AN ACT
RELATING TO SPECIAL DISTRICTS; PROVIDING FOR THE CREATION OF A
REGIONAL WATER AND WASTEWATER AUTHORITY; ESTABLISHING
POWERS AND DUTIES; ENACTING SECTIONS OF THE NMSA 1978.

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

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

Section 2. PURPOSE OF REGIONAL WATER AND WASTEWATER
AUTHORITY.--A regional water and wastewater authority may be created for the purpose of:
A. purchasing, acquiring, operating, establishing or constructing waterworks
to supply water for domestic, commercial and industrial purposes by any available means to
persons within and without the boundary of the authority;
B. purchasing, acquiring, establishing, operating or constructing wastewater
systems for the treatment and disposal of sewage, or for the management of decentralized or
on-site wastewater disposal systems; or
C. planning, developing, managing, maintaining or coordinating the
development of regional water and wastewater facilities.

Section 3. DEFINITIONS.-- As used in this Act:
A. "authority" means a regional water and wastewater authority that is
established pursuant to the Regional Water and Wastewater Authority Act;

B. "board" means the board of directors of an authority;

C. “county special district commission” means a special district commission convened pursuant to the Special District Procedures Act, Sections 4-53-1 through 4-53-11 NMSA 1978;

D. “qualified elector” means any person whose affidavit of voter registration has been filed by the county clerk, who is registered to vote in a general election precinct established by the board of county commissioners that is wholly or partly within the boundary of the authority, and who resides within the boundary of the authority; and

E. “service area” means all lands within the boundary of an authority.

Section 4. REGIONAL WATER AND WASTEWATER AUTHORITY—CREATION.—

A. A regional water and wastewater authority may be established by:

1. petition to a county special district commission by at least fifty (50) percent of the qualified electors of the proposed authority, or

2. petition to a county special district commission by two or more of the following: a water and sanitation district, a mutual domestic water consumer association, a water and natural gas association, a water user’s association, a municipal water and sewer utility, a county water and sewer utility, a metropolitan water board, a municipal or county improvement district, a public improvement district, a cooperative association, any investor-owned water work or any nonprofit corporation created for the purpose of providing water or wastewater service.

B. The establishing petition shall describe the need for the creation of the authority and the boundary of the proposed authority in accordance with Section 9 herein.

C. The petition shall be submitted to the county special district commission for review pursuant to sections 4-53-1 through 4-53-11 NMSA 1978.

1. Prior to the hearing of the county special district commission, that
commission shall notify the state engineer, the attorney general, the public regulation
commission and the department of environment of the hearing to be held for creation
of the authority by mailing notice addressed to the same, such notice to be deposited in
the mail not less than ten days prior to the date set for the hearing, and the state
engineer, the attorney general, the public regulation commission and the department of
environment may appear and be heard at the hearing.

2. Prior to the hearing of the county special district commission,
petitioners shall notify all water and wastewater service providers that are regulated by
the department of environment, and that serve within the proposed boundary of the
authority, of the hearing to be held on creation of the authority by mailing notice
addressed to same, such notice to be deposited in the mail not less than ten days prior
to the date set for the hearing, and those entities may appear and be heard at the
hearing.

D. At any time after the filing of the petition for the organization of an
authority and before the day fixed for the hearing on it, the owner of any taxable property
within the proposed authority may file a petition with the county special district commission
stating reasons why the property should not be included in the authority and requesting that the
property be excluded from it. The petition shall be signed by the owner and verified and shall
describe the property sought to be excluded. The county special district commission shall hear
the petition and all objections to it at the time of the hearing on the petition for organization
and shall determine whether the property should be excluded or included in the authority.

E. If the county special district commission approves the formation of
the authority, the commission shall declare the authority organized, subject to any
modifications or conditions it may designate. The county special district commission shall
appoint the initial board of directors, giving due consideration to requests of the petitioners
regarding the initial board.

F. Within thirty days after the declaration of the county special district
commission establishing the authority, any person who is adversely affected by the formation
of the authority may appeal the declaration to the district court.

1. Upon appeal, the district court shall set aside the county special
district commission’s action only if it is found to be:

   a. arbitrary, capricious or an abuse of discretion,
   b. not supported by substantial evidence in the record, or
   c. otherwise not in accordance with law.

2. After a hearing and a showing of good cause by the appellant, a
stay of the action being appealed may be granted pending the outcome of the judicial
review.

3. If no appeal to the district court is filed within the thirty day appeal
period, or if the district court renders judgment in favor of the authority, the authority
shall be authorized to commence service.

G. No provision of this act shall be construed to permit the creation of a
regional water or wastewater authority in any county where a regional water and wastewater
authority operates by virtue of this act or Section 72-1-10 and where such authority serves
more than seventy percent of the population of such county, without the approval of the
existing authority.

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

A. A regional water and wastewater authority shall be governed by a board of
directors. The board shall consist of five directors who reside within the boundary of the
authority. The initial board of directors shall be appointed by the county special district
commission. Members of the initial board shall serve until their successors are elected in
accordance with the provisions of this section.

B. Board members shall be elected on a districted basis. Each director, at the
time of election, must reside within the electoral district from which that director is elected.
The boundaries of electoral districts shall be established by the initial board so that each district contains, as nearly as possible, substantially the same population based on the most recent federal census and otherwise according to law. Redistricting shall occur within two (2) years following any decennial census showing a disparity of greater than ten (10) percent between the populations of any two electoral districts. In addition, the board may at its discretion provide for redistricting upon any change in the authority’s boundary resulting in a significant increase or decrease in the population of any electoral district.

C. During the next general election following the creation of an authority, five directors shall be elected by the qualified electors of the authority. Two directors shall serve an initial two-year term, and thereafter the directors elected to those positions shall serve a four-year term. Selection of the directors to serve an initial two-year term shall be made by lot after the election. The other three directors shall serve a term of four years. Thereafter, directors shall serve staggered terms of four years. Directors shall be limited to serving two consecutive four-year terms.

D. Elections shall be conducted by the clerk of the county in which the majority of the lands of the authority lie, and shall be governed by sections 1-24-1 through 1-24-4 NMSA 1978, and may be by paper ballot or by mail-in balloting.

E. If a seat on the board becomes vacant, the remaining members of the board shall, by a majority vote, appoint a qualified elector from the same electoral district to serve the remainder of the unexpired term.

F. The board may remove a director from the board for cause shown after notice and hearing, as provided by an established removal policy in the bylaws of the authority.

Section 6. BOARD—ORGANIZATION—OFFICERS—DUTIES.—

A. The board shall elect one of its members as chairperson of the board and shall elect a secretary and a treasurer of the board who may or may not be members of the board. A secretary or treasurer who is not a member of the board may not vote on matters
before the board. The secretary and treasurer may be one person.

B. The secretary shall keep a record of all of the board’s proceedings and all corporate acts, which shall be open to inspection to all members of the public.

C. The treasurer shall keep strict and accurate accounts of all money received by and disbursed for and on behalf of the authority, in permanent records. The treasurer shall file with the county clerk, at the expense of the authority, a corporate fidelity bond in a sum equal to twenty percent of the total revenue projected for the fiscal year in the authority’s current budget, as approved by the department of finance and administration, conditioned on the faithful performance of the duties of the office.

D. Members of the board shall serve without compensation, except per diem, unless otherwise provided by petition creating the authority, until and unless a majority of the full board adopts a board compensation policy. In no case shall the annual compensation of board members exceed fifty percent (50%) of the statutory salary for county commissioners of the county in which the majority of the lands of the authority lie.

E. The board shall meet once each month at a time and place to be designated by the board. Special meetings may be held upon notice to each member of the board and as often as the needs of the authority require.

F. Each member of the board shall complete board member training as determined by regulations of the department of environment.

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

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

1. adoption of board policies and procedures;

2. ratification of acquisition of property;

3. initiation or continuation of legal action, except that initiation and filing of liens for unpaid rates and charges, suits for payment thereof, and discontinuance of
service for failure to pay such rates and charges, may be delegated;

4. establishment of policies regarding fees, tolls, rates or charges; and

5. issuance of revenue bonds.

B. The board shall promulgate and adhere to policies and procedures that govern its conduct.

C. A director of the board having a financial interest or possible interest in the outcome of any policy, decision or determination before the board shall, within a reasonable time after such interest becomes apparent and in no case later than at the time of the taking of a vote on the issue in which the director has a financial interest or possible interest, disclose to the other directors, at a public meeting of the board, the nature of the financial interest or possible interest in the issue and the disclosure shall be recorded in the minute book of the board; provided, however, that a director’s status as a ratepayer or customer of the authority shall not be deemed to constitute a financial interest or possible interest for the purposes of this section. Disclosure of such interest in any issue coming before the board shall disqualify the member from voting on the issue unless a majority of the remaining board members determine that the member who discloses such interest may in propriety vote on the issue.

D. In addition to all other powers conferred by the Regional Water and Wastewater Authority Act, the board may:

1. adopt bylaws;

2. fix the time and place of meetings and the method of providing notice of the meetings;

3. make and pass orders, resolutions, policies, rules and regulations necessary for the government and management of the affairs of the authority and the execution of the powers vested in the authority;

4. maintain offices at a place as the board may designate; and

5. appoint, hire and retain employees and agents.
Section 8. POWERS OF AUTHORITY.--An authority is a body politic and
corporate, and a political subdivision of the state, subject to all statutory requirements thereof.
In addition to other powers granted to the authority pursuant to the Regional Water and
Wastewater Authority Act, the authority may:

A. have perpetual existence;
B. sue and be sued;
C. enter into contracts and agreements affecting the affairs of the authority;
D. borrow money and issue bonds in accordance with the provisions of this act;
E. refund any bonded indebtedness or revenue bonds of the authority;
F. acquire, dispose of or encumber real and personal property and any interest
in them, including leases, easements and water rights;
G. design, develop, construct, operate, maintain or contract for water and
wastewater systems, sources and distribution, and pipelines to interconnect systems and
sources and the authority’s customers;
H. collect, treat and recover wastewater and apply for and receive return flow
credits for such activity;
I. undertake regional water and wastewater planning, alone or with other
water or wastewater service providers, including water plans as set forth in 72-1-9 NMSA
1978;
J. promulgate an on-site wastewater management plan. For health and
sanitary purposes, the board shall have the power to promulgate and to compel compliance
with regulations and standards relating to design, installation, maintenance, repair and removal
of on-site wastewater treatment systems. Such regulations and standards shall be consistent
with and no less stringent than any adopted by the department of environment;
K. have and exercise the power of eminent domain and, in the manner
provided by law for the condemnation of private property for public use with just
compensation, take any property necessary for rights-of-way and the use and placement of facilities within the boundary of the authority;

L. construct and maintain works and establish and maintain facilities across or along any public street or highway and through any vacant public lands which are the property of the state; construct works and establish and maintain facilities across any stream of water or watercourse; all in accordance with applicable state and federal permitting authority;

M. fix and from time to time increase or decrease water and sewer rates, fees or other charges for water delivery, wastewater disposal, or other related services or facilities operated or made available by the authority.

1. Until paid, all rates, tolls or charges constitute a perpetual lien on and against the property served, and any such lien may be foreclosed in the same manner as provided by the laws of New Mexico for the foreclosure of real estate mortgages and shall not be subject to any limitations period, statutory or otherwise.

2. The board shall prescribe and enforce rules by which properties shall be connected with and disconnected from the facilities of the authority, to include payment plans to avoid discontinuing service to delinquent accounts.

3. After giving reasonable notice, the board shall shut off or discontinue service for unauthorized connections, illegal connections, or connections for which rates, tolls, or other charges are delinquent in payment. The board may file suit in a court of competent jurisdiction to recover costs associated with an unauthorized, illegal or delinquent connection, including the cost of water delivered, charges for connection and disconnection, damages and attorney’s fees.

4. For health and sanitary purposes, the board shall have the power to compel the owners of inhabited property within the territory of an authority to connect their property with the water or wastewater system of the authority, and, upon a failure so to connect within sixty days after written notice by the board, the board may cause the connection to be made and a lien to be filed against the property for the expense
incurred in making the connection; provided, however, that no owner shall be
compelled to connect the owner’s property with such system unless a service line is
brought by the authority to a point within four hundred feet of the nearest lot line; and
to compel the connection of any new development that lies partially or wholly within
the service area of the authority to the authority’s water or wastewater system pursuant
to the authority’s existing line extension policy; and

N. have and exercise all rights and powers necessary or incidental to or
implied from the specific powers granted in this section. Such specific powers shall not be
considered as a limitation upon any power necessary or appropriate to carry out the purposes
and intent of the Regional Water and Wastewater Authority Act.

Section 9. REGIONAL WATER AND WASTEWATER AUTHORITY--
TERRITORY AND EXCLUSIVE RIGHT TO PROVIDE SERVICE--JOINING AN
AUTHORITY--COOPERATION WITH ADJOINING COUNTIES

A. A regional water and wastewater authority shall have the exclusive right to
provide water and wastewater services within its service area; provided that:

1. any entity providing water or wastewater services as of July 1,
2007, to members or customers within the authority’s service area may continue to
serve such customers or members served as of that date, and

2. any extension of water or wastewater service by an entity described
in subsection 1 of this section, that is planned and fully funded as of the date that the
authority is created, and is completed within eighteen months of the same date, shall
likewise be excluded from the authority’s service area.

B. No authority shall provide water or wastewater services

1. within the boundaries of any municipality, except upon the specific
written consent of the municipality;

2. within five miles of the boundary of any municipality, except upon
the specific written consent of the municipality; or
3. to any municipality’s water or wastewater service customers that
are located more than five miles outside the boundaries of the municipality, except
upon the specific written consent of the municipality.

C. Areas annexed by a municipality after July 1, 2007, which are within the
service area of an authority, shall remain part of the authority’s service area.

Section 10. INCLUSION

A. Owners of real property may petition the board, in writing, for inclusion of
their property in the authority. The petition shall:

1. seek inclusion of lands contiguous with the boundary of the
   authority;

2. be signed by a majority of the qualified electors residing on the
   lands proposed for inclusion;

3. be accompanied by a map showing the boundary of the lands
   proposed for inclusion and the relationship of such lands to the existing boundary of the
   authority.

B. The board shall hear the petition and any objections to it at a regular
meeting or a special meeting called for that purpose. Prior to the hearing, the secretary of the
board shall notify all qualified electors residing on lands proposed for inclusion, the state
engineer, the attorney general, the public regulation commission and the department of
environment of the petition and the hearing by depositing a copy of the petition and notice of
the time and place of the hearing in the mail, not less than ten days prior to the date set for the
hearing. Notice of the petition and the hearing shall also be published throughout the county
or counties in which the lands proposed for inclusion are located. The board shall hear and
consider the petition and all objections, either in person or in writing. The failure of any
person to raise their objection at the hearing, either in person or in writing, shall constitute that
person’s assent to the inclusion of lands as petitioned. If the petition is granted, the board shall
make a resolution to that effect and file it with the county clerk, and the lands shall thereupon
be included in the authority.

C. Within thirty days after the filing of the resolution with the county clerk, any person owning land within the territory newly included in the authority may appeal the inclusion to the district court.

1. Upon appeal, the district court shall set aside the board’s action only if it is found to be:

   a. arbitrary, capricious or an abuse of discretion,
   b. not supported by substantial evidence in the record, or
   c. otherwise not in accordance with law.

2. After a hearing and a showing of good cause the appellant, a stay of the action being appealed may be granted pending the outcome of the judicial review.

3. If no appeal to the district court is filed within that thirty day period, or if the court renders judgment in favor of the authority, the inclusion shall be authorized.

D. The authority may accept a transfer of assets and liabilities following the legal dissolution of any entity formed pursuant to one the following statutes, subject to any other statutory requirements for such dissolution and transfer:

1. 73-21-1 NMSA 1978 (Water and Sanitation District)
2. 3-28-1 NMSA 1978 (Water and Natural Gas Association)
3. 73-5-1 NMSA 1978 (Water Users’ Association)
4. 53-8-1 NMSA 1978 (Nonprofit Corporation)
5. 5-11-1 NMSA 1978 (Public Improvement District)
6. 62-2-1 NMSA 1978 (Investor-owned Waterworks)
7. 53-11-1 NMSA 1978 (Investor-owned Uility)
8. 53-4-1 NMSA 1978 (Cooperative Association)
9. 3-29-1 NMSA 1978 (Mutual Domestic Community Water
E. The board may initiate proceedings to include territory contiguous with the authority by petitioning the county special district commission pursuant to sections 4-53-1 through 4-53-11 NMSA 1978. Prior to the hearing of the county special district commission on the petition, the commission shall notify the state engineer, the attorney general, the public regulation commission and the department of environment of such hearing by mailing notice addressed to the same, such notice to be deposited in the mail not less than ten days prior to the date set for the hearing, and the state engineer, the attorney general, the public regulation commission and the department of environment may appear and be heard at the hearing.

F. At any time after the filing of the petition for the inclusion of territory to an authority and before the day fixed for the hearing on it, the owner of any taxable property within the proposed authority may file a petition with the county special district commission stating reasons why the property should not be included in the authority and requesting that the property not be included in it. The petition shall be signed by the owner and verified and shall describe the property sought to be excluded from inclusion. The county special district commission shall hear the petition and all objections to it at the time of the hearing on the petition for inclusion and shall determine whether the property should be included in the authority.

G. If the county special district commission approves the inclusion of territory in the authority, that commission shall declare the new boundary of the authority.

H. Within thirty days after the declaration of the county special district commission establishing the new boundary of the authority, any person who is adversely affected by the inclusion of territory in the authority may appeal the declaration to the district court.

1. Upon appeal, the district court shall set aside the county special district commission’s action only if it is found to be:

   a. arbitrary, capricious or an abuse of discretion,
b. not supported by substantial evidence in the record, or
c. otherwise not in accordance with law.

2. After a hearing and a showing of good cause by the appellant, a
stay of the action being appealed may be granted pending the outcome of the judicial
review.

3. If no appeal to the district court is filed within that thirty day period, or if
the court renders judgment in favor of the authority, the inclusion shall be authorized.

Section 11. SALE OF ASSETS
A. An authority may sell or otherwise dispose of all or any part of its water rights,
real property or permanent facilities only upon the affirmative vote of a two-thirds majority of
the qualified electors voting in an election called for the purpose of determining whether to sell
or otherwise dispose of such property. Any such proposed sale or other disposition and the
determination to hold an election thereon shall be authorized by resolution adopted by the
affirmative vote of a majority of all members of the board of directors. The resolution shall
describe the intended use of the proceeds from the sale of assets.
B. Sale or disposal of any other property of the authority may be authorized by a
majority vote of the board of directors.
C. The elections described in subsection A shall be conducted by the county clerk
pursuant to sections 1-24-1 through 1-24-4 NMSA 1978, and may be by paper ballot or by
mail-in balloting.

Section 12. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF
REVENUES--LIMITATION ON TIME OF ISSUANCE.--
A. Revenue bonds may be issued by the authority

1. for acquiring real and personal property needed for an authority
project, including the purchase of water rights,
2. for constructing, extending, enlarging, bettering, repairing,
equipping or otherwise improving a water or wastewater project,
3. for establishing or increasing reasonable reserve or sinking funds to secure the payment of the bonds,
4. to pay costs of issuance of the bonds,
5. to refund revenue bonds, or
6. for any combination of those purposes. The authority may pledge irrevocably any or all of the net revenues from the operation of the water or wastewater system for payment of the interest on and principal of the revenue bonds.

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

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

D. If required by the terms, covenants and provisions of revenue bonds or other obligations previously issued by the authority, all additional bonds or other obligations issued or incurred by the authority pursuant to the Regional Water and Wastewater Authority Act shall contain any required terms, covenants or provisions necessary to avoid impairment of the previously issued or incurred bonds or other obligations.

Section 13. USE OF PROCEEDS OF REVENUE BOND ISSUE.--It is unlawful to divert, use or expend any money received from the issuance of revenue bonds for any purpose other than the purpose for which the revenue bonds were issued.

Section 14. REVENUE BONDS--TERMS.--Revenue bonds:
A. may have interest, appreciated principal value or any part thereof payable at intervals or at maturity as may be determined by the authority;
B. may be subject to prior redemption at the authority's option at such time or
times and upon such terms and conditions with or without the payment of such premium or
premiums as may be determined by the authority;

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

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

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

F.  may be sold at public or negotiated sale.

Section 15.  EXEMPTION FROM TAXATION.--The bonds authorized by the
Regional Water and Wastewater Authority Act and the income from the bonds shall be exempt
from all taxation by the state or any political subdivision of the state.

Section 16.  RESOLUTION AUTHORIZING REVENUE BONDS.--
A.  At a regular or special meeting called for the purpose of issuing revenue
bonds, the board may, by an affirmative vote of a majority of all members of the board, adopt
a resolution that authorizes the issuance of revenue bonds.

B.  The revenue bonds and the bond resolution authorizing their issuance shall
be approved by the state board of finance prior to the issuance of the bonds.  The authority
may request the state board of finance to approve the bond resolution prior to the sale of the
bonds.

Section 17.  REVENUE BONDS NOT GENERAL OBLIGATIONS--
AUTHENTICATION.--
A.  Revenue bonds or refunding revenue bonds issued as authorized in the
Regional Water and Wastewater Authority Act are:

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

(2) collectible only from the pledged net revenues of the water or wastewater system, and each bond shall state that it is payable solely from the pledged net revenues of the water or wastewater system and that the bondholders may not look to any other fund of the state or political subdivision of the state for the payment of the interest and principal of the bond.

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

Section 18. REVENUE BONDS--MANDATORY RATES FOR THE WATER OR WASTEWATER SYSTEM--MANDAMUS--IMPAIRMENT OF PAYMENT.--

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

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

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

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

B. In the event the authority fails or refuses to establish rates for the water or wastewater system as required in this section, any bondholder may apply to the district court or courts within which the system is located for a mandatory order requiring the authority to establish rates that will provide revenues adequate to meet the requirements of this section.

C. Any law that authorizes the pledge of any or all of the pledged water or wastewater system net revenues to the payment of any revenue bonds issued pursuant to the
Regional Water and Wastewater Authority Act or that affects the pledged net revenues of the
water or wastewater system, or any law supplemental to or otherwise appertaining to that act,
shall not be repealed or amended or otherwise directly or indirectly modified in such a manner
as to impair adversely any such outstanding revenue bonds, unless the outstanding revenue
bonds have been discharged in full or provision has been fully made for payment of the bonds.

Section 19. REVENUE BONDS--REFUNDING AUTHORIZATION.--

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

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

C. Bonds for refunding and bonds for any purpose permitted by the Regional
Water and Wastewater Authority Act may be issued separately or issued in combination in one
series or more.

Section 20. REFUNDING BONDS--ESCROW--DETAILED.--

A. Refunding bonds issued pursuant to the Regional Water and Wastewater
Authority Act shall be authorized by resolution. Any bonds that are refunded pursuant to the
provisions of this section shall be paid at maturity or on any permitted prior redemption date in
the amounts, at the times and places and, if called prior to maturity, in accordance with any
applicable notice provisions, all as provided in the proceedings authorizing the issuance of the
refunded bonds or otherwise pertaining to the bonds, except for any such bond that is
voluntarily surrendered for exchange or payment by the holder or owner.

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

C. The proceeds of refunding bonds, including any accrued interest and
premium pertaining to the sale of refunding bonds, shall either be immediately applied to the
retirement of the bonds being refunded or be placed in escrow in a commercial bank or trust
company, that possesses and is exercising trust powers and which is a member of the federal
deposit insurance corporation, to be applied to the payment of the principal of, interest on and
any prior redemption premium due in connection with the bonds being refunded; provided that
such refunding bond proceeds, including any accrued interest and any premium pertaining to a
sale of refunding bonds, may be applied to the establishment and maintenance of a reserve
fund and to the payment of expenses incidental to the refunding and the issuance of the
refunding bonds, the interest on the bonds and the principal of the bonds or both interest and
principal as the authority may determine. Nothing in this section requires the establishment of
an escrow if the refunded bonds become due and payable within one year from the date of the
refunding bonds and if the amounts necessary to retire the refunded bonds within that time are
deposited with the paying agent for the refunded bonds. Any such escrow shall not necessarily
be limited to proceeds of refunding bonds but may include other money available for its
purpose. Any proceeds in escrow pending such use may be invested or reinvested in 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 of America
or in certificates of deposit of banks that are members of the federal deposit insurance
corporation, the par value of which certificates of deposit is collateralized by a pledge of
obligations of or the payment of which is unconditionally guaranteed by the United States of
America, the par value of which obligations is at least seventy-five percent of the par value of
the certificates of deposit. Such proceeds and investments in escrow together with any interest
or other income 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 being refunded as they become due at their
respective maturities or due at any designated prior redemption date or dates in connection
with which the authority shall exercise a prior redemption option. Any purchaser of any
refunding bond is in no manner responsible for the application of the proceeds thereof by the
authority or any of its officers, agents or employees.

D. Refunding bonds may bear such additional terms and provisions as may be
determined by the authority and the refunding bonds shall not be subject to the provisions of
any other statute except as may be incorporated by reference in the Regional Water and
Wastewater Authority Act.

Section 21. REFUNDING REVENUE BONDS--TERMS.--Refunding revenue
bonds:

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

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

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

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

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

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

Section 23. PUBLIC REGULATION COMMISSION JURISDICTION.--
A. An authority organized under the provisions of the Regional Water and Wastewater Authority Act is not subject to the jurisdiction of the public regulation commission or the terms and provisions of the Public Utility Act except as provided in Subsection B of this section.

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

Section 24. EFFECTIVE DATE.—The effective date of the provisions of this act is July 1, 2007.