. CONFIRMATION OF CONTRACT PROCEEDINGS.--In its discretion, the board may file a petition at any time in the district court in and for any county in which the authority is located wholly or in part, praying a judicial

examination and determination of any power conferred or of any tax or rates or charges levied or of any act, proceeding or contract of the authority, whether or not the contract has been executed, including proposed contracts for the acquisition, improvement, equipment, maintenance, operation or disposal of any project for the authority. Such petition shall set forth the facts whereon the validity of such power, assessment, act, proceeding or contract is founded and shall be verified by the chair of the board. Such action shall be in the nature of a proceeding in rem, and jurisdiction of all parties interested may be had by publication and posting as provided in the Eastern Sandoval County Arroyo Flood Control Act. Notice of the filing of the petition shall be given by the clerk of the court, under the seal thereof, stating in brief outline the contents of the petition and showing where a full copy of any contract therein mentioned may be examined. The notice shall be served by publication in at least five consecutive issues of a weekly newspaper of general circulation published in the county in which the principal office of the authority is located, and by posting the same in the office of the authority at least thirty days prior to the date fixed in the notice for the hearing on the petition. Jurisdiction shall be complete after such publication and posting. Any owner of property in the authority or person interested in the contract or proposed contract or in the

premises may appear and move to dismiss or answer the petition at any time prior to the date fixed for the hearing or within such further time as may be allowed by the court, and the petition shall be taken as confessed by all persons who fail so to appear.

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

Section 96. PURPOSE OF TAX EXEMPTIONS.--The effectuation of the powers authorized in the Eastern Sandoval County Arroyo Flood Control Act shall and will be in all



respects for the benefit of the people of the state, including but not necessarily limited to those residing in the authority exercising any power under that act, for the improvement of their health and living conditions and for the increase of their commerce and prosperity.

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

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

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

Section 100. RESORT TO JUDICIAL PROCESS.--Section 99 of the Eastern Sandoval County Arroyo Flood Control Act does not apply to or limit the right of the holder of any security, the

holder's trustee or any assignee of all or part of the holder's interest, the federal government when it is a party to any contract with the authority, and any other obligee under that act to foreclose, otherwise to enforce, and to pursue any remedies for the enforcement of any pledge or lien given by the authority on the proceeds of taxes, service charges or other revenues.

Section 101. LEGAL INVESTMENTS IN SECURITIES.--It shall be legal for the state and any of its agencies, departments, instrumentalities, corporations or political subdivisions or any political or public corporation, any bank, trust company, banker, savings bank or institution, any building and loan association, savings and loan association, investment company and any other person carrying on a banking or investment business, any insurance company, insurance association or any other person carrying on an insurance business and any executor, administrator, curator, trustee or any other fiduciary to invest funds or money in their custody in any of the securities authorized to be issued pursuant to the provisions of the Eastern Sandoval County Arroyo Flood Control Act. Such securities shall be authorized security for all public deposits. Nothing contained in this section with regard to legal investments shall be construed as relieving any public body or other person of any duty of exercising reasonable care in selecting securities.

Section 102. OPEN MEETINGS ACT.--All actions and business of the board, including the first board appointed by the governor, shall be conducted pursuant to the Open Meetings Act.

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

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

---