HOUSE BILL

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

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO SPECIAL DISTRICTS; ALLOWING THE ESTABLISHMENT OF
ELECTORAL DISTRICTS FOR WATER AND SANITATION DISTRICTS;
PROVIDING FOR DISTRICT BOARD POWERS AND DUTIES; REQUIRING
DISCLOSURE OF FINANCIAL INTERESTS AND CONFLICTS OF INTEREST BY
BOARD MEMBERS; DEFINING THE SERVICE AREA OF A DISTRICT;
CHANGING THE PURPOSES OF A DISTRICT; PROVIDING FOR DEFINITIONS;
CHANGING HOW DISTRICTS MAY BE FORMED; CHANGING DISTRICT
ELECTION PROVISIONS; PROVIDING PROCEDURES FOR CHALLENGING THE
FORMATION OF A DISTRICT; ALLOWING COMPENSATION OF BOARD
MEMBERS; ESTABLISHING THE TERMS OF BOARD MEMBERS; PROVIDING
PROCEDURES FOR INCREASING THE NUMBER OF BOARD MEMBERS TO FIVE;
CHANGING PROCUREMENT PROCEDURES; PROVIDING PROCEDURES BY WHICH
LANDOWNERS AND CERTAIN ENTITIES MAY JOIN A DISTRICT; PROVIDING
EXCEPTIONS TO THE COMMUNITY SERVICE DISTRICT ACT; REQUIRING
VOTER APPROVAL OF SALE OF DISTRICT WATER AND WASTEWATER

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

Section 1. A new section of the Water and Sanitation District Act is enacted to read:

"[NEW MATERIAL] BOARD ELECTORAL DISTRICTS--CREATION--REDISTRICTING--

A. A district may, upon its own motion, or shall, upon petition to the board by two-thirds of the voters of the district, choose to elect its board members on a districted basis. The boundaries of electoral districts shall be established so that each electoral district contains, as nearly as possible, substantially the same population based on the most recent federal decennial census.

B. Redistricting of a districted board shall be required within two years following a federal decennial census showing a disparity of greater than ten percent between the populations of any two electoral districts. In addition, the board may at its discretion provide for redistricting upon a change in the district's boundaries that results in a significant increase or decrease in the population of an electoral district.

C. Members of a districted board shall be elected
for staggered terms. At the next scheduled board election following the adoption of the resolution to district, the voters of each electoral district shall elect a representative to the board. Following the election, board members shall classify themselves by lot so that two board members shall initially serve two-year terms and three shall serve four-year terms. Thereafter, members shall serve four-year terms.

Section 2. A new section of the Water and Sanitation District Act is enacted to read:

"[NEW MATERIAL] BOARD--DELEGATION OF POWER--CONFLICT OF INTEREST--DISCLOSURE OF FINANCIAL INTERESTS.--

A. All powers, privileges and duties vested in or imposed upon the district 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 bonds.

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

C. A member 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 the interest becomes apparent and in no case later than at the time of the taking of a vote on the issue in which that member has a financial interest or possible interest, disclose to each of the other members 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 member's status as a taxpayer, ratepayer or customer of the district shall not be deemed to constitute a financial interest or possible interest for the purposes of this section.

D. Disclosure of financial interest or possible interest on any issue coming before the board shall not disqualify a member of the board from voting on the issue, unless:

1. a majority of the remaining members of the board determines that the member who discloses a financial interest or possible interest should not in propriety vote on the issue; or

2. the member having a financial interest or
possible interest in the issue voluntarily disqualifies the member's self."

Section 3. A new section of the Water and Sanitation District Act is enacted to read:

"[NEW MATERIAL] SERVICE AREA.--Except for those areas that are annexed by a municipality after July 1, 2007 and are within the service area of a district, a district shall not provide water or wastewater services within the boundaries of any municipality, nor shall any district provide service to any municipal water or wastewater service customers that are served by the municipality on or before July 1, 2007 and are located outside the boundaries of the municipality, except upon the specific written consent of the municipality for the district to provide such service."

Section 4. Section 73-21-3 NMSA 1978 (being Laws 1943, Chapter 80, Section 2, as amended) is amended to read:

"73-21-3. PURPOSE OF WATER AND SANITATION DISTRICTS.--Water and sanitation districts may be created for the purpose of:

A. purchasing, acquiring, establishing, operating or constructing waterworks to supply water for domestic, commercial, [and] fire protection or industrial purposes by any available means to persons within and without the boundaries of the district. For this purpose, any district has the power to extend its water lines outside the boundaries of the district.
for the purpose of securing a source of water supply or for the
purpose of supplying the water to any lands of the United
States, New Mexico or Indian reservations for use by any
person, firm or corporation;

B. purchasing, acquiring, establishing, operating
or constructing sanitary sewers, on-site wastewater management
systems or a system of sewage treatment and disposal, garbage
or refuse disposal and recycling;

C. purchasing, acquiring, establishing or
constructing streets and street improvements, including without
limitation grades, regrades, gravel, oiling, surfacing,
macadamizing, paving, crosswalks, sidewalks, driveway
approaches, curbs, gutters, culverts, drains, sewers, manholes,
inlets, outlets, retaining walls, bridges, overpasses, tunnels,
underpasses, approaches, artificial lights and lighting
equipment, parkways, grade separators, traffic separators and
traffic-control equipment and all appurtenances and incidentals
or any combination of them, including real and other property
for them;

D. establishing or constructing park and
recreational improvements;

E. purchasing, acquiring, establishing,
constructing or operating other public facilities or economic
development projects; [ex]

F. managing on-site wastewater treatment systems
for the health and welfare of residents; or

[F–] G. all of the improvements in Subsections A through [E] F of this section or any combination of them within or without the district."

Section 5. Section 73-21-4 NMSA 1978 (being Laws 1943, Chapter 80, Section 3, as amended) is amended to read:

"73-21-4. DEFINITIONS.—As used in the Water and Sanitation District Act:

[A. "sewage disposal" includes all constructions for collection, transportation, pumping, treatment and final disposition of sewage;]

A. "board" means the board of directors of a district;

B. "commission" means a county special district commission, convened in accordance with the Special District Procedures Act, of the county or counties in which the lands of a proposed district lie;

[B–] C. "district" means a water and sanitation district that is established pursuant to [that act and that is either entirely within or partly within and partly without one or more counties, provided those parts or parcels of the district lying in two or more counties are contiguous with one another, and further provided, a district created pursuant to a petition signed by the board of county commissioners of a county shall be entirely within that county] the Water and
Sanitation District Act;

[6. "board" means the board of directors of a
district;

D. "taxpaying elector of a district", "qualified
elector" or "elector" means a person registered to vote in any
precinct in the state, who:

(1) is a resident of the district;

(2) is a nonresident of the district who pays,
or will be liable for paying, rates, tolls or charges set by
the board; or

(3) is a nonresident of the district who
either has paid or incurred a general tax liability on real
property within the district in the twelve months immediately
preceding a designated time or event or who is purchasing real
property within the district under a real estate contract where
a property tax has been paid or incurred on the real property
in the twelve months immediately preceding a designated time or
event; and]

D. "electoral district" means a subdivision of a
district from which a board member is elected by the voters who
are residents of that subdivision;

E. "publication" means once a week for three
consecutive weeks in at least one newspaper of general
circulation in the county in which all or the major portion of
the district is located. It is not necessary that publication
be made on the same day of the week in each of the three weeks, but not less than fourteen days, excluding the day of first publication, shall intervene between the first publication and the last publication, and publication shall be complete on the date of the last publication;

   F. "service area" means the area within the boundaries and the area within one mile of the boundaries of a district;

   G. "sewage disposal" includes constructions for collection, transportation, pumping, treatment and final disposition of sewage; and

   H. "voter" means a qualified elector who is a resident of and registered to vote in the district."

Section 6. Section 73-21-5 NMSA 1978 (being Laws 1943, Chapter 80, Section 4, as amended) is amended to read:

"73-21-5. ORGANIZATION OF DISTRICT.--[Subject] Pursuant to the procedures set forth in the Special District Procedures Act [where applicable, the district court sitting in and for any county in this state], county special district commissions may establish districts [which may be entirely within or partly within and partly without the judicial district in which the court is located] that are located in one or more counties of the state; provided, any part or parcels of [the] a district lying in two or more counties shall be contiguous with one another."
Section 7. Section 73-21-6 NMSA 1978 (being Laws 1943, Chapter 80, Section 5, as amended) is amended to read:

"73-21-6. PETITION.--

A. The organization of a district shall be initiated:

(1) by a petition filed in the office of the county clerk of the county in which all or part of the real property in the proposed district is situated. The petition shall be signed by not less than twenty-five percent of the voters of the district, none of whom shall be an officer, director or shareholder of any business entity with an economic interest in the subdivision and sale of land within the district; or

(2) after adoption of a resolution by the county authorizing the filing of a petition, that county may file a petition that shall be signed by the chair of the board of county commissioners. The petition and all other instruments relating to the formation of a district shall be filed with the county clerk of the county in which all or a portion of the proposed district is located.

B. The petition shall set forth:

(1) the name of the proposed district consisting of a chosen name preceding the words "water and
sanitation district;

(2) a general description of the improvements to be constructed or installed within and for the district;

(3) the estimated overall cost of the proposed improvements to be constructed or installed within and for the district;

(4) an estimated time table for the completion of all intended improvements;

(5) the need for the creation of the district and the construction or installation of improvements, stating the nature and extent of the anticipated use of the improvements by persons [presently] currently residing on land within the district and the nature and extent of the anticipated use of the improvements due to future development;

(6) a general description of the boundaries of the district or the territory to be included in it, with such certainty as to enable a property owner to determine whether or not [his] the owner's property is within the district; and

(7) the salary, if any, that the members of the board shall receive for their services; provided, however, that no member of the board shall receive a salary in excess of five dollars ($5.00) per day for each day while in actual attendance upon his duties; and

(8) [7] a request for the organization of the district.
C. No petition with the requisite signatures shall be [declared void] rejected on account of alleged defects, but the [court] commission may at any time permit the petition to be amended to conform to the facts by correcting any errors in the description of the territory or in any other particular. Similar petitions or duplicate copies of the same petition for the organization of the same district may be filed and shall together be regarded as one petition. All such petitions filed prior to the hearing on the first petition filed shall be considered by the [court] commission the same as though filed with the first petition placed on file."

Section 8. Section 73-21-8 NMSA 1978 (being Laws 1943, Chapter 80, Section 7, as amended) is amended to read:

"73-21-8. NOTICE OF HEARING ON PETITION.--[Upon approval] Prior to hearing of the [county special district] commission as provided in the Special District Procedures Act [where applicable, the court shall fix a place and time, not less than twenty days nor more than forty days after receipt of the decision of the county special district commission, for hearing thereon, and thereupon the clerk of the court shall cause notice by publication to be made of the pendency of the petition and of the time and place of hearing thereon. The clerk of the court shall also forthwith cause a copy of the notice to be mailed by United States registered mail to the board of county commissioners of each of the several counties
and], the commission shall notify the state engineer, attorney
genral and [the health and social services] department of
environment of the hearing to be held for the creation of the
district by mailing notice addressed to [the same] them, 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,
attorney general and [the health and social services]
department of environment may appear and be heard at the
hearings."

Section 9. Section 73-21-9 NMSA 1978 (being Laws 1943,
Chapter 80, Section 8, as amended) is amended to read:

"73-21-9. HEARING ON PETITIONS--ELECTION FOR ORGANIZATION
AND OFFICERS.--

A. On or before the day fixed for the hearing or at
an adjournment of it, the [court shall ascertain from the tax
rolls of the county in which the district is located or into
which it extends, from the last official registry list and from
any other evidence that may be adduced, the total number of
taxpaying electors] commission shall obtain from the county
clerk a list of the voters of the proposed district.

B. If the [commission] finds that no petition
has been signed and presented in conformity with the Water and
Sanitation District Act, or that the material facts are not as
set forth in the petition filed, it shall dismiss the
proceedings [and adjudge the costs against the signers of the
petition or, if applicable, the board of county commissioners of a county, in the proportion as it deems just and equitable. No appeal or suit of error shall lie from an order dismissing the proceedings; but]. Nothing in that act shall prevent the filing of a subsequent petition for similar improvements or for a similar district, and the right to renew the [proceeding] petition is expressly granted and authorized.

C. At any time after the filing of the petition for the organization of a district and before the day fixed for the hearing on it, the owner of any taxable property within the proposed district may file a petition with the [court] commission stating reasons why the property should not be included in the district 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 [court] 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 district.

D. In determining whether or not the petition for the creation of a [water and sanitation] district shall be granted, the [district court] commission shall consult and request an opinion from:

(1) the state engineer to determine whether the proposed district has adequate water rights to implement...
the proposed improvements; and

(2) the [environmental improvement division of the] department of environment to determine, as to the technological feasibility of the proposed improvements, whether the water proposed to be supplied is of an acceptable quality to conform with the state regulations and whether the liquid and solid waste disposal proposals can conform with state regulations.

E. The [court] commission may deny the petition or may order the petition to be modified if the [court] commission, after hearing on the petition, finds that:

(1) the proposed water and sewage improvements cannot conform with the state regulations;

(2) the water and [sewage] wastewater system improvements cannot be implemented within a reasonable time taking into consideration applications for state and federal grants;

(3) there is lacking an actual or impending need for the water and [sewage] wastewater system improvements proposed; or

(4) the boundaries of the proposed district contain land that has no actual or impending need for the water and [sewage] wastewater system improvements or cannot be reasonably expected to utilize the water and [sewage] wastewater system improvements, unless the land is otherwise
required to be included in the proposed district by rule or
regulation of a federal agency.

F. Upon the hearing, if it appears that a petition
for the organization of a district has been properly signed and
presented and that the allegations of the petition are true,
the [court] commission shall order that the question of the
organization of the district be submitted to the [taxpaying
electors] voters of the proposed district as set forth in the
petition, as the boundaries were modified by the [court]
commission in determining that only property to be benefited by
the proposed improvements should be included within the
boundaries of the district, at an election to be held for that
purpose [and the order]. The county clerk shall designate one
or more polling places within the proposed district, and for
each polling place so designated, shall appoint three
[taxpaying electors] voters of the district as judges of the
election and two [taxpaying electors] voters of the district as
clerks of the election. The county clerk [of the court having
jurisdiction] shall give published notice of the time and place
of an election to be held in the district not less than twenty
days after the first publication of the notice.

G. The election shall be held [and] by the clerk of
the county in which the majority of the land of the proposed
district lies and shall be conducted as nearly as possible in
the same manner as general elections in this state. [No
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special registration for the election is required, but for the
purpose of determining qualifications of electors, the judges
may use official records, and, in addition, they may require
the execution of an affidavit concerning the qualifications of
any elector.]

H. At the election, the [taxpaying electors] voters
of the proposed district shall vote for or against the
organization of the district [and if in favor thereof] and
shall vote for [three taxpaying] five qualified electors of the
district, who shall constitute the board of directors of the
district, [one] three to act until the first biennial election
[one] and two until [two years and one until four years after]
the subsequent biennial election, except that at the election
in a county where the petition for the district was signed by
the [chairman] chair of the board of county commissioners, the
[taxpaying electors] voters of the district shall vote only for
or against the organization of the district. The distribution
of partial terms shall be determined by lot after the election.

I. The judges of the election shall certify the
returns of the election to the [district court having
jurisdiction] county clerk. If a majority of the votes cast at
the election [are] is in favor of the organization, the
[district court] county clerk shall declare the district
organized and give it a corporate name, by which in all
proceedings it shall thereafter be known, and designate the
first board of directors elected, except that a district
created pursuant to a petition signed by the [chairman] chair
of the board of county commissioners of a county shall appoint
the first board of directors as provided in Section 73-21-15.1
NMSA 1978. The county clerk shall publish notice of the
declaration of organization once in a newspaper general
circulation in the county or counties where the district is
located. Thereupon the district shall be a governmental
subdivision of the state, except a district created pursuant to
a petition signed by the [chairman] chair of the board of
county commissioners of a county, which district shall be a
subdivision of the county. Every district shall be a body
corporate with all the powers of a public or quasi-municipal
corporation.

J. [If an order is entered establishing the
district, the order is final and no appeal or writ of error
shall lie therefrom, and the entry of the order shall finally
and conclusively establish the regular organization of the
district against all persons except the state, in an action in
the nature of a writ of quo warranto, commenced by the attorney
general within thirty days after the decree declaring the
district organized.] Within thirty days after the publication
of the declaration of organization of the district, any person
may appeal to the district court questioning the validity of
the formation proceedings. If no appeal to the district court

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is filed within thirty days after the publication of the
declaration, or if the court renders judgment in favor of the
district, the formation of the district shall be final. The
organization of the district shall not be directly or
collaterally questioned in any suit, action or proceeding
except as expressly authorized in the Water and Sanitation
District Act."

Section 10. Section 73-21-10 NMSA 1978 (being Laws 1943,
Chapter 80, Section 9) is amended to read:

"73-21-10. FILING DECREE.--Within thirty days after the
[said district has been declared a corporation by the court,
the clerk of the court shall transmit to] expiration of the
period for appeal subsequent to a successful formation
election, the county clerk [and recorder] in each of the
counties in which the district [or a part thereof may be or
extend] lies shall file copies of the [findings and the decree
of the court incorporating said] declaration of the county
clerk establishing the district. [The same] They shall be
filed in the same manner as articles of incorporation are now
required to be filed under the general laws concerning
corporations [and]. The county clerk [and recorder] in each
county shall receive a fee of one dollar ($1.00) for filing and
preserving [the same] them."

Section 11. Section 73-21-12 NMSA 1978 (being Laws 1943,
Chapter 80, Section 11) is amended to read:
"73-21-12. ORGANIZATION OF BOARD--MEETINGS--[VACANCIES--
ELECTION OF OFFICERS] COMPENSATION--TRAINING--REMOVAL.--

A. After taking oath [and filing bonds], the board
shall choose one of its members as [chairman] chair of the
board and president of the district and shall elect a secretary
and a treasurer of the board and of the district, who may or
may not be members of the board. The secretary and treasurer
may be one person. [Such board shall adopt a seal and]

B. The secretary shall keep in a well-bound book a
record of all its proceedings, minutes of all meetings,
certificates, contracts, bonds given by employees and all
corporate acts, which shall be open to inspection of all owners
of real property in the district, as well as to all other
interested parties.

C. The treasurer shall keep strict and accurate
accounts of all money received by and disbursed for and on
behalf of the district in permanent records. [He] The
treasurer shall file with the county clerk [of court], at the
expense of the district, a corporate fidelity bond in an amount
[not less than ($5,000)] sufficient to protect the district's
assets, conditioned on the faithful performance of the duties
of [his] office. The amount of the bond shall be approved by
the department of finance and administration.

D. The members of the board shall serve without
compensation unless [otherwise provided by the petition and
order creating the district. Members shall be allowed their actual and necessary expenses incurred in performance of their duties] a majority of the board institutes a compensation policy; provided that the annual compensation of board members shall not exceed fifty percent of the statutory salary for county commissioners of the county in which the majority of the lands of the district lie.

E. Each member of the board of directors of the district shall complete board member training as determined by rules of the department of environment.

F. The court having jurisdiction of the district shall have the power to remove directors for cause shown on petition, notice and hearing."

Section 12. Section 73-21-13 NMSA 1978 (being Laws 1943, Chapter 80, Section 12, as amended) is amended to read:

"73-21-13. MEETINGS.--The board shall meet at least once each month at a time and place to be designated by the board. Special meetings may be held as often as the needs of the district require on notice to each member of the board. A majority of the board shall constitute a quorum at any meeting. Any vacancy on a board elected by [taxpaying electors] voters of the district shall be filled by appointment by the remaining members or member of the board, the appointee to act until the [next biennial election] expiration of the term of the member creating the vacancy, when the vacancy shall be filled by
election. Any vacancy on a board appointed by a board of
county commissioners shall be filled in the same manner as
original appointments, in accordance with Section
73-21-15.1 NMSA 1978, the appointee to act until the end of the
term of the member creating the vacancy. [If the board or a
board of county commissioners fails to fill any vacancy within
thirty days after it occurs, the court having jurisdiction
shall fill the vacancy.]

Section 13. Section 73-21-14 NMSA 1978 (being Laws 1943,
Chapter 80, Section 13, as amended) is amended to read:

"73-21-14. ELECTIONS.--

A. In any district, except a district created
pursuant to a petition signed by the [chairman] chair of the
board of county commissioners of a county, on the second
Tuesday of January in the second calendar year after the
organization of the district and on the second Tuesday of
January every second year thereafter, there shall be elected by
the [taxpaying electors] voters of the district [one member]
two or three members of the board, as needed, to replace board
members whose terms have expired to serve for a term of [six
years, except that if the district elects to adopt four year
terms, the member shall serve for a term of] four years.

B. In any district created pursuant to a petition
signed by the [chairman] chair of the board of county
commissioners of a county, [one year] two years after the

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organization of the district and every second year thereafter, there shall be elected by the [taxpaying electors] voters of the district at least two, but no more than three, members of the board to serve for a term of [two] four years.

C. Not later than thirty days before any election pursuant to [Subsections] Subsection A or B of this section, nominations may be filed with the [secretary of the board] county clerk, and, if a nominee does not withdraw [his] the nominee's name before the first publication of the notice of election, [his] the name shall be placed on the ballot. The [board] county clerk shall provide for holding [such] the election and shall appoint judges to conduct it. The [secretary of the district] county clerk shall give notice of election by publication and shall arrange [such] other details in connection [therewith] to it as the board may direct. The returns of the election shall be certified [to] by the election judges and shall be canvassed and declared by the [board] county clerk. The [candidate] candidates receiving the most votes shall be elected. [Any new member of the board shall qualify in the same manner as members of the first board qualify.]

Section 14. Section 73-21-15 NMSA 1978 (being Laws 1977, Chapter 326, Section 2, as amended) is amended to read:

"73-21-15. BOARD INCREASE--SPECIAL ELECTION.--

A. In any district where [members of the] a three-
member board [are] is elected by the [taxpaying] electors of the district [within six months of July 1, 1981], the board may, upon its own motion, or [upon petition to the board] shall, if petitioned by two-thirds of the [qualified electors] voters of the district, [shall call] request the county clerk to place on the ballot at a regular or a special election [for the purpose of deciding] the question of whether to increase the membership of the board to five members.

B. If [at the special election] a majority of the [qualified electors vote] voters votes in favor of the proposal, the board shall appoint two members who shall serve until the next regularly scheduled election of the district, when the two appointed positions shall be filled by election. [Of the two new board vacancies, one person shall be elected for a term of two years and one person shall be elected for a term of four years. The successors of these two board members shall be elected for four-year terms.] The newly elected board members shall classify themselves by lot to serve initial terms of two or four years such that the terms of no more than three members of the board will expire in one year. Thereafter, all members shall serve terms of four years."

Section 15. Section 73-21-15.1 NMSA 1978 (being Laws 1985, Chapter 155, Section 8, as amended) is amended to read:

"73-21-15.1. BOARD--DISTRICT CREATED BY A BOARD OF COUNTY COMMISSIONERS.--Notwithstanding any other provision of the
Water and Sanitation District Act relating to election of the board, all members of the first board of any district created pursuant to a petition signed by the chairman of the board of county commissioners of a county on or after July 1, 2007 shall be appointed by the board of county commissioners. The board shall consist of five directors who are qualified electors of the district appointed for staggered terms so that the terms of two directors expire in one year and the terms of three directors expire in two years. Thereafter, all directors shall be elected to four-year terms pursuant to the provisions of the Water and Sanitation District Act. Any director appointed by any board of county commissioners shall be eligible for election, provided that no member of a board shall serve more than two consecutive terms."

Section 16. Section 73-21-16 NMSA 1978 (being Laws 1943, Chapter 80, Section 14, as amended) is amended to read:

"73-21-16. GENERAL POWERS.--For and on behalf of the district, the board shall have the following powers:

A. to have perpetual existence;
B. to have and use a corporate seal;
C. to sue and be sued and be a party to suits, actions and proceedings;
D. except as otherwise provided in the Water and Sanitation District Act, to enter into contracts and agreements

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affecting the affairs of the district, including contracts with
the United States and any of its agencies or instrumentalities;
[Except in cases in which a district will receive aid from a
governmental agency, a notice shall be published for bids on
all construction contracts for work or material or both
involving an expense of five thousand dollars ($5,000) or more.
The district may reject any and all bids, and if it appears
that the district can perform the work or secure material for
less than the lowest bid, it may proceed to do so]

E. to borrow money and incur indebtedness and
evidence the indebtedness by certificates, notes or debentures
and to issue bonds in accordance with the provisions of [that]
the Water and Sanitation District Act;

F. to acquire, dispose of and encumber real and
personal property, water rights, water and sewer works,
wastewater management systems and plants and any interest in
them, including leases and easements;

G. to refund any bonded indebtedness or revenue
bonds of the district without an election in accordance with
the provisions of [that] the Water and Sanitation District Act;

H. to have the management, control and supervision
of all the business and affairs of the district and the
construction, installation, operation and maintenance of
district improvements;

I. to hire and retain agents, employees, engineers
and attorneys;

J. to have and exercise the power of eminent domain
and dominant eminent domain and, in the manner provided by law
for the condemnation of private property for public use, to
take any property necessary to the exercise of the powers
granted in [that] the Water and Sanitation District Act, both
within and without the district;

K. to construct and maintain works and establish
and maintain facilities across or along any public street or
highway and in, upon or over any vacant public lands, which
public lands are now or may become the property of the state,
and to construct works and establish and maintain facilities
across any stream of water or watercourse; provided, however,
that the district shall promptly restore any such street or
highway to its former state of usefulness as nearly as may be
possible and shall not use the street or highway in such manner
as to completely or unnecessarily impair its usefulness;

L. to assess and plan for the maintenance and
replacement of the district's infrastructure and material
assets, assess and plan for the protection of the quality and
quantity of the district's water supply, project and plan for
future demand for the district's services and develop and file
with the state engineer forty-year water plans in accordance
with Section 72-1-9 NMSA 1978;

M. to promulgate an on-site wastewater treatment
plan and, for health and sanitary purposes, compel compliance
with regulations and standards relating to the design,
installation, maintenance, repair and removal of on-site
wastewater treatment systems;

[L-] N. to fix and from time to time to increase or
decrease water and [sewer] wastewater rates, tolls or charges
for services or facilities furnished or made available by the
district, including [without limiting the generality of the
foregoing] standby charges for both water and [sewers]
wastewater systems and rates to encourage conservation, and to
pledge that revenue for the payment of any indebtedness of the
district. 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 limitation period, statutory or
otherwise. The board shall shut off or discontinue service for
delinquencies in the payment of the rates, tolls or charges or
in the payment of taxes levied pursuant to the Water and
Sanitation District Act and prescribe and enforce rules and
regulations for the connection with and the disconnection from
properties of the facilities of the district. For health and
sanitary purposes, the board shall have the power to compel:

(1) the owners of inhabited property within [a
sanitation] the district to connect their property with the
[sewer] water or wastewater system of the district, 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 [his] the owner's property with
such system unless a service line is brought by the district to
a point within four hundred feet of [his dwelling place] the
owner's nearest lot line; and

(2) a developer of a new subdivision to
connect the subdivision to the district's water or wastewater
system pursuant to the district's line extension policy;

O. to provide, exclusively, within the service area
of the district, any and all water and wastewater services;
provided that any entity providing water or wastewater services
as of July 1, 2007 to members or customers within the
district's service area may continue to serve its members or
customers served on that date;

P. to provide for the collection and disposal of
garbage and refuse in any manner deemed suitable by the
district, including:

(1) appointing or contracting with a refuse
collector and prescribing the duties and compensation of a
refuse collector;

(2) requiring each person owning or
controlling real property within the district boundaries and
c connected to the district water or wastewater system to pay a
reasonable fee for the collection and disposal of refuse
whether or not the refuse collection service is used by the
person; and

(3) determining if the district or the refuse
collector shall collect the fee for the collection and disposal
of refuse and prescribing the manner of collection;

[M.] Q. to adopt and amend rules and bylaws not in
conflict with the constitution and laws of the state for
carrying on the business, objects and affairs of the board and
of the district, including a conflict of interest policy and a
code of conduct for the board; and

[N.] R. to 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 [that] the
Water and Sanitation District Act."

Section 17. Section 73-21-18 NMSA 1978 (being Laws 1943,
Chapter 80, Section 16, as amended) is amended to read:

"73-21-18. LEVY AND COLLECTION OF TAXES.--To levy and
collect taxes, the board shall in each year determine the
amount of money necessary to be raised by taxation, taking into
consideration other sources of revenue of the district, and
shall fix a rate of levy [which] that, when levied upon every dollar of assessed valuation of taxable property within the district and with other revenues, will raise the amount required by the district annually to supply funds for paying expenses of organization and the costs of [construction] constructing, operating and maintaining the works and equipment of the district, and promptly to pay in full, when due, all interest on and principal of bonds and other obligations of the district [and]. In the event of accruing defaults or deficiencies, an additional levy may be made as provided in Section [75-18-17 New Mexico Statutes Annotated, 1953 Compilation] 73-21-19 NMSA 1978. The board shall, on or before October 1 of each year, certify to the board of county commissioners of each county having land within the district [or having a portion of its territory within the district] the rate so fixed with directions that at the time and in the manner required by law for levying of taxes for county purposes, the board of county commissioners shall levy the tax upon the assessed valuation of all taxable property within the district, in addition to other taxes as may be levied by the board of county commissioners, at the rate so fixed and determined."

Section 18. Section 73-21-23 NMSA 1978 (being Laws 1943, Chapter 80, Section 21) is amended to read:

"73-21-23. INCLUSION OF ADDITIONAL LAND.--
A. The boundaries of any district organized under the provisions of [this] the Water and Sanitation District Act may be changed in the manner [herein] prescribed in that act, but the change of boundaries of the district shall not impair or affect its organization or its rights in or to property or any of its rights or privileges [whatsoever]; nor shall it affect or impair or discharge any contract, obligation, lien or charge for or upon which it might be liable or chargeable had any [such] change of boundaries not been made.

B. The owners of real property may file with the board a petition, in writing, [praying that such real property be included] requesting inclusion in the district. The petition shall [describe the property owned by the petitioners, and such petition shall be deemed to give assent of the petitioners to the inclusion in said district of the property described in the petition, and such petition must be acknowledged in the same manner that conveyances of land are required to be acknowledged]:

(1) seek inclusion of territory contiguous with the district;

(2) be signed by the owners of a majority of the number of acres in the territory proposed for inclusion; and

(3) be accompanied by a map that shows the external boundary of the territory proposed for inclusion and
the relationship of the territory to the existing boundary of
the district.

C. The secretary of the board shall cause notice of
filing of [such] the petition to be given and published in the
county in which the property is situated, which notice shall
state the filing of [such] the petition, names of petitioners,
descriptions of lands mentioned and the [prayer] request of
[said] the petitioners; giving notice to all persons interested
to appear at the office of the board at the time named in
[said] the notice and show cause in writing, if any [they
have], why the petition should not be granted. The board
shall, at the time and place mentioned or at such time [or
times] at which the hearing may be adjourned, proceed to hear
the petition and all objections [thereto] to it presented in
writing by any person showing cause why [said] the petition
should not be granted. The failure of any person interested to
show cause in writing shall be deemed [and held and taken] as
an assent on [his] the person's part to the inclusion of [such]
the lands in the district as [prayed for] requested in the
petition. If the petition is granted, the board shall make [an
order] a resolution to that effect and file [same] it with the
county clerk [of the court], and [upon order of the court said]
the property shall be included in the district.

D. Within thirty days after the filing of the
resolution with the county clerk, any person owning land within

the territory newly included in the district may appeal to the
district court questioning the validity of the inclusion. If
no appeal to the district court is filed within thirty days
after the filing of the resolution with the county clerk, or if
the court renders judgment in favor of the district, the
inclusion is final.

E. An entity formed pursuant to any one of the
following statutes shall, upon a majority vote of its board of
directors and subject to the approval of the district board,
have the authority, subject to other statutory requirements, to
transfer its assets to a district:

(1) the Water and Sanitation District Act;
(2) Chapter 3, Article 28 NMSA 1978;
(3) Chapter 73, Article 5 NMSA 1978;
(4) the Nonprofit Corporation Act;
(5) the Public Improvement District Act;
(6) the Public Utility Act; or
(7) the Business Corporation Act.

F. Cooperative associations formed pursuant to
Sections 53-4-1 through 53-4-45 NMSA 1978 and mutual domestic
water associations formed pursuant to the Sanitary Projects Act
may transfer their assets to a district upon approval of the
transfer by a majority vote of a quorum of the members of the
association or nonprofit corporation, subject to approval of
the transfer by the district board. Notice of the meeting to
consider the transfer shall be sent at least fifteen days prior
to the meeting by the association to each member at the
member's last known address and by the nonprofit corporation to
each member, if any, at the member's last known address.

G. The board may initiate proceedings to include
territory contiguous with the district by petitioning the
municipal boundary commission for an order of annexation in
accordance with the provisions of Sections 3-7-11 through
3-7-16 NMSA 1978."

Section 19. Section 73-21-24 NMSA 1978 (being Laws 1943,
Chapter 80, Section 22) is amended to read:

"73-21-24. EXCLUSION FROM DISTRICT.--The owner [of
owners] in fee of any real property constituting a portion of
the district may file with the board a petition [praying]
requesting that such lands be excluded [and taken] from [said]
the district. Petitions shall describe the property [which]
that the petitioners desire to have excluded. [Such] The
petition [must] shall be acknowledged in the same manner and
form as required in case of a conveyance of land and be
accompanied by a deposit of money sufficient to pay all costs
of the exclusion proceedings. The secretary of the board shall
cause a notice of filing of [such] the petition to be published
in the county in which [said] the property or the major portion
[thereof] of it is located. The notice shall state the filing
of [such] the petition, the names of petitioners, description
of the property mentioned in [said] the petition and the
[prayer] request of [said] the petitioners [and-it]. The
notice shall notify all persons interested to appear at the
office of [said] the board at the time named in [said] the
notice, showing cause in writing, if any [they have], why
[said] the petition should not be granted. The board at the
time and place mentioned in the notice or at the time [or
times] at which the hearing of [said] the petition may be
adjourned shall proceed to hear the petition and all objections
[thereof] to it presented in writing by any person showing
cause [as aforesaid] why the [prayer] request of the petition
should not be granted. The filing of [such] the petition shall
be deemed [and-taken] as an assent by each [and-all-such
petitioners] petitioner to the exclusion from the district of
the property mentioned in the petition or any part [thereof] of
it. The board, if it deems it not [for] in the best interests
of the district that the property or portion of it mentioned in
the petition [or-portion thereof, shall] be excluded from the
district, shall order that [said] the petition be denied [but].
If [it] the board deems it [for] in the best [interest]
interests of the district that the property or some portion of
it mentioned in the petition [or-some-portion thereof] be
excluded from the district, then the board may order the
property or some portion of it mentioned in the petition [or
some-portion thereof] excluded from the district. Upon

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allowance of [such] the petition, the board shall file a certified copy of the order of the board making [such] the change with the county clerk [of the court], and [upon order of the court said] the property shall be excluded from the district."

Section 20. Section 73-21-26 NMSA 1978 (being Laws 1943, Chapter 80, Section 24, as amended) is amended to read:

"73-21-26. GENERAL OBLIGATION BONDS--INTEREST--FORM.--To carry out the purposes of the Water and Sanitation District Act, the board may issue general obligation bonds of the district upon approval of the majority of the [taxpaying electors] voters of the district voting on the question. The bonds shall bear interest payable semiannually and shall be due and payable serially, either annually or semiannually, commencing not later than three years and extending not more than twenty years from date of issue. The form and terms of the bonds, including provisions for their payment and redemption, shall be determined by the board. If the board so determines, the bonds may be redeemable prior to maturity upon payment of a premium, not exceeding three percent of the principal thereof. The bonds, except for bonds issued in book entry or similar form without the delivery of physical securities, shall be executed in the name of and on behalf of the district and signed by the [chairman] chair of the board, with the seal of the district affixed thereto, and attested to
by the secretary of the board. The bonds shall be sold and
shall be in such denominations as the board determines, and the
bonds and the attached coupons, if any, shall be payable to the
bearer or registered as to principal or as to principal and
interest. Interest coupons, if any, shall bear the original or
facsimile signature of the [chairman] chair of the board."

Section 21. Section 73-21-27 NMSA 1978 (being Laws 1977,
Chapter 345, Section 9) is amended to read:

"73-21-27. COMMUNITY SERVICE DISTRICT ACT PROVISIONS
APPLY.--With respect to the issuance of any negotiable
securities representing an indebtedness of the [water and
sanitation] district, the provisions and procedures [set forth
in] of the Community Service District Act shall apply;
provided, however, that the tax rate limitation of Section
4-54-4 NMSA 1978 shall not apply to any district located in a
class B, class C or first class county unless the limitation is
imposed pursuant to the rate limitation provisions of Section
7-37-7.1 NMSA 1978."

Section 22. Section 73-21-28 NMSA 1978 (being Laws 1943,
Chapter 80, Section 25) is amended to read:

"73-21-28. BOARD RESOLUTION--INDEBTEDNESS--ELECTION.--
Whenever [any] the board shall, by resolution, determine that
the interest of [said] the district and the public interest or
necessity demand the acquisition, construction, installation or
completion of any works or other improvements or facilities, or
the making of any contract with the United States or other
persons or corporations, to carry out the objects or purposes
of [said] the district, [requiring the creation of an
indebtedness of ($5,000) or more, said board shall order the
submission of the proposition of] by issuing [such obligations
or] general obligation bonds or creating other indebtedness
that will be a general obligation of the district, the question
of whether to enter into indebtedness shall be presented to the
[qualified taxpaying electors] voters of the district at an
election held for that purpose. Any such election may be held
separately or may be consolidated or held concurrently with any
other election authorized by [this] the Water and Sanitation
District Act. The declaration of public interest or necessity
[herein] required in this section and the provision for the
holding of [such] the election may be included within [one and]
the same resolution [which]. The resolution, in addition to
[such] the declaration of public interest or necessity, shall
recite the objects and purposes for which the indebtedness is
proposed to be incurred, the estimated cost of the works or
improvements, as the case may be, the amount of principal of
the indebtedness to be incurred [therefor] and the maximum rate
of interest to be paid on [such] the indebtedness. [Such] The
resolution shall also fix the date upon which [such] the
election shall be held [and the manner of holding the same and
the method of voting for or against the incurring of the

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proposed indebtedness. Such resolution shall also fix the 
compensation to be paid the officers of the election and shall 
designate the polling place or places and shall appoint, for 
each polling place, from the electors of the district, the 
officers of such election consisting of three judges, one of 
whom shall act as clerk]."

Section 23. Section 73-21-30 NMSA 1978 (being Laws 1943, 
Chapter 80, Section 27) is amended to read:

"73-21-30. CONDUCT OF GENERAL OBLIGATION BOND ELECTION 
[CANVASS OF RETURNS].--The [election board or boards] county 
clerk shall conduct the general obligation bond election in the 
manner prescribed by law for the holding of general elections 
[and shall make their returns to the secretary of the district. 
At any regular or special meeting of the board held within five 
days following the date of such election, the returns thereof 
shall be canvassed and the results thereof declared] or in the 
case of special elections, in accordance with the provisions of 
Sections 1-24-1 through 1-24-4 NMSA 1978."

Section 24. Section 73-21-31 NMSA 1978 (being Laws 1943, 
Chapter 80, Section 28) is amended to read:

"73-21-31. EFFECT OF ELECTION--SUBSEQUENT ELECTIONS.--In 
the event that it [shall appear] appears from [said] the 
returns that a majority of [said qualified taxpaying electors] 
the voters of the district who [shall] have voted on any 
proposition submitted [hereunder] under the provisions of the
Water and Sanitation District Act at [such] the election voted in favor of [such] the proposition, the district shall [thereupon] then be authorized to incur [such] the indebtedness or the obligations, enter into [such] the contract or issue and sell [such] the general obligation bonds of the district, as the case may be, [all] for the purpose [or purposes] and object [or objects] provided for in the proposition submitted [hereunder] under the provisions of that act and in the resolution [therefor] for them and in the amount so provided and at a rate of interest not exceeding the rate of interest recited in [such] the resolution. Submission of the proposition of incurring such [obligations or bonded or other] general obligation bond indebtedness at [such] an election shall not prevent or prohibit submission of [the same] it or other propositions at subsequent [election or] elections called for [such] that purpose."

Section 25. Section 73-21-36 NMSA 1978 (being Laws 1951, Chapter 195, Section 1) is amended to read:

"73-21-36. ACQUISITION, CONSTRUCTION OR IMPROVEMENT OF SYSTEMS--JOINT REVENUE BONDS.--Whenever the board of [directors of any water and sanitation] a district shall, by resolution, determine that [the] public interest or necessity [demand] demands the acquisition, construction, repair, extension, improvement or betterment of [any] a water or [sewer] wastewater system, [water and sanitation] districts are

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[hereby] authorized to make and issue revenue bonds, payable
solely out of the net income, to be derived from the operation
of publicly owned water or [sewer] wastewater systems and to
pledge, irrevocably, [such] the income to the payment [thereof]
of the bonds, the proceeds [thereof] of them to be used solely
for the purchasing, acquiring, constructing and [of] making of
necessary improvements, extensions, repairs and betterments of
[said] the water and [sewer] wastewater system or for the
purchase and acquiring of wells, cisterns, reservoirs or other
sources of water supply and pumping plants, sewage disposal
plants or other machinery necessary for the operation [thereof]
of them and the land and real estate upon which [the same] they
are situated or to be situated. Provided, however, that joint
revenue bonds may be issued for the acquisition, construction,
extension, enlargement or betterment of a joint water and
[sewer] wastewater system, and the income of either or both of
[such] the utilities may be pledged to secure the repayment of
[such] the joint bonds."

Section 26. Section 73-21-38 NMSA 1978 (being Laws 1951,
Chapter 195, Section 3) is amended to read:

"73-21-38. REVENUE BOND RESOLUTION.--The board of
[directors of any water and sanitation] a district issuing
revenue bonds, under the provisions of [this] the Water and
Sanitation District Act, may authorize [the] their issuance
[thereof] by resolution adopted by the affirmative vote of

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[two-thirds] a majority of all of the members of [such] the board [of directors] at a regular or special meeting called for that purpose, [wherein] at which the necessity [thereof] of the issuance shall be declared and, when issued, shall be signed by the president of [said] the board [of directors], attested by [the] its secretary [thereof], with the seal of [such] the district affixed [thereto] to the resolution."

Section 27. Section 73-21-39 NMSA 1978 (being Laws 1951, Chapter 195, Section 4) is amended to read:

"73-21-39. BONDS COLLECTIBLE FROM OPERATING REVENUES.--
It is [hereby] declared that revenue bonds issued under the provisions of [this] the Water and Sanitation District Act shall not be considered [or held] to be general obligations of the [water and sanitation] district issuing them, shall be collectible only out of the net revenues derived from the operation of the water or [sewer] wastewater system, or joint water and [sewer] wastewater systems, whose income is so pledged, and each of the bonds of [any] an issue of revenue bonds so issued under the provisions of [this] that act shall recite on its face that it is payable and collectible solely from the revenues derived from the operations of the water or [sewer] wastewater system or joint water and [sewer] wastewater system, the income of which is so pledged, and that the holders [thereof] of them may not look to any general or other fund for the payment of principal and interest of [such] the
obligation."

Section 28. Section 73-21-40 NMSA 1978 (being Laws 1951, Chapter 195, Section 5, as amended) is amended to read:

"73-21-40. RATES--BONDHOLDERS' REMEDY AND [TAXPAYER] ELECTOR.--[It is made mandatory upon] Boards of [directors of water and sanitation] districts issuing water and [sewer] wastewater revenue bonds under the provisions of the Water and Sanitation District Act [to] shall establish such rates for services rendered by the water or [sewer] wastewater system or joint water and [sewer] wastewater system as will create an income sufficient to pay all reasonable expenses of operation and create a net revenue [which] that shall be sufficient to pay interest coupons on the revenue bonds, as they mature, and [to] shall provide a sinking fund [which shall be] that is adequate to discharge the bonds as and when they mature. It is their duty to maintain the rates continuously until the bond issue has been fully liquidated. In the event of their failure or refusal [to do so], all the members of the boards [of directors] are liable to the penalties provided in Section 73-21-42 NMSA 1978, and any bondholder or a number of [taxpayer electors] voters of the district amounting to twenty-five persons or five percent of the [electors] voters, whichever is less, has the right to apply to the district court of the county where a water and sanitation district is located for a mandatory order requiring the establishment by a board [of
Section 29. Section 73-21-41 NMSA 1978 (being Laws 1951, Chapter 195, Section 6) is amended to read:

"73-21-41. RESTRICTED USE OF BOND FUNDS.--Whenever under the provisions of the laws of this state [any water or sanitation] a district shall obtain, or has obtained, any [moneys] money or credits by means of the issue of its bonds or other evidence of indebtedness for the purpose of the purchase, construction or extension or repair of [any] a water or [sewer] wastewater system or a joint water and [sewer] wastewater system in [said water and sanitation] the district, it [shall be] is unlawful to divert, use or expend any of [said] the money or credits in the purchase, construction or extension or repair of any other water or [sewer] wastewater system or for any purpose other than that for which [the same was] they were or shall be obtained."

Section 30. Section 73-21-44 NMSA 1978 (being Laws 1967, Chapter 187, Section 2) is amended to read:

"73-21-44. SALE OF SYSTEM--ESCROW OF PROCEEDS.--[Any] In addition to the authority granted in Subsection E of Section 73-21-23 NMSA 1978, a district may sell or otherwise dispose of all or any part of its water facilities, [sewer] wastewater facilities or both, including both real and personal property, [without an election] upon approval of a two-thirds' majority
vote of the voters voting in a special election held in
accordance with the provisions of Sections 1-24-1 through
1-24-4 NMSA 1978 and called for the purpose of determining
whether to sell or otherwise dispose of the property. Any such
proposed sale or other disposition and the determination to
hold an election shall be authorized by resolution adopted by
the affirmative vote of not less than a majority of all members
of the board. [Any] A district may immediately apply the
proceeds derived from [any such] the sale or other disposition
of its facilities to the retirement of [any] outstanding bonds
or place [such] the proceeds in escrow in a commercial bank or
trust company, either a state or national banking institution,
which possesses and is exercising trust powers, which is
located within New Mexico and which is a member of the federal
deposit insurance corporation, to be applied to the payment of
any outstanding bonds upon their presentation [therefor] for
payment. Any such escrow is not necessarily limited to
proceeds of [such] the sale or other disposal, but may include
other [money] 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 [which]
that are direct obligations of, or the principal and interest
of which obligations are unconditionally guaranteed by, the
United States or any other legal investment. [Such] The
proceeds and investments in escrow, together with [any]
interest to be derived from [any such] the investment, shall be used only to pay [any] charges of the escrow agent, which are expressly made payable from [such] the escrow, and to pay as many bonds as possible as they become due at their respective maturities or due at [any] a designated prior redemption date [or dates] in connection with which the board shall exercise a prior redemption option. [Any] A purchaser of any facilities [which] that may be sold or otherwise disposed of shall in no manner be responsible for the application of the proceeds thereof by the district or any of its officers, agents or employees. Nothing in this section shall be construed as changing or modifying any contractual agreement or convenant concerning any outstanding bonds as may be provided in the proceedings authorizing any outstanding bonds or otherwise appertaining [there to] to them."

Section 31. Section 73-21-52 NMSA 1978 (being Laws 1977, Chapter 345, Section 10) is amended to read:

"73-21-52. DUTIES OF LOCAL GOVERNMENT DIVISION.--The local government division of the department of finance and administration shall approve all budgets of [water and sanitation] districts and shall from time to time review fiscal policies of [such] the districts and report to the legislature and the governor any actions or policies of the districts deemed to be in violation of the law or the best interest of the people of New Mexico. The district shall submit its
budget, including a revenue and expenditure analysis encompassing expected costs of operation, maintenance and replacement, annually to the local government division [its budget] for approval in the manner required by regulation of the division. The district shall submit any other information or data concerning the operation of the district as deemed necessary by the local government division. Violation of the provisions of this section by the board of any [water and sanitation] district or any officer [thereof] of it shall be deemed cause for removal or suspension in the manner as provided by law for county officers."

Section 32. Section 73-21-55 NMSA 1978 (being Laws 1985, Chapter 166, Section 3, as amended) is amended to read:

"73-21-55. DISTRICTS NOT SUBJECT TO UTILITY LAWS--OPTION TO SUBMIT TO REGULATION.--

A. No district organized under the provisions of the Water and Sanitation District Act is subject to the jurisdiction of the public regulation commission or the terms and provisions of the Public Utility Act, except as provided in [Subsections] Subsection B [and C] of this section.

B. Any district organized under the provisions of the Water and Sanitation District Act may elect by resolution adopted by its board [of directors] 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 district making such an election.

[C. If the board of directors has not elected to
become subject to the jurisdiction of the public regulation
commision as provided for in Subsection B of this section, it
shall nevertheless file with the commision any rates, tolls
and charges proposed by the board, which shall be subject to
approval by the commision if twenty-five of the taxpaying
electors of the district or five percent of the taxpaying
electors of the district, whichever is less, file a petition
protesting the rates, tolls or charges with the commision
within thirty days after the board proposes the rates. Upon
the filing of such a petition, the commision shall hold a
hearing pursuant to rules that it shall promulgate to implement
this subsection.]

Section 33. A new section of the Water and Sanitation
District Act is enacted to read:

"[NEW MATERIAL] EXEMPTION OF CERTAIN DISTRICTS FROM NEW
ELECTION PROVISIONS.--The board of a district operating on or
before July 1, 2007 may by a majority vote choose to continue
to conduct district board member elections in the same manner
as it did before July 1, 2007, provided that the board files
its election procedures with the county clerk of the county in
which the majority of the land of the district lies."

Section 34. REPEAL.--Sections 73-21-7 and 73-21-11 NMSA
1978 (being Laws 1943, Chapter 80, Sections 6 and 10, as amended) are repealed.

Section 35. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.