

# ARIZONA REVISED STATUTES

## Title 45 - Waters

### Chapter 11 – County Water Augmentation Authority

#### Article 1 - Formation and Dissolution

##### 45-1901. Definitions

In this chapter, unless the context otherwise requires:

1. "Active management area" means an active management area established under chapter 2 of this title.
2. "Authority" means a county water augmentation authority established under this chapter.
3. "Board" means the board of directors of the authority.
4. "County" means the county containing over fifty per cent of the area of the authority.
5. "Operating unit" means a county, city, town, water company or political subdivision, this state, the United States, an Indian tribe or any other public or private entity with which an authority has a contractual relationship for the acquisition, delivery, exchange, treatment, storage or recharge of water.
6. "Project" means a facility necessary or convenient to obtain, divert, withdraw, transport, exchange, deliver, treat or recharge water, including rights-of-way, real and personal property, interests in property and improvements to property that are necessary or appropriate to maintain and operate the facilities.
7. "Water company" means either a private water company as defined in section 45-402 or an irrigation district that primarily serves municipal water.

##### 45-1902. Formation

A. An authority may be established in any active management area in which all of the following conditions exist on the date the authority is organized:

1. Over fifty per cent of the area of the active management area lies within a single county.
2. The population of the county is less than one hundred fifty thousand persons according to the most recent United States decennial census.
3. A political subdivision of this state within the active management area directly receives Colorado river water pursuant to contracts with a multi-county water conservation district and the United States secretary of the interior through facilities of the central Arizona project.

B. The boundaries of the authority shall be coterminous with the boundaries of the active management area.

C. An authority shall be established in the following manner:

1. A person who desires to propose establishment of an authority shall prepare and submit a petition to the board of supervisors of the county in which the authority is to be established. The petition shall contain, at least:

- (a) The name of the proposed authority.
- (b) Certified copies of adopted resolutions approving the authority's formation by the governing bodies of a majority of the incorporated cities and towns located entirely within the boundaries of the proposed authority on January 1, 1993, and the irrigation districts located entirely or in part within the boundaries of the proposed authority on January 1, 1993.
- (c) A request that the board of supervisors schedule a hearing.

2. On receipt of the petition, the board of supervisors shall set a day, at least sixty but not more than ninety days from that date, for a hearing on the petition.

3. The clerk of the board of supervisors shall publish in a newspaper or newspapers of general circulation in the area of the proposed authority, at least twenty days before the scheduled hearing, a notice setting forth the date, hour and place of the hearing and the purpose of the hearing. The clerk shall also notify the governing body of each city, town, irrigation district and water company located within the boundaries of the proposed authority of the date, hour and place of the hearing and the purpose of the hearing.

4. At the hearing, the board of supervisors shall hear those who appear for and against the proposed authority and shall determine whether the petition conforms to the requirements of this section. At the hearing all interested persons residing within the boundaries of the proposed authority may appear and may be heard on any matter relating to the establishment of the proposed authority. Before the date set for the hearing, any person wishing to support or oppose the establishment of the authority may file a statement of support or opposition with the clerk of the board of supervisors.

5. At or before the time for a hearing, any city, town or irrigation district may file a statement requesting to be excluded from the authority, together with a description of any portion of its territory to be excluded from the authority.

6. If the board of supervisors determines that the petition conforms to the requirements of this section and that the public convenience and welfare will be served by the establishment of the authority, it shall order the establishment of the authority. The order shall exclude from the authority those cities, towns and irrigation districts that filed statements to exclude pursuant to paragraph 5 of this subsection and shall specify the territory to be excluded. The powers and duties of the authority that are conferred in this chapter do not extend to or otherwise include the entities and territories that are excluded.

7. Any entity excluded pursuant to paragraphs 5 and 6 of this subsection may petition the board of supervisors to be included in the authority. The board of supervisors shall comply with paragraphs 2, 3, 4 and 6 of this subsection to determine whether to include the entity and its territory within the authority. An order of inclusion extends the powers and duties of the authority over the entity and territory that are included and entitles the entity to representation on the board of the authority as prescribed by section 45-1921.

#### 45-1903. Contest of formation; appeal

Any aggrieved person or entity may contest the formation of an authority under this chapter by filing an action in superior court in the county in which the authority is established within thirty days after the board assumes office under section 45-1921. If more than one such contest is pending, they shall be consolidated for trial. The court shall try the contest without delay and shall determine whether the authority was properly organized and whether the board was properly appointed in substantial compliance with this article and shall enter judgment accordingly. If an action is not filed within thirty days under this section, the formation of the authority is presumed to be lawful and conclusive against all persons.

#### 45-1904. Corporate existence

An authority is a corporate and political body that may act in its official corporate name and has all of the rights and immunities of municipal corporations that are granted by the constitution and statutes of this state, including immunity of its property and bonds from taxation.

#### 45-1905. Dissolution of authority

A majority of the board may propose that the authority be dissolved, but only if all contractual obligations and debts of the authority are satisfied and another governmental entity or entities accept dedication of all authority projects. After a hearing, the board shall adopt by resolution a plan of termination to be executed within a stated period of time after it is adopted. All property of the authority that is not dedicated to another governmental entity shall be transferred to the board of supervisors of the county in which the authority is established for use in that county. All unexpended and unencumbered monies of the authority shall be transmitted to the state treasurer for deposit in the fund account established for the active management area pursuant to section 45-615.

### Article 2 - Administration

#### 45-1921. Board of directors; qualification and organization; compensation

A. The board shall consist of the following members, except that it shall not include any entity excluded from the authority pursuant to section 45-1902:

1. One member appointed by the board of supervisors of the county in which the authority is established.

2. One member appointed by the governing body of each city or town located entirely within the boundaries of the proposed authority on January 1, 1993.

3. One member appointed by the governing body of each irrigation and drainage district that is organized pursuant to title 48 and that is partially or totally located within the authority's boundaries.

4. One member appointed by the county board of supervisors, subject to subsection C of this section, to represent those water companies that deliver Colorado river water to persons who reside within the authority's boundaries.

5. One member appointed by the county board of supervisors, subject to subsection C of this section, to represent those water companies that deliver water, other than Colorado river water, to persons who reside within the authority's boundaries.

6. Any members appointed pursuant to subsection B of this section.

B. The governing body of any city or town established after January 1, 1993, any special taxing district organized pursuant to title 48 or any federally recognized Indian tribe that is located within the authority's boundaries, that is an operating unit and that does not appoint a member to the board pursuant to subsection A of this section may appoint a member to the board on petition to the board and approval by a majority of the board.

C. Members of the board who are appointed pursuant to subsection A, paragraphs 4 and 5 of this section serve terms of two years and shall be succeeded by a person representing a qualifying water company other than the one represented by the departing board member, unless the county board of supervisors unanimously resolves otherwise.

D. Within thirty days after appointment each member of the board shall qualify for office by taking and subscribing the official oath. The official oath shall be filed with the board of directors.

E. Each member of the board shall serve at the pleasure of the governing body or official that selected him. A subsequent board member shall qualify within thirty days after receiving notice of his appointment in the same manner as prescribed by this section.

F. The board shall select a chairman, vice-chairman and secretary-treasurer from among the members who shall hold office at the pleasure of the board.

G. Board members are not eligible to receive compensation but are eligible for reimbursement of actual and necessary expenses while engaged in official business under order of the board.

#### 45-1922. Meetings; notice

A. The board shall hold regular meetings every calendar quarter and additional meetings on the call of the chairman or a majority of the members of the board. The secretary-treasurer shall give at least three days' notice of each meeting to each member of the board in addition to the public notices required by law.

B. The authority is a public body for purposes of title 38, chapter 3, article 3.1.

#### 45-1923. Administrative powers and duties; executive director; annual report

A. The board shall determine its organizational and procedural structure, adopt, amend or repeal bylaws, rules and forms consistent with the requirements of this chapter and prescribe a system of accounts.

B. The board may:

1. Manage, set policy and conduct the business and affairs of the authority.

2. Make and execute all necessary contracts, including intergovernmental agreements pursuant to title 11, chapter 7, article 3.

3. Sue and be sued.

4. Adopt a seal for the authority to be used to attest to documents.

5. Provide for payment of all debts and appropriate claims against the authority from the appropriate funds.

6. Employ an executive director and such administrative, legal, engineering, accounting, clerical and other staff as may be necessary and prescribe the duties, terms and conditions of employment.

7. Retain outside professional services, including legal counsel.

8. Acquire suitable offices, furnishings and necessary equipment and supplies.

9. Perform all other acts necessary to carry out the purposes of this chapter.

C. The board shall prepare and publish an annual report on or before December 1 of each year containing a full and complete account of its transactions and proceedings for the preceding fiscal year and other facts and recommendations deemed to be of public value. This annual report may include and may be combined with the financial report prescribed by section 45-1977. The authority shall make copies of the annual report available to the public on request.

D. All employees shall be selected on a nonpartisan basis according to their qualifications. The executive director shall serve at the pleasure of the board.

### Article 3 - Powers and Duties

#### 45-1941. Cooperation with governmental entities

A. The authority shall cooperate, coordinate and confer with the director of water resources, state agencies, special districts, authorities and other political subdivisions of this state and the United States with respect to matters within their jurisdiction relating to augmenting the water supplies of the county in which the authority is established and developing state water plans.

B. In acquiring, constructing and operating projects, the authority, consistent with the purposes and policies of this chapter, shall cooperate with established and existing organizations for use of or interconnection with suitable diversion, withdrawal, transportation, delivery, treatment, storage or recharge facilities.

C. Any operating unit, or combination of operating units, may request the authority to exercise its powers and privileges in making any project or proposed project survey or investigation, or for assistance in initiating or completing any works or projects authorized by this chapter.

D. The authority may act as:

1. A bargaining and negotiating agency on the request of an operating unit in transactions and dealings between the various departments of the federal government.

2. A connecting, intermediate or contracting medium for operating units if, for united or joint participation, such a medium is convenient or essential to the receipt, acceptance or enjoyment by the operating units of any financial proposals, grants or other benefits made available under any statute or by any entity.

3. A coordinating, clearing, administering or supervising instrumentality by and through which operating units may cooperate or unite through or by contracts or agreements in applying or pooling their resources, functional rights or privileges for common purposes contemplated under this chapter.

4. An entity competent to contract with the United States for the delivery of water, and to subcontract with its operating units pursuant to such terms as the United States and the board deem advisable, and to assign or assume such contracts subject to the terms or limitations the United States and the board deem advisable.

E. Operating units may enter into contracts, agreements and arrangements, including intergovernmental agreements under title 11, chapter 7, article 3, that may be necessary to accomplish the purposes of this section.

F. This section shall not be construed to alter any debt limitation of the operating units.

#### 45-1942. Limitation on powers

This chapter shall not be construed to modify, alter or change the functions, powers, duties, rights and liabilities prescribed under chapters 1, 2 and 3 of this title. This chapter does not authorize the authority to:

1. Engage in the retail distribution of water within the service area of a city, town, water company or irrigation district without the written authorization of the city, town, water company or irrigation district.

2. Regulate the acquisition, use or disposal of water or rights to water except as specifically provided by this chapter or pursuant to contractual agreements that are consistent with this chapter.

3. Sell, resell, deliver or distribute electricity or other forms of energy to others.

4. Acquire in its own name surface water contracted to an operating unit or entity represented on the board pursuant to section 45-1921 by a federal agency without that operating unit's or entity's consent.

5. Transport groundwater except as otherwise provided by law.

6. Acquire electrical power and energy that is sold, offered for sale or otherwise disposed of pursuant to title 30, chapter 1 or chapter 10 of this title.

#### 45-1943. Functional powers of board

The board, for and in the name of the authority, may:

1. Acquire in any lawful manner, except as limited by this chapter, and sell, lease, exchange or otherwise dispose of real and personal property, easements and rights-of-way that are necessary or required for the uses and purposes of the authority.
2. Construct, maintain and operate all works and other property acquired and used for any of the projects owned by the authority.
3. Acquire, hold, assign or otherwise dispose of credits registered to storage accounts under any provision of chapter 3 of this title.
4. Accept appointment or other authorization and act as agent of any operating unit for purposes of acquiring, transporting, delivering, treating or recharging water pursuant to this chapter.
5. Issue bonds and pledge all or part of its revenue from any source for security and payment of its bonds.
6. Negotiate, make, execute, acknowledge and perform any contract, agreement or obligation it deems advisable for the interest of the authority or to carry out or accomplish the purposes of this chapter, including agreements to acquire water supplies, for water exchanges and for water deliveries.
7. Except as otherwise limited by this chapter, acquire electricity or other forms of energy necessary to transport water or otherwise operate the projects of the authority.
8. Plan, coordinate, construct, operate, maintain and dismantle water augmentation projects including treatment, recharge, underground storage and recovery and retention projects and, in conjunction with county flood control districts, flood control projects for water augmentation purposes.
9. Provide technical or financial assistance to operating units relating to developing water supplies for purposes of the management goals and plans adopted under chapter 2 of this title.
10. Conduct any other activities that are reasonably necessary and related to the powers and duties described by this chapter.

#### 45-1944. Planning

In conjunction and cooperation with local governmental entities and the director of water resources, the authority shall:

1. Within one year of the authority's formation, develop an initial water resource augmentation plan for the county in which the authority is established to guide the development of water augmentation efforts in that county.
2. Coordinate water conservation efforts to encourage pooling the resources of all operating units in the county in which the authority is established to maximize conservation of the existing water sources in that county.

#### 45-1945. Acquisition of water

A. The authority may:

1. Negotiate to acquire in its own name, or on behalf of an operating unit located within the authority's boundaries, water and rights to water that may be legally available to augment the water supply of the county in which the authority is established.
2. Sell or exchange any water it acquires in its own name to or with any operating unit within the authority's boundaries under such terms as are necessary to ensure the use of the water in a manner consistent with the water augmentation plan developed under section 45-1944.
3. Sell, lease, exchange, hold, sever, transfer or retire water rights.
4. Negotiate and enter into agreements to use existing facilities to transport water to and within the county in which the authority is established.
5. Enter into agreements with operating units by which the authority receives water rights or rights to receive water in exchange for a contractual obligation to develop or provide water for that operating unit.
6. Apply for and hold, in its own name or on behalf of an operating unit or units, permits that are required by law to engage in any of the activities described in this chapter.

B. The authority shall not by contract obligate or bind itself to take delivery of any water until it develops a means to store or dispose of the water.

C. In acquiring, selling, leasing, exchanging, holding, severing, transferring or retiring any water or rights to water, the authority and its operating units shall comply with any applicable federal or state law, regulation, rule, order, permit or other requirement applicable to the water or rights to water.

45-1946. Acquisition of property; limited eminent domain authority; survey and inspection rights

A. The legal title to all property and property rights acquired under this chapter vests in the authority and shall be held for the uses and purposes prescribed by this chapter.

B. The board may:

1. Acquire, hold, manage, occupy and possess property as provided by this chapter.
2. Take conveyances for all property acquired by the authority in the name of the authority.
3. Sell, lease, exchange or otherwise dispose of any property of the authority that is no longer necessary or suitable for the uses and purposes of the authority and execute, acknowledge and deliver all such conveyances, leases, contracts or other instruments as the board deems necessary.
4. Institute and maintain actions and proceedings necessary to enforce, maintain, protect or preserve all rights, privileges and immunities created or granted by this chapter relating to acquiring, owning and disposing of property.

C. The board, by unanimous resolution, may institute condemnation proceedings in the name of the authority, and all statutes of this state relating to the exercise of eminent domain apply to the proceedings, except that the board may not exercise the right of eminent domain:

1. Outside of the county in which the authority is established.
2. To condemn land or existing projects or facilities owned by any governmental entity or person for the purpose of condemning water rights or existing water production, delivery or storage systems.
3. To acquire electrical facilities, whether real or personal property.
4. Within the service area, as defined in section 45-402, of any city or irrigation district without the consent of that city's or irrigation district's governing body.

D. Agents, employees and representatives of the board or an operating unit may enter any land on reasonable notice to the owner or occupant to survey or locate necessary works, rights-of-way or structures for the purposes of the authority or to obtain factual data or access to records required to be kept by virtue of contracts or agreements that the authority or the operating units may have in effect with the United States secretary of the interior.

45-1947. Construction work and purchases by bid only; exceptions; award of contract; bond

A. The construction of projects or facilities undertaken by the authority shall be by contract and not by force account. The authority may enter into contracts for construction work exceeding twenty-five thousand dollars only after notice published for at least ten days, except in cases of emergency to prevent imminent loss or danger. All such contracts shall be let by public bid to the lowest responsible bidder. The authority may call for sealed bids and may accept or reject any bid. Bids shall be accompanied by a reasonable bid bond in an amount the authority demands. This subsection does not apply to any contracts entered into with a state or federal agency, a political subdivision or an Indian tribe.

B. All purchases and contracts made by the authority for material or services other than personal services shall be made after advertising in such manner and at such times sufficiently in advance of opening bids as the authority deems adequate to ensure appropriate notices and an opportunity for competition. Advertisement is not required, but the purchase or procurement may be made in the open market, in any of the following cases:

1. An emergency requiring immediate delivery of the material or performance of the services.
2. Repair parts, accessories or supplemental equipment or services that are required for material or services previously furnished or contracted for.
3. If the aggregate amount involved in the purchase of material or procurement of services does not exceed twenty-five thousand dollars.

C. In comparing bids and in making awards the authority shall give due consideration to such factors as:

1. The relative quality and adaptability of materials or services.
2. The bidder's financial responsibility, skill, experience, record of integrity in dealing and ability to furnish repair and maintenance services.

3. The time of delivery or performance offered.
4. Whether the bidder has complied with the specifications.
- D. Subsection B does not apply to any contracts entered into with a state or federal agency, a political subdivision or an Indian tribe.
- E. The authority shall protect its interests by providing for and securing such bond or bonds as are required under title 34, chapter 2, article 2.

## Article 4 - Financial Provisions

### 45-1971. Administrative and operation budgets

A. On or before July 1 of each year the authority shall adopt an administrative budget for the succeeding fiscal year. The budget shall consist of a complete statement of administrative expenditures from the general fund during the past fiscal year and an estimate of the different amounts that may be deemed necessary to meet administrative requirements of the authority for the next fiscal year, fixing the amounts proposed for all recurring items of expense and an amount for contingencies or emergencies. No administrative expenditures may be made in excess of the total amount of the budget. Economies resulting in remaining balances for any fiscal year shall be available for subsequent administrative or operating purposes.

B. The authority shall also prepare an operation budget for each fiscal year covering operations and including capital items. The budget shall consist of a full and complete statement of all incoming receipts and expenditures for the past fiscal year and an estimate of anticipated income and expenditures for the next fiscal year. The budget shall also give a complete asset and liability statement and statement of profit and loss, together with an itemized statement of cash on hand, commitments, reserves and obligations anticipated for the next fiscal year, together with such other information as will give a full and complete disclosure of the current financial condition of the authority.

C. The authority shall transmit copies of the budget to each operating unit and the director of water resources.

### 45-1972. Groundwater augmentation and conservation assistance fee; transfer to authority

A. Within sixty days after the authority is formed, the department shall transfer to the secretary-treasurer of the authority one-half of all unencumbered monies and the accrued interest on those monies that were collected in the active management area in which the authority is located during the prior year pursuant to section 45-611, subsection C, paragraph 2.

B. Each year the director shall transfer an amount of not more than two hundred thousand dollars to the secretary-treasurer of the authority from the monies collected in that year in the active management area in which the authority is located pursuant to section 45-611, subsection C, paragraphs 2 and 3. The director shall specify the amount from each funding source to be transferred.

C. The secretary-treasurer shall deposit the transferred monies in the general fund of the authority, and the authority may spend the monies to carry out the purposes of this chapter.

### 45-1973. Water supply fees

The authority may assess fees, including extraction fees, development impact fees, connection fees, user fees, replenishment fees and administrative fees, against any operating unit or other person with which the authority has a contractual responsibility to provide any service. The amount of the fee and the method of payment shall be determined pursuant to the agreement between the authority and the operating unit or person, based on the cost of the service the authority provides, including the cost of developing an equivalent water supply for an operating unit that has exchanged with the authority a water right or right to receive water for a water supply contract with the authority. Any fee assessed under this section is not a rate or charge of the operating unit and is not subject to regulation by the Arizona corporation commission. The secretary-treasurer of the authority shall deposit all monies received under this section in the general fund of the authority.

45-1974. Accounting classifications; bond funds; general fund

A. The secretary-treasurer of the authority shall establish appropriate accounting classifications and designations in the authority accounting records to provide for accurate and systematic control and allotment of all monies received.

B. The secretary-treasurer shall maintain a bond fund and a general fund of the authority and shall apportion all monies received into the fund corresponding with the purpose for which the monies were received. The secretary-treasurer may invest inactive monies from either the general fund or the bond fund and shall credit income earned on the investments to the respective fund.

45-1975. Receipt of monies; disbursements; operation of accounting system

A. Monies due to the authority under agreements for the sale of water or other services, proceeds of revenue bond issues or any other obligation may be made payable at the office of the authority. All monies derived from operations of the authority and received by any officer, agent or employee of the authority shall be promptly remitted to the secretary-treasurer.

B. All operation monies of the authority shall be paid out only according to the regularly adopted operation budget of the authority on warrants in discharge of claims and obligations approved by the board, signed by the chairman of the board and countersigned by the executive director or other duly authorized officer of the authority.

C. The appropriate claim vouchers shall be regularly entered in the accounting system of the authority and preserved for auditing purposes.

45-1976. Payment of interest coupons; investment of bond fund monies

The secretary-treasurer of the authority shall:

1. Pay matured interest coupons from bonds of the authority from the bond fund.
2. Invest monies in the bond fund, under direction of the board, in bonds of the United States or this state that shall be kept in the bond fund and that may be used to redeem bonds of the authority, on the request of the holders, either by exchanging them for bonds of the authority or by converting them into cash.

45-1977. Annual financial statement and audit

A. On or before December 1 of each year the board shall make a verified statement of the financial condition of the authority as of June 30 of the preceding fiscal year, showing particularly the receipts and disbursements during the fiscal year and the source of the receipts and the purpose of the disbursements. The statement may be included in and combined with the annual report prescribed by section 45-1923, subsection C.

B. Within thirty days after the close of each fiscal year the authority shall cause an audit to be made of the funds of the authority by a certified public accountant. The board shall file a copy of the audit with the auditor general. The auditor general may make such further audits and examinations as he deems necessary and may take appropriate action relating to the audit pursuant to title 41, chapter 7, article 10.1. If the auditor general takes no official action within thirty days after the audit is filed, the audit is deemed sufficient. The board shall pay any fees and costs of the certified public accountant and auditor general under this section from the general fund of the authority.

## Article 5 - Revenue Bonds

45-1991. Authority to issue bonds

If the authority finds other financing methods or procedures inadvisable, inadequate or insufficient to acquire or construct projects, works or facilities, it may independently or in conjunction with any other optional or alternative plans provided in this chapter issue revenue bonds as provided by this article.

45-1992. Prerequisites to issuance

No revenue bonds may be issued until provision is made by contracts pursuant to this chapter adequate in the judgment of the board to ensure all necessary fiscal reserves, operation costs, maintenance and depreciation charges and payment of principal and interest of any bonds relating to any proposed project

or facility involved and within the time fixed. Revenue bonds shall not be issued except on resolution by the authority.

**45-1993. Scope of resolution**

A. Resolutions for a bond issue or issues shall state the amount of the proposed issue or issues, the proposed interest rate and types and terms of bonds, that all other methods of necessary financing by the authority have been found impractical, inadvisable or inadequate and that the issuance of the bonds is necessary and advisable as proposed.

B. The authority chairman and secretary-treasurer shall sign the resolutions. In support of the resolution the authority shall enter into its record pertinent engineering, economic and financial data, appropriate maps, drawings, plans, outlines, calculations, summaries and related agreements and any other essential information constituting a record appropriate to the resolution.

C. The resolution may approve a bond issue to finance an entire plan or system or any single or joint project, section or other facility of a related system or plan proposed for ultimate integration and completion.

**45-1994. Hearing; findings**

A. The chairman of the board, at the earliest practical date, shall fix a time and place for a hearing at least twenty but not more than thirty days after adopting the resolution. The authority shall publish notice of the time and place fixed for the hearing twice in a newspaper of general circulation in the county in which the authority is established.

B. All pertinent records and documents shall be filed at least ten days before the date set for the hearing. Prehearings respecting any particular document, feature or incidental matter or any separable part or portion of any resolution may be held by the board on ten days' previous written notice if the board deems that holding a prehearing is conducive to expediting a final hearing, and a decision as to the issues presented may thereupon be rendered.

C. At the time and place fixed for the hearing, the board shall examine and determine the matters and questions involved. Hearings may be recessed, adjourned or continued as the board orders.

D. Any person who holds an original agreement or proposal made with the authority relating to or concerning the handling, sale, control or disposition of a proposed issue of bonds or who has previously made an offer or bid in good faith to purchase the bonds pursuant to a published invitation for bids by the authority, and any operating unit holding contracts with the authority at least ten days before the date fixed for the hearing, may qualify to be heard.

E. If the board finds that all precedent requirements and conditions have been fulfilled, it shall approve the bond issue in whole or in part or shall otherwise disapprove the bond issue as a whole or as to such features or proposals as do not meet the essential requirements. When the board has made and entered its findings, it shall enter a decision accordingly.

F. The decision of the board based on findings of fact that are supported by a preponderance of the evidence and that are not arbitrary or unreasonable is final and conclusive.

**45-1995. Issuance of bonds**

Bonds issued under this article shall be authorized by resolution of the authority and may be issued in one or more series, shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations and in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner and be payable in such medium of payment, at such place or places, and subject to such terms of redemption, with or without premium, as the resolution may provide. Bonds may be sold at public or private sale at not less than par with accrued interest. Notwithstanding any provisions of law to the contrary, bonds issued pursuant to this article are negotiable.

**45-1996. Provisions of bonds; sale**

A. The bonds shall provide that:

1. The bond is purchased and taken after a complete disclosure and with a full knowledge of all of the surrounding relevant facts and circumstances and not on the representation, faith or credit of the authority, this state or any of its political subdivisions.

2. The holder in order to obtain payment may not compel this state or any of its political subdivisions to exercise its appropriation or taxing power.

3. The bond does not constitute a debt of this state, any political subdivision of this state or any operating unit and is payable only from revenues of the authority.

B. The gross or net revenue derived from any project or any part of a project may be pledged to secure the payment of any series of bonds.

C. The authority may provide for reimbursement to the holder of all expenses of litigation and attorney fees incurred in collecting the bonds in the event of default and may provide for and fix the powers and duties of a trustee if necessary to enforce collection. Bond resolutions, agreements and bonds may be in such form and may contain such other conditions and terms as the authority deems appropriate or necessary to make the bonds fully salable and marketable.

D. The authority may provide that any holder of bonds, or a trustee designated by the authority at the time of issuing the bonds, on proper showing may secure an order of the superior court requiring the authority, subject to the contracts with operating units then in effect, to fix and collect rates and charges that will produce adequate revenues to permit setting up adequate yearly reserves with which to meet future payments according to the terms of the bond.

E. All bonds issued by the authority and agreements of the authority with respect to bonds are subject to this chapter, and no bond or agreement may contain any provision in conflict with this chapter. An amendment of this chapter does not diminish or impair the remedy and rights of the bondholder.

F. The bonds shall be signed by the chairman or vice-chairman and the secretary-treasurer of the authority in office at the date of signing and are valid obligations of the authority although before delivery or sale the persons whose signatures appear on the bonds may have ceased to be officers of the authority.

G. The validity of the bonds is not dependent on or affected by the legality of any proceeding relating to the acquisition, construction, improvement or extension of a project for which the bonds are issued. The bonds shall recite that they are regularly issued pursuant to this chapter and that recital is prima facie evidence of their legality and validity.

H. Bonds so issued may be sold when the money is needed for the purposes for which they are issued. Pending the preparation or execution of definite bonds, interim receipts or certificates or temporary bonds may be delivered to the purchaser or purchasers of bonds.

#### 45-1997. Certification of bonds by attorney general

The board may submit any bonds issued under this article to the attorney general after all proceedings for their authorization have been completed. On submission the attorney general shall examine and pass on the validity of the bonds and the regularity of the proceedings. If the proceedings comply with this article, and if he determines that, when delivered and paid for, the bonds will constitute binding and legal obligations of the board, the attorney general shall certify on the back of each bond, in substance, that it is issued according to the constitution and laws of this state.

#### 45-1998. Validity of bonds

This chapter constitutes full authority for authorizing and issuing bonds without reference to any other law of this state. No other law with regard to the authorization or issuance of obligations or that in any way impedes or restricts the carrying out of the acts authorized by this article may be construed to apply to any proceedings taken or acts done pursuant to this article.

#### 45-1999. Water augmentation authority bonds as legal investments

County water augmentation authority bonds issued under this article are securities in which public officers and bodies of this state and of municipalities and political subdivisions of this state, all companies, associations and other persons carrying on an insurance business, all financial institutions, investment companies and other persons carrying on a banking business, all fiduciaries and all other persons who are authorized to invest in governmental obligations may properly and legally invest. The bonds are also securities that may be deposited with public officers or bodies of this state and municipalities and political subdivisions of this state for purposes that require the deposit of governmental bonds or obligations.