

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

# A Bill

SENATE BILL 432

## For An Act To Be Entitled

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

## Subtitle

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

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

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

1

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

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

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

1 by the Governor for the fiscal biennium.

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

9

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

25

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

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

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

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

1 buildings, improvements, machinery, equipment, or other properties of  
2 whatever nature, real, personal or mixed;

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

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

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

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

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

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

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

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

32 (l) "pollution abatement" means reduction, prevention, recycling,  
33 control or elimination by appropriate methods of such contamination, or other  
34 alteration of the physical, chemical or biological properties, of any waters  
35 of the State, or of such discharge of any liquid, gaseous or solid substance

1 as will or is likely to create a nuisance or render any waters of the State  
2 harmful or detrimental or injurious to public health, safety or welfare, or  
3 to domestic, commercial, industrial, agricultural, recreational, or other  
4 legitimate beneficial uses, or to livestock, wild animals, birds, fish or  
5 other aquatic life;

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

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

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

33 (p) "Revenue Classification Law of Arkansas" means Act No. 808 of  
34 1973, as now or hereafter amended, codified as A.C.A. §§ 19-6-101 et seq.;

35 (q) "Revenue Stabilization Law of Arkansas" means Act No. 750 of 1973,

1 as now or hereafter amended, codified as A.C.A. §§ 19-5-101 et seq.;

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

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

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

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

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

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

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

19

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

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

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

35 (d) The Bonds may be issued in such form; may be in such

1 denominations; and may be made exchangeable for Bonds of another form or  
2 denomination, bearing the same rate of interest and date of maturity; may be  
3 made payable at such places within or without the State; may be made subject  
4 to redemption prior to maturity in such manner and for such redemption  
5 prices; and may contain such other terms and conditions, all as the *Issuer*  
6 determine.

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

10

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

18

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

32 (b) Any resolution or trust indenture adopted or executed under this  
33 Section shall provide that power is reserved to apply to the payment of debt  
34 service on the Bonds issued or secured thereunder all or any part of the  
35 revenues which may be derived from any Project financed by such Bonds; and,

1 to the extent of such revenues which the *Issuer* elects to apply to debt  
2 service, to release from any requirement of such resolution or trust  
3 indenture other revenues and resources of the State, including, without  
4 limitation, the general revenues of the State required to be transferred  
5 under Section 12 hereof.

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

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

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



1 hereby and designated as follows:

2           (1) into the Water, Waste Disposal, Pollution Abatement,  
3 Administrative and Research Facilities Construction Fund (the "Construction  
4 Fund"), to provide for the financing, refinancing or development of Projects  
5 as provided herein, and the payment of the costs and expenses of the issuance  
6 of the Bonds;

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

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

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

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

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

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

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

30           (4) Development of Projects to be leased to or operated by Local  
31 Entities.

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

34           (6) Establishment of funds, including revolving funds (i.e.,  
35 funds for the lending of money to be repaid into such funds) for the

1 development of Projects.

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

4           (8) Matching of moneys provided pursuant to other laws,  
5 including Arkansas Code of 1987 Annotated; Title 15, Chapter 22, Subchapter  
6 5; Title 15, Chapter 22, Subchapter 8; Title 14, Chapter 230, Subchapter 1;  
7 Title 15, Chapter 5, Subchapter 10; and Title 15, Chapter 5, Subchapter 9.

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

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

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

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

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

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

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

32           (5) certificates of deposit providing for deposits secured at  
33 all times by collateral described in clauses (1) through (3) of this  
34 subsection. Such certificates must be issued by commercial banks whose  
35 deposits are insured by the FDIC and whose collateral must be held by a third

1 party, and the Treasurer of State, or assigns, must have a perfected first  
2 security interest in the collateral;

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

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

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

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

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

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

23           (B) The written repurchase agreement contract must  
24 include the following:

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

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

29           (iii) The collateral must be delivered to the  
30 Treasurer of State, trustee (if trustee is not supplying the collateral) or  
31 third party acting as agent for the trustee (if the trustee is supplying the  
32 collateral) before/simultaneous with payment (perfection by possession of  
33 certificated securities).

34           (iv) Valuation of Collateral: The securities must  
35 be valued weekly, marked-to-market at current market price plus accrued

1 interest. The value of collateral must be equal to 103% of the amount of  
2 cash transferred by the Treasurer of State to the dealer bank or security  
3 firm under the repurchase agreement plus accrued interest. If the value of  
4 securities held as collateral declines below 103% of the value of the cash  
5 transferred by the Treasurer of State, then additional cash and/or acceptable  
6 securities must be transferred and held by the Treasurer of State.

7 (10) any other investment authorized by State law.  
8

9 SECTION 11. The Bonds shall be the direct general obligations of the  
10 State, for the payment of debt service on which the full faith and credit of  
11 the State are hereby irrevocably pledged so long as any such Bonds are  
12 outstanding. The Bonds shall be payable from the general revenues of the  
13 State, and such amount of general revenues of the State as is necessary is  
14 hereby pledged to the payment of debt service on the Bonds, and shall be and  
15 remain pledged for such purposes.  
16

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

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

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

6 Moneys in the Bond Fund over and above the amount necessary to insure  
7 the prompt payment of debt service on the Bonds, and the establishment and  
8 maintenance of a reserve fund, if any, may be used for the redemption of  
9 Bonds prior to maturity in the manner and in accordance with the provisions  
10 pertaining to redemption prior to maturity, as set forth in the resolution or  
11 trust indenture authorizing or securing the Bonds.

12

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

18

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

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

31 (c) Refunding bonds shall in all respects be authorized, issued, and  
32 secured in the manner provided for the bonds being refunded, and shall have  
33 all the attributes of the refunded bonds. To the extent that the refunding  
34 bonds are not in a greater principal amount than the bonds being refunded,  
35 the principal amount of such refunding bonds shall not be subject to the

1 \$300,000,000 limit set forth in Section 2 (a) or the \$60,000,000 limit set  
2 forth in Section 2(b) of this Act.

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

7

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

11 (a) to develop Projects;

12 (b) to operate and maintain Projects;

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

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

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

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

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

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

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

35 (j) to appropriate amounts from Bond proceeds to satisfy State

1 matching requirements for federal grants, subsidies and revolving loan funds  
2 established by the Congress of the United States for the purpose of  
3 facilitating water, waste disposal, water pollution control, abatement and  
4 prevention, drainage, irrigation, flood control, wetlands, central  
5 administrative and research projects;

6 (k) to appropriate amounts from Bond proceeds for the matching of  
7 moneys provided pursuant to other laws, including particularly, without  
8 limitation, Arkansas Code of 1987 Annotated; Title 15, Chapter 22, Subchapter  
9 5; Title 15, Chapter 22, Subchapter 8; Title 14, Chapter 230, Subchapter 1;  
10 Title 15, Chapter 5, Subchapter 10; and Title 15, Chapter 5, Subchapter 9;

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

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

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

25 (o) to have and exercise the right of eminent domain for the purpose  
26 of acquiring lands (the fee title thereto or any easement, right-of-way or  
27 other interest or estate therein) for Projects or portions thereof, by the  
28 procedure now provided for condemnation by municipal corporations by Act No.  
29 269 of 1957, as amended, codified as A.C.A. §§ 18-15-401 et seq.;

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

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

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

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

7

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

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

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

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

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

20

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

34

35 SECTION 17. (a) This Act shall not create any right of any character



1 and no right of any character shall arise under or pursuant to it, unless and  
2 until the first series of Bonds authorized by this Act shall have been sold  
3 and delivered.

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

7

8 SECTION 18. No Bonds shall be issued under this Act except by and  
9 with the consent of a majority of the qualified electors of the State voting  
10 on the question in substantially the form described in this Section at the  
11 general election of 1996 unless the Governor shall, by proclamation, call a  
12 special election to be conducted prior thereto. If the question is presented  
13 at the general election of 1996, notice thereof shall be published by the  
14 Secretary of State in a newspaper of general circulation in the State at  
15 least sixty (60) days prior to the general election, and notice thereof shall  
16 be mailed to each county board of election commissioners and the sheriff of  
17 each county at least sixty (60) days prior to the general election.

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

30 Shall the Arkansas Soil and Water Conservation Commission, *either*  
31 *directly or through the Arkansas Development Finance Authority*, be authorized  
32 to issue General Obligation Bonds under the authority of the Arkansas Water,  
33 Waste Disposal, Pollution Abatement, Administrative and Research Facilities  
34 Financing Act of 1995 in total principal amount not to exceed Three Hundred  
35 Million Dollars (\$300,000,000), in series from time to time in principal

1 amounts not to exceed, without prior approval of the General Assembly, Sixty  
2 Million Dollars (\$60,000,000) in any fiscal biennium, for the financing and  
3 refinancing of the development of water, waste disposal, water pollution  
4 control, abatement and prevention, drainage, irrigation, flood control and  
5 wetlands projects, and central administrative and research facilities for the  
6 Arkansas Soil and Water Conservation Commission, which Bonds shall be secured  
7 by a pledge of the full faith and credit of the State of Arkansas?

8       Whether the question is presented at special election or at the general  
9 election of 1996, the title of this Act shall be the ballot title, and there  
10 shall be printed on the ballot the proposition as stated above, and the  
11 following:

12               FOR Issuance of General Obligation Bonds ..... \_\_\_\_\_  
13               AGAINST Issuance of General Obligation Bonds ..... \_\_\_\_\_

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

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

28

29       SECTION 19. If a majority of the qualified electors voting on the  
30 question shall vote for the issuance of the Bonds, the Commission, *either*  
31 *directly or through the Arkansas Development Finance Authority*, shall proceed  
32 with the sale and the issuance of the Bonds as provided in this Act. If a  
33 majority of the qualified electors voting on the question vote against the  
34 issuance of the Bonds, none of the Bonds authorized by this Act shall ever be  
35 sold or issued, and all provisions of the Act shall be of no further effect.

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

SECTION 21. If, for any reason, any Section or provision of this Act shall be held to be unconstitutional or invalid for any reason, such holding shall not effect the remainder of this Act, but this Act, insofar as it is not in conflict with the Constitution of the State or the Constitution of the United States, shall be permitted to stand, and the various provisions of this Act are hereby declared to be severable for that purpose. Any case involving the validity of this Act or involving the Bonds issued hereunder, shall be deemed of public interest and shall be advanced by all courts and heard as a preferred cause, and all appeals from judgments or decrees rendered in such cases must be taken within thirty (30) days after rendition of such judgment or decree.

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

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

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

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

1           SECTION 24. If any provision of this act or the application thereof to  
2 any person or circumstance is held invalid, such invalidity shall not affect  
3 other provisions or applications of the act which can be given effect without  
4 the invalid provision or application, and to this end the provisions of this  
5 act are declared to be severable.

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

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*/s/Malone*

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