

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Senator Malone**

A Bill

ACT 1224 OF 1995
SENATE BILL 432

For An Act To Be Entitled

8 "AN ACT AUTHORIZING THE ARKANSAS SOIL AND WATER
9 CONSERVATION COMMISSION, *EITHER DIRECTLY OR THROUGH THE*
10 *ARKANSAS DEVELOPMENT FINANCE AUTHORITY*, TO ISSUE GENERAL
11 OBLIGATION BONDS IN TOTAL PRINCIPAL AMOUNT NOT TO EXCEED
12 \$300,000,000 IN SERIES FROM TIME TO TIME IN PRINCIPAL
13 AMOUNTS NOT TO EXCEED, WITHOUT PRIOR APPROVAL OF THE
14 GENERAL ASSEMBLY, \$60,000,000 IN ANY FISCAL BIENNIUM, FOR
15 THE PURPOSE OF FINANCING AND REFINANCING THE DEVELOPMENT
16 OF WATER, WASTE DISPOSAL, WATER POLLUTION CONTROL,
17 ABATEMENT AND PREVENTION, DRAINAGE, IRRIGATION, FLOOD
18 CONTROL AND WETLANDS PROJECTS TO SERVE THE INHABITANTS OF
19 THE STATE OF ARKANSAS, AND CENTRAL ADMINISTRATIVE AND
20 RESEARCH FACILITIES FOR THE ARKANSAS SOIL AND WATER
21 CONSERVATION COMMISSION; SUBMITTING THE QUESTION OF
22 ISSUANCE OF BONDS AT THE 1996 GENERAL ELECTION OR A
23 SPECIAL ELECTION CALLED FOR THAT PURPOSE; PRESCRIBING
24 OTHER MATTERS RELATING THERETO; AND FOR OTHER PURPOSES."

Subtitle

27 "AN ACT AUTHORIZING THE ARKANSAS SOIL
28 AND WATER CONSERVATION COMMISSION TO
29 ISSUE GENERAL OBLIGATION BONDS"

31 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

32
33 SECTION 1. This Act may be referred to and cited as the "Arkansas
34 Water, Waste Disposal, Pollution Abatement, Administrative and Research
35 Facilities Financing Act of 1995".

36

1 SECTION 2. (a) The Arkansas Soil and Water Conservation Commission,
2 *either directly or through the Arkansas Development Finance Authority*, is
3 hereby authorized to issue bonds of the State of Arkansas, to be known as
4 State of Arkansas Water, Waste Disposal, Pollution Abatement, Administrative
5 and Research Facilities General Obligation Bonds (the "Bonds"), in total
6 principal amount not to exceed Three Hundred Million Dollars (\$300,000,000),
7 for the purposes set forth herein. The Bonds may be issued in one or more
8 series as required subject to the conditions and in compliance with the
9 procedures set forth herein.

10 (b) The total principal amount of Bonds to be issued during any fiscal
11 biennium shall not exceed Sixty Million Dollars (\$60,000,000), unless the
12 General Assembly shall, by law, have authorized a greater principal amount
13 thereof to be issued during a fiscal biennium. Provided further that, before
14 any Bonds may be issued during any fiscal biennium the Arkansas Soil and Water
15 Conservation Commission shall submit to the Governor a written plan (1)
16 setting forth the criteria to be used by the Commission in choosing (A) the
17 Projects to be financed with the proceeds derived from the sale of such Bonds
18 and/or (B) the programs for which funds may be provided by the Commission to
19 finance Projects, and (2) requesting authorization for the projected maximum
20 principal amount of Bonds required to be issued in such fiscal biennium. Upon
21 receipt thereof, the Governor shall confer with the Chief Fiscal Officer of
22 the State concerning whether the annual amount of general revenue funds
23 required to be set aside from the general revenues of the State, as such term
24 is used in the Revenue Stabilization Law of Arkansas, and defined in the
25 Revenue Classification Law of Arkansas, for payment of debt service
26 requirements in connection with the Bonds during either year of the fiscal
27 biennium in which the Bonds are to be issued, would require moneys from the
28 general revenues of the State that would work undue hardship upon any agency
29 or program supported from the general revenues of the State under the
30 provisions of the Revenue Stabilization Law of Arkansas.

31 (c) Upon conclusion of such studies, and after obtaining the advice of
32 the Legislative Council thereon, the Governor shall, if he deems the same to
33 be in the public interest, by proclamation, authorize the Commission to
34 proceed with the issuance of the Bonds in a maximum principal amount approved
35 by the Governor for the fiscal biennium.

1 (d) If the Governor shall decline or refuse to give his approval for
2 the issuance of such Bonds, and shall decline to issue a proclamation
3 approving the issuance thereof, the Governor shall promptly notify the
4 Commission, in writing, such Bonds shall not be issued, but the Commission may
5 resubmit a request to the Governor for the issuance thereof. The issue as
6 resubmitted to the Governor shall be dealt with in the same manner as provided
7 for the initial request for authority to issue the Bonds.

8

9 SECTION 3. The Commission may assign to the Authority, and the
10 Authority may assume from the Commission, the Commission's authority to issue
11 one or more series of bonds of the state under this act. The assignment and
12 assumption shall be authorized by resolutions of the Commission and the
13 Authority, respectively. In addition or in the alternative, the Commission
14 and the Authority may enter into a contract in which the Authority agrees: (1)
15 to act as servicer of any loans made to, or of bonds purchased from, any Local
16 Entities, (2) to act as financial advisor to the Commission in connection with
17 the issuance of any series of the Bonds, or (3) to perform any other
18 administrative service, activity, undertaking or function of the Commission or
19 the Issuer in connection with the issuance and sale of a particular series of
20 the Bonds, all as shall be designated in the contract. The Commission is
21 authorized to pay the Authority for any such services as may be provided by
22 the Authority. Any contract shall be authorized by resolutions of the
23 Commission and the Authority.

24

25 SECTION 4. In this Act, unless the context otherwise requires,

26 (a) "Commission" means the Arkansas Soil and Water Conservation
27 Commission, and any successor agency or department;

28 (b) "debt service" means principal, interest, redemption premiums, if
29 any, and trustees' and paying agents' and like servicing fees relative to the
30 Bonds;

31 (c) "develop" means to plan, design, construct, acquire (by purchase
32 or, as set forth herein, by eminent domain), own, operate, rehabilitate, lease
33 as lessor or lessee, enter into lease-purchase agreements with respect to,
34 lend, make grants in respect of, or install or equip any lands, buildings,
35 improvements, machinery, equipment, or other properties of whatever nature,

1 real, personal or mixed;

2 (d) "drainage" means the removal or diversion of water from lands
3 through natural or artificial means;

4 (e) "FDIC" means the Federal Deposit Insurance Corporation, or any
5 successor thereto insuring deposits of commercial banks;

6 (f) "flood control" means (1) drainage and flood prevention
7 improvements for protection from water-induced damages, (2) adjustments in
8 land use and facilities designed to reduce flood damage from overflow or
9 backwater due to major storms and snowmelt, and (3) facilities designed to
10 collect and convey runoff from rainfall or snowmelt to natural watercourses or
11 previously-modified natural waterways;

12 (g) "general revenues of the State" means the revenues described and
13 enumerated in Subchapter 2 of the Revenue Classification Law of Arkansas or in
14 any successor law;

15 (h) "irrigation" means the production or transportation of water for
16 agricultural uses through artificial or natural conveyances for watering of
17 crops or other agricultural products;

18 (i) "Local Entity" means any nonprofit corporation, or any county,
19 municipality, conservation district, improvement district, drainage district,
20 irrigation district, levee district, regional water distribution district,
21 public facilities board, rural development authority, regional wastewater
22 treatment district, regional solid waste management district, rural water
23 association or school district in the State or any agency or instrumentality
24 of any of the foregoing, or any agency or instrumentality of the State,
25 including the Commission;

26 (j) "nationally recognized rating agency" means Moody's Investors
27 Service, Inc., Standard & Poor's Ratings Group, or any other nationally
28 recognized rating agency approved by the Treasurer of State;

29 (k) "Person" means any Local Entity or any individual, corporation,
30 trust, limited liability company or partnership;

31 (l) "pollution abatement" means reduction, prevention, recycling,
32 control or elimination by appropriate methods of such contamination, or other
33 alteration of the physical, chemical or biological properties, of any waters
34 of the State, or of such discharge of any liquid, gaseous or solid substance
35 as will or is likely to create a nuisance or render any waters of the State

1 harmful or detrimental or injurious to public health, safety or welfare, or to
2 domestic, commercial, industrial, agricultural, recreational, or other
3 legitimate beneficial uses, or to livestock, wild animals, birds, fish or
4 other aquatic life;

5 (m) "Prior Acts" means, collectively, Act No. 496 of 1981, as now or
6 hereafter amended, codified as A.C.A. §§ 15-22-601 et seq., and Act No. 686 of
7 1987, as enacted or as hereafter amended, codified as A.C.A. §§ 15-22-701 et
8 seq.;

9 (n) "Project" means any lands, buildings, improvements, machinery,
10 equipment, or other property, real, personal or mixed, or any combination
11 thereof, developed in pursuance of all or any of the purposes of this Act,
12 including but not limited to the following: (1) the production, impoundment,
13 treatment and transportation of water, (2) the collection, treatment and
14 disposition of waste, (3) pollution abatement, (4) drainage or flood control
15 facilities, (5) irrigation facilities, (6) the preservation and development of
16 wetlands, (7) any facilities authorized by or pursuant to the Prior Acts and
17 (8) central administrative and research facilities for the Commission.
18 Included are Projects for agricultural, administrative, research, residential,
19 recreational, commercial and industrial purposes and Projects for the use and
20 benefit of Local Entities, the Commission and other Persons. Included are
21 facilities and improvements which are necessary, ancillary or related to those
22 enumerated;

23

24 (o) "Project Costs" means all or any part of the costs of developing
25 any Project, costs incidental or appropriate thereto including, without
26 limitation, all costs to the Commission associated with the development of any
27 Project in a supervisory capacity, and costs incidental or appropriate to the
28 financing thereof, including, without limitation, capitalized interest, costs
29 of issuance of and appropriate reserves for the Bonds and fees and costs for
30 engineering, legal, and other administrative and consultant services;

31 (p) "Revenue Classification Law of Arkansas" means Act No. 808 of 1973,
32 as now or hereafter amended, codified as A.C.A. §§ 19-6-101 et seq.;

33 (q) "Revenue Stabilization Law of Arkansas" means Act No. 750 of 1973,
34 as now or hereafter amended, codified as A.C.A. §§ 19-5-101 et seq.;

35 (r) "State" means the State of Arkansas;

1 (s) "State Apportionment Fund" means the fund by that name created by
2 Subchapter 2 of the Revenue Stabilization Law of Arkansas or in any successor
3 law;

4 (t) "water" means any waters of the State, including surface water and
5 ground water;

6 (u) "waste" means any liquid or solid produced as an undesirable
7 byproduct of any activity;

8 (v) "wetlands" means land that (1) has a predominance of hydric soils,
9 (2) is inundated or saturated by surface or ground water at a frequency and
10 duration sufficient to support a prevalence of hydrophytic vegetation
11 typically adapted for life in saturated soil conditions, and (3) under normal
12 circumstances does support a prevalence of such vegetation.

13 (w) "Authority" means the Arkansas Development Finance Authority and
14 any successor agency or department.

15 (x) "Issuer" means the Commission or the Authority, as shall be
16 designated by the Commission with respect to a series of Bonds.

17

18 SECTION 5. (a) The Bonds shall be issued, in series, as set forth
19 herein, in amounts sufficient to finance or refinance all or any part of
20 Project Costs with the respective series to be designated in alphabetical
21 order and/or by the year in which issued.

22 (b) Each series of the Bonds shall have such date as the *Issuer* shall
23 determine and shall mature or be subject to mandatory sinking fund redemption
24 as determined by the *Issuer*, over a period ending not later than thirty-five
25 (35) years after the date of the Bonds of each series. Pending the issuance
26 of Bonds hereunder, the *Issuer* may issue temporary notes, maturing not more
27 than five (5) years from the date of issuance, to be exchanged for or paid
28 from the proceeds of Bonds at such time as the Bonds may be issued.

29 (c) Each series of the Bonds shall bear interest, whether or not
30 subject to federal income taxation, at the rate or rates accepted by the
31 Commission. Interest shall be payable at such times as the *Issuer* shall
32 determine.

33 (d) The Bonds may be issued in such form; may be in such
34 denominations; and may be made exchangeable for Bonds of another form or
35 denomination, bearing the same rate of interest and date of maturity; may be

1 made payable at such places within or without the State; may be made subject
2 to redemption prior to maturity in such manner and for such redemption prices;
3 and may contain such other terms and conditions, all as the *Issuer* determine.

4 (e) The Bonds shall have all the qualities of negotiable instruments
5 or securities under the laws of the State, subject to the provision for
6 registration of ownership.

7

8 SECTION 6. Bonds issued under this Act shall be issued for the purpose
9 of financing (on a temporary or permanent basis), refinancing and developing
10 one or more Projects, and the proceeds of the Bonds shall be applied to the
11 payment of Project Costs and the costs and expenses of issuance of the Bonds,
12 or in connection with a Project refinancing, the repayment of indebtedness
13 incurred to pay Project Costs or for refunding of Bonds as provided in Section
14 14.

15

16 SECTION 7. (a) The Bonds shall be authorized by resolution of the
17 *Issuer*. Each such resolution shall contain such terms, covenants, and
18 conditions as are deemed desirable, including, without limitation, those
19 pertaining to the establishment and maintenance of funds and accounts, to the
20 deposit and investment of revenues and of Bond proceeds and to the rights and
21 obligations of the State, its officers and officials, the Commission and the
22 *Issuer* and the registered owners of the Bonds. The resolution of the *Issuer*
23 may provide for the execution and delivery by the *Issuer* of a trust indenture
24 or trust indentures, with one or more banks or trust companies located within
25 or without the State, containing any of the terms, covenants, and conditions
26 referred to above, which trust indenture or trust indentures shall be binding
27 upon the State, and its *agencies*, officers and officials, to the extent set
28 forth in this Act.

29 (b) Any resolution or trust indenture adopted or executed under this
30 Section shall provide that power is reserved to apply to the payment of debt
31 service on the Bonds issued or secured thereunder all or any part of the
32 revenues which may be derived from any Project financed by such Bonds; and, to
33 the extent of such revenues which the *Issuer* elects to apply to debt service,
34 to release from any requirement of such resolution or trust indenture other
35 revenues and resources of the State, including, without limitation, the

1 general revenues of the State required to be transferred under Section 12
2 hereof.

3

4 SECTION 8. Each Bond shall be signed with the manual or facsimile
5 signatures of the Governor, the Chairman of the *Issuer*, the Treasurer of
6 State, and shall have affixed, imprinted or lithographed thereon the Great
7 Seal of the State. Interest coupons attached to the Bonds, if any, shall be
8 signed with the facsimile signature of the Treasurer of State. Delivery of
9 the Bonds and coupons so executed shall be valid, notwithstanding any change
10 in persons holding such offices occurring after the Bonds have been executed.

11

12 SECTION 9. The Bonds may be sold in such manner, either at public or
13 private sale, and upon such terms as the Commission shall determine to be
14 reasonable and expedient for effectuating the purposes for which the
15 Commission was created. The Bonds may be sold at a price the Commission may
16 accept, including sale at a discount. The Commission may employ
17 administrative agents, fiscal agents, underwriters, architects, accountants,
18 engineers and legal counsel and may pay them reasonable compensation from the
19 proceeds of the Bonds. The fees of any trustee or paying agent, as well as
20 the costs of publication of notices and of printing of the Bonds, official
21 statements and other documents relating to the sale of the Bonds, and other
22 reasonable costs of issuing and selling the Bonds incurred by the Commission
23 and the *Authority* may be paid from the proceeds of the Bonds.

24

25 SECTION 10. (a) The proceeds from the sale of the Bonds, together with
26 all revenues derived by the Commission and the *Authority* from any Project
27 financed or refinanced under this Act, shall be deposited by the *recipient*
28 thereof, as received, into trust funds in the State Treasury, to accomplish
29 the purposes of this Act, in amounts or portions as set forth in the
30 resolution or trust indenture authorizing or securing the Bonds issued to
31 finance or refinance the development of Projects. Such proceeds and revenues
32 shall, at the direction of the *Issuer*, be deposited into trust funds created
33 hereby and designated as follows:

34

(1) into the Water, Waste Disposal, Pollution Abatement,
35 Administrative and Research Facilities Construction Fund (the "Construction

1 Fund"), to provide for the financing, refinancing or development of Projects
2 as provided herein, and the payment of the costs and expenses of the issuance
3 of the Bonds;

4 (2) into the Water, Waste Disposal, Pollution Abatement,
5 Administrative and Research Facilities Bond Fund (the "Bond Fund"), to provide
6 for payment for all or a part of the debt service on Bonds issued under this
7 Act;

8 (3) into the Water, Waste Disposal, Pollution Abatement,
9 Administrative and Research Facilities Operation and Maintenance Fund (the
10 "Operation and Maintenance Fund"), to provide for all or a part of the
11 operation and maintenance of the Projects financed under this Act.

12 The Treasurer of State is authorized and directed to establish separate
13 accounts within such funds to correspond to the applicable series of Bonds.
14 In addition, there may be created in the State Treasury such other funds,
15 accounts or subaccounts as the Commission may determine to be necessary to
16 accomplish the purposes of this Act.

17 (b) All procedures and methods for the application of proceeds of any
18 series of Bonds to the financing or refinancing of Project Costs shall be set
19 forth in writing, which writings shall be maintained as a part of the records
20 of the Commission. Such procedures and methods may include, but are not
21 limited to, the following:

22 (1) Development of Projects to be owned, operated and maintained
23 by the Commission.

24 (2) Grants to Local Entities and the Commission.

25 (3) Loans to Local Entities or the purchase of bonds or other
26 general or special obligation debt of Local Entities.

27 (4) Development of Projects to be leased to or operated by Local
28 Entities.

29 (5) Development of Projects to be purchased, at one time or by
30 installment purchase, by Local Entities.

31 (6) Establishment of funds, including revolving funds (i.e.,
32 funds for the lending of money to be repaid into such funds) for the
33 development of Projects.

34 (7) Matching of proceeds of Bonds with moneys provided by Local
35 Entities, or other Persons.

1 (8) Matching of moneys provided pursuant to other laws, including
2 Arkansas Code of 1987 Annotated; Title 15, Chapter 22, Subchapter 5; Title 15,
3 Chapter 22, Subchapter 8; Title 14, Chapter 230, Subchapter 1; Title 15,
4 Chapter 5, Subchapter 10; and Title 15, Chapter 5, Subchapter 9.

5 (9) Establishment of funds to refund or refinance Bonds issued
6 under this Act, bonds issued under the Prior Acts and the bonds or other debt
7 of Local Entities which were incurred for the purpose of paying Project Costs.

8 (c) Any arrangements undertaken pursuant to (b), above, whereby a Local
9 Entity will administer funds composed in whole or in part of proceeds of Bonds
10 shall include provision for the auditing, no less frequently than annually, of
11 such funds.

12 (d) The proceeds from the sale of the Bonds, together with all
13 revenues derived by the Commission *and the Authority* from any Project
14 financed or refinanced under this Act, may be invested and reinvested by the
15 Treasurer of State in any of the following:

16 (1) direct obligations of the United States of America
17 (including obligations issued or held in book-entry form on the books of the
18 Department of the Treasury) or obligations the principal of and interest on
19 which are unconditionally guaranteed by the United States of America;

20 (2) bonds, debentures, notes or other evidences of indebtedness
21 issued or guaranteed by any United States government agencies provided,
22 however, such obligations are backed by the full faith and credit of the
23 United States of America;

24 (3) senior debt obligations issued or guaranteed by United
25 States government agencies (non-full faith and credit agencies);

26 (4) money market funds investing exclusively in the investments
27 described in clauses (1) through (3) of this subsection;

28 (5) certificates of deposit providing for deposits secured at
29 all times by collateral described in clauses (1) through (3) of this
30 subsection. Such certificates must be issued by commercial banks whose
31 deposits are insured by the FDIC and whose collateral must be held by a third
32 party, and the Treasurer of State, or assigns, must have a perfected first
33 security interest in the collateral;

34 (6) certificates of deposit, savings accounts, deposit accounts
35 or money market deposits, all of which are fully insured by the FDIC;

1 (7) bonds or notes issued by the State or any municipality,
2 county or school district, community college district or regional solid waste
3 management district in the State, or any agency or instrumentality thereof;

4 (8) investment agreements with financial institutions or
5 insurance companies which are rated in one of the two highest rating
6 categories of a nationally recognized rating agency;

7 (9) repurchase agreements providing for the transfer of
8 securities from a dealer bank or securities firm (seller/borrower) to the
9 Treasurer of State (buyer/lender), and the transfer of cash from the
10 Treasurer of State to the dealer bank or securities firm with an agreement
11 that the dealer bank or securities firm will repay the cash plus a yield to
12 the Treasurer of State in exchange for the securities at a specified date.
13 Repurchase agreements must satisfy the following criteria:

14 (A) Repurchase agreements must be between the Treasurer of
15 State and a dealer bank or securities firm described as follows:

- 16 (i) Dealers with at least \$100 million in capital, or
17 (ii) Banks whose deposits are insured by the FDIC.

18 (B) The written repurchase agreement contract must include
19 the following:

20 (i) Securities which are acceptable for transfer are
21 those listed in clauses (1) through (3) of this subsection.

22 (ii) The term of the repurchase agreement may be up
23 to 30 days.

24 (iii) The collateral must be delivered to the
25 Treasurer of State, trustee (if trustee is not supplying the collateral) or
26 third party acting as agent for the trustee (if the trustee is supplying the
27 collateral) before/simultaneous with payment (perfection by possession of
28 certificated securities).

29 (iv) Valuation of Collateral: The securities must
30 be valued weekly, marked-to-market at current market price plus accrued
31 interest. The value of collateral must be equal to 103% of the amount of cash
32 transferred by the Treasurer of State to the dealer bank or security firm
33 under the repurchase agreement plus accrued interest. If the value of
34 securities held as collateral declines below 103% of the value of the cash
35 transferred by the Treasurer of State, then additional cash and/or acceptable

1 securities must be transferred and held by the Treasurer of State.

2 (10) any other investment authorized by State law.

3

4 SECTION 11. The Bonds shall be the direct general obligations of the
5 State, for the payment of debt service on which the full faith and credit of
6 the State are hereby irrevocably pledged so long as any such Bonds are
7 outstanding. The Bonds shall be payable from the general revenues of the
8 State, and such amount of general revenues of the State as is necessary is
9 hereby pledged to the payment of debt service on the Bonds, and shall be and
10 remain pledged for such purposes.

11

12 SECTION 12. On or before commencement of each fiscal year, the Chief
13 Fiscal Officer of the State shall determine the estimated amount required for
14 payment of all or a part of the debt service on the Bonds issued under this
15 Act during such fiscal year, after making deductions therefrom of estimated
16 moneys to be available to the Commission from other sources therefor, and
17 shall certify such estimated amount to the Treasurer of State. The Treasurer
18 of State shall then make monthly transfers from the State Apportionment Fund
19 to the Bond Fund, of such amount of general revenues of the State as shall be
20 required to pay the maturing debt service on Bonds issued under this Act.

21 The obligation to make monthly transfers of general revenues of the
22 State from the State Apportionment Fund to the Bond Fund shall constitute a
23 first charge against such general revenues of the State prior to all other
24 uses to which such general revenues of the State are devoted, either under
25 present law or under any laws that may be enacted in the future; provided,
26 however, that to the extent other general obligation bonds of the State may
27 have been issued or may subsequently be issued, all such general obligation
28 bonds shall rank on a parity of security with respect to payment from general
29 revenues of the State.

30 Moneys credited to the Bond Fund shall be used only for the purpose of
31 paying debt service on the Bonds, either at maturity or upon redemption prior
32 to maturity, and for such purposes the Treasurer of State is hereby designated
33 Disbursing Officer to administer such funds in accordance with the provisions
34 of this Act.

35 Moneys in the Bond Fund over and above the amount necessary to insure

1 the prompt payment of debt service on the Bonds, and the establishment and
2 maintenance of a reserve fund, if any, may be used for the redemption of Bonds
3 prior to maturity in the manner and in accordance with the provisions
4 pertaining to redemption prior to maturity, as set forth in the resolution or
5 trust indenture authorizing or securing the Bonds.

6

7 SECTION 13. All Bonds issued under this Act, and interest thereon,
8 shall be exempt from all State, county and municipal taxes, including income,
9 inheritance and property taxes. The Bonds shall be eligible to secure
10 deposits of all public funds, and shall be legal for investment of bank,
11 fiduciary, insurance company, trust, and public funds.

12

13 SECTION 14. (a) Bonds may be issued under this Act for the purpose of
14 refunding any outstanding bonds issued pursuant to this Act or to refund any
15 outstanding bonds of the Commission issued pursuant to the Prior Acts. The
16 Commission shall not be required to include Bonds issued pursuant to this
17 Section in any written plan submitted to the Governor under Section 2(b) of
18 this Act, and such Bonds shall not be subject to the requirements for the
19 approval and proclamation of the Governor as set forth in Section 2(c).

20 (b) The refunding bonds may be either sold for cash or delivered in
21 exchange for the outstanding obligations. If sold for cash, the proceeds may
22 be either applied to the payment of the obligations refunded or deposited in
23 irrevocable trust for the retirement thereof either at maturity or on an
24 authorized redemption date.

25 (c) Refunding bonds shall in all respects be authorized, issued, and
26 secured in the manner provided for the bonds being refunded, and shall have
27 all the attributes of the refunded bonds. To the extent that the refunding
28 bonds are not in a greater principal amount than the bonds being refunded, the
29 principal amount of such refunding bonds shall not be subject to the
30 \$300,000,000 limit set forth in Section 2 (a) or the \$60,000,000 limit set
31 forth in Section 2(b) of this Act.

32 (d) The resolution or trust indenture of the Commission under which
33 the refunding bonds are issued shall provide that any refunding bonds shall
34 have the same priority of payment as was enjoyed by the obligations refunded
35 thereby.

1

2 SECTION 15. The Commission, in addition to powers conferred under
3 other laws, shall have the power under this Act to take such action as may be
4 appropriate to carry out the purposes of this Act, and including the power:

5 (a) to develop Projects;

6 (b) to operate and maintain Projects;

7 (c) to acquire absolute title to and use for any purpose and at any
8 place, water stored in any reservoir, or other impoundment;

9 (d) to acquire, collect, impound, store, transport, distribute, sell,
10 furnish and dispose of water to any person at any place;

11 (e) to purify, treat and process water;

12 (f) to assist Local Entities in the preparation of their premises for
13 the use of water furnished by the Commission and to construct upon such
14 premises Project properties of any kind and character and, in connection
15 therewith, to receive, acquire, endorse, pledge, hypothecate and dispose of
16 notes, bonds, and other evidences of indebtedness;

17 (g) to use the bed of any watercourse without adversely affecting
18 existing riparian rights, any highway or any right-of-way, easement or other
19 similar property rights, or any tax forfeited land owned or held by the State
20 or by any political subdivision thereof;

21 (h) to provide loans and grants from Bond proceeds or Project
22 revenues to Local Entities for payment of Project Costs in order for the Local
23 Entity receiving such funds to develop a Project;

24 (i) to purchase with Bonds proceeds or Project revenues bonds or notes
25 from a Local Entity in order to provide funds for payment of Project Costs in
26 order for the Local Entity receiving such funds to develop a Project, and to
27 enter into note and bond purchase agreements in connection therewith;

28 (j) to appropriate amounts from Bond proceeds to satisfy State
29 matching requirements for federal grants, subsidies and revolving loan funds
30 established by the Congress of the United States for the purpose of
31 facilitating water, waste disposal, water pollution control, abatement and
32 prevention, drainage, irrigation, flood control, wetlands, central
33 administrative and research projects;

34 (k) to appropriate amounts from Bond proceeds for the matching of
35 moneys provided pursuant to other laws, including particularly, without

1 limitation, Arkansas Code of 1987 Annotated; Title 15, Chapter 22, Subchapter
2 5; Title 15, Chapter 22, Subchapter 8; Title 14, Chapter 230, Subchapter 1;
3 Title 15, Chapter 5, Subchapter 10; and Title 15, Chapter 5, Subchapter 9;

4 (l) to construct or cause to be constructed, lease as lessee, lease
5 as lessor, and in any manner acquire, own, hold, maintain, operate, sell,
6 dispose of, exchange, mortgage, or lend with respect to all or any part of any
7 Project;

8 (m) to acquire, own, hold, use, exercise, sell, mortgage, pledge,
9 hypothecate, and in any manner to dispose of franchises, rights, privileges,
10 licenses, rights-of-way and easements necessary, useful, or appropriate for
11 the exercise of the powers or implementation of the purposes set forth in this
12 Act;

13 (n) to sell and convey, mortgage, pledge, lease as lessor, enter into
14 lease-purchase agreements with respect to, and otherwise dispose of all or any
15 part of any Project or other properties, tangible or intangible, including,
16 without limitation, franchises, rights, privileges, licenses, rights-of-way
17 and easements;

18 (o) to have and exercise the right of eminent domain for the purpose
19 of acquiring lands (the fee title thereto or any easement, right-of-way or
20 other interest or estate therein) for Projects or portions thereof, by the
21 procedure now provided for condemnation by municipal corporations by Act No.
22 269 of 1957, as amended, codified as A.C.A. §§ 18-15-401 et seq.;

23 (p) to make or accept gifts or grants of moneys, services,
24 franchises, rights, privileges, licenses, rights-of-way, easements or other
25 property, real or personal or mixed;

26 (q) to make any and all contracts necessary or convenient for the
27 exercise of the powers or implementation of the purposes set forth in this
28 Act;

29 (r) to fix, regulate and collect rates, fees, rents or other charges
30 for the use of any properties or services furnished by the Commission, and
31 with respect thereto the Commission shall not be subject to the jurisdiction
32 or control of the Arkansas Public Service Commission;

33 (s) to require audits of all accounts related to construction,
34 operation, or maintenance of any Project funded by this Act;

35

1 (t) to take reasonable actions necessary to insure that debt service
2 requirements are met;

3 (u) to refinance loans made by the Commission from whatever source to
4 Local Entities in order to develop a Project;

5 (v) to provide loans from *Bond* proceeds or Project revenues to Local
6 Entities for the purpose of refinancing indebtedness of the Local Entity
7 incurred for the purpose of developing a Project;

8 (w) to purchase with Bond proceeds or Project revenues bonds or notes
9 from a Local Entity in order to provide funds to refinance indebtedness
10 incurred by a Local Entity for the purpose of developing a Project; and

11 (x) to take such other action as may be appropriate to accomplish the
12 purposes of this Act.

13

14 SECTION 16. This Act shall constitute a contract between the State and
15 the registered owners of all Bonds issued hereunder which shall never be
16 impaired, and any violation of its terms, whether under purported legislative
17 authority or otherwise, shall be enjoined by the courts at the suit of any
18 bondholder or any taxpayer. The courts shall, in like suit against the
19 Commission, *Authority*, the Treasurer of State, or other appropriate agency,
20 officer or official of the State, prevent a diversion of any revenues pledged
21 hereunder and shall compel the restoration of diverted revenues, by injunction
22 or mandamus. Also, and without limitation as to any other appropriate remedy
23 at law or in equity, any bondholder may, by an appropriate action, including
24 without limitation, injunction or mandamus, compel the performance of all
25 covenants and obligations of the State, its officers and officials, hereunder.

26

27 SECTION 17. (a) This Act shall not create any right of any character
28 and no right of any character shall arise under or pursuant to it, unless and
29 until the first series of Bonds authorized by this Act shall have been sold
30 and delivered.

31 (b) The issuance of Bonds authorized by this Act shall not impair or
32 affect any outstanding bonds of the Commission issued pursuant to the Prior
33 Acts.

34

35 SECTION 18. No Bonds shall be issued under this Act except by and with

1 the consent of a majority of the qualified electors of the State voting on
2 the question in substantially the form described in this Section at the
3 general election of 1996 unless the Governor shall, by proclamation, call a
4 special election to be conducted prior thereto. If the question is presented
5 at the general election of 1996, notice thereof shall be published by the
6 Secretary of State in a newspaper of general circulation in the State at least
7 sixty (60) days prior to the general election, and notice thereof shall be
8 mailed to each county board of election commissioners and the sheriff of each
9 county at least sixty (60) days prior to the general election.

10 If a special election is called by the Governor, the proclamation
11 thereof shall be made at least sixty (60) days prior to the date fixed by such
12 proclamation for the election, and notice of the special election shall be
13 given by publication of the proclamation for one insertion in one newspaper of
14 general circulation published in each county in the State not less than
15 thirty (30) days prior to the date of such election. If there is no newspaper
16 regularly published in a county, the proclamation may be published in any
17 newspaper having a general circulation in the county. It shall not be
18 necessary, in the case of the notice or proclamation for the election, to
19 publish this Act in its entirety, but the notice or proclamation shall state
20 that it is issued for the purpose of submitting to the people substantially
21 the following question:

22 Shall the Arkansas Soil and Water Conservation Commission, *either*
23 *directly or through the Arkansas Development Finance Authority*, be authorized
24 to issue General Obligation Bonds under the authority of the Arkansas Water,
25 Waste Disposal, Pollution Abatement, Administrative and Research Facilities
26 Financing Act of 1995 in total principal amount not to exceed Three Hundred
27 Million Dollars (\$300,000,000), in series from time to time in principal
28 amounts not to exceed, without prior approval of the General Assembly, Sixty
29 Million Dollars (\$60,000,000) in any fiscal biennium, for the financing and
30 refinancing of the development of water, waste disposal, water pollution
31 control, abatement and prevention, drainage, irrigation, flood control and
32 wetlands projects, and central administrative and research facilities for the
33 Arkansas Soil and Water Conservation Commission, which Bonds shall be secured
34 by a pledge of the full faith and credit of the State of Arkansas?

35 Whether the question is presented at special election or at the general

1 election of 1996, the title of this Act shall be the ballot title, and there
2 shall be printed on the ballot the proposition as stated above, and the
3 following:

- 4 FOR Issuance of General Obligation Bonds _____
- 5 AGAINST Issuance of General Obligation Bonds _____

6 The county boards of election commissioners of the several counties of
7 the State shall hold and conduct the election, and each such board is hereby
8 authorized and directed to take such action with respect to the appointment of
9 election officials and such other matters as the law requires; and the vote
10 shall be canvassed and the result thereof declared in each county by such
11 several county boards. The results shall within ten (10) days after the date
12 of the election be certified by such county boards to the Secretary of State
13 who shall forthwith tabulate all returns so received by him and certify to the
14 Governor the total vote for and against the proposition submitted as in this
15 Section provided.

16 The result of the election shall be proclaimed by the Governor by
17 publication one time in a newspaper published in the City of Little Rock,
18 Arkansas, and the results as proclaimed shall be conclusive unless attacked in
19 the courts within thirty (30) days after the date of such publication.

20

21 SECTION 19. If a majority of the qualified electors voting on the
22 question shall vote for the issuance of the Bonds, the Commission, *either*
23 *directly or through the Arkansas Development Finance Authority*, shall proceed
24 with the sale and the issuance of the Bonds as provided in this Act. If a
25 majority of the qualified electors voting on the question vote against the
26 issuance of the Bonds, none of the Bonds authorized by this Act shall ever be
27 sold or issued, and all provisions of the Act shall be of no further effect.

28

29 SECTION 20. The authority to issue bonds under Section 2 of this Act in
30 an aggregate principal amount not to exceed Three Hundred Million Dollars
31 (\$300,000,000) shall be reduced by the principal amount of bonds issued for
32 non-refunding purposes under the Prior Acts after the effective date of this
33 Act.

34

35 SECTION 21. If, for any reason, any Section or provision of this Act

1 shall be held to be unconstitutional or invalid for any reason, such holding
2 shall not effect the remainder of this Act, but this Act, insofar as it is not
3 in conflict with the Constitution of the State or the Constitution of the
4 United States, shall be permitted to stand, and the various provisions of this
5 Act are hereby declared to be severable for that purpose. Any case involving
6 the validity of this Act or involving the Bonds issued hereunder, shall be
7 deemed of public interest and shall be advanced by all courts and heard as a
8 preferred cause, and all appeals from judgments or decrees rendered in such
9 cases must be taken within thirty (30) days after rendition of such judgment
10 or decree.

11

12 SECTION 22. (a) This Act shall be liberally construed to accomplish the
13 purposes thereof. This Act shall constitute the sole authority necessary to
14 accomplish the purposes hereof, and to this end it shall not be necessary that
15 the provisions of other laws pertaining to the development of public
16 facilities and properties and the financing thereof be complied with.

17 (b) This Act shall be interpreted to supplement existing laws
18 conferring rights and powers upon the Commission *and the Authority*, and the
19 rights and powers set forth herein shall be regarded as alternate methods for
20 the accomplishment of the purposes of this Act.

21 (c) Nothing set forth in this Act shall be construed to repeal or to
22 reduce the powers conferred by the Prior Acts.

23

24 SECTION 23. All provisions of this Act of a general and permanent
25 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
26 Code Revision Commission shall incorporate the same in the Code.

27

28 SECTION 24. If any provision of this act or the application thereof to
29 any person or circumstance is held invalid, such invalidity shall not affect
30 other provisions or applications of the act which can be given effect without
31 the invalid provision or application, and to this end the provisions of this
32 act are declared to be severable.

33

34 SECTION 25. All laws and parts of laws in conflict with this Act are
35 hereby repealed.

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/s/Malone

APPROVED: 4-12-95