

HOUSE BILL NO. 1281
with Senate Amendments

Fifty-sixth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1281

Introduced by

Representatives Berg, Nicholas

Senators Kelsh, Klein, Wanzek

1 A BILL for an Act to create and enact sections 61-02-68.14, 61-02-68.15, 61-02-68.16,
2 61-02-68.17, 61-02-68.18, 61-02-68.19, and a new chapter to title 61 of the North Dakota
3 Century Code, relating to state water commission bonding authority, guarantees of evidences
4 of indebtedness, and creation of an irrigation district finance program; and to amend and
5 reenact sections 61-02-68.1 and 61-02-68.12 of the North Dakota Century Code, relating to
6 guarantees of evidences of indebtedness by the state water commission; and to declare an
7 emergency.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

9 **SECTION 1. AMENDMENT.** Section 61-02-68.1 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **61-02-68.1. Borrowing on interim notes - Expenses paid and loans made from**
12 **proceeds - Issuance of notes.** The commission, pursuant to appropriate resolution, and in
13 order to carry out the business of developing the water resources of this state as provided in
14 this chapter, may borrow money and issue interim financing notes (the terms "interim notes" or
15 "notes" ~~may~~, unless the context ~~demands~~ otherwise requires, may be used in sections
16 61-02-68.1 through ~~61-02-68.13~~ 61-02-68.19 in lieu of the term "interim financing notes") in
17 evidence thereof in order to provide owners with ~~tax exempt~~ construction period financing.
18 ~~Such~~ The construction period financing may include the costs of construction of works or
19 projects, funding of debt service reserves and capitalized interest, and the payment of the costs
20 of issuance.

21 **SECTION 2. AMENDMENT.** Section 61-02-68.12 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **61-02-68.12. Interim financing notes or guarantees not a state obligation -**
24 **Payment restricted to revenues - Notes or guarantees not a lien.** Interim financing notes

1 issued by the commission under this chapter ~~shall~~ or guarantees provided under sections
2 61-02-68.14, 61-02-68.15, 61-02-68.16, 61-02-68.17, 61-02-68.18, or 61-02-68.19 are not ~~be in~~
3 ~~any way~~ a debt or liability of this state and ~~shall~~ do not constitute a loan of the credit of this
4 state or create any debt or debts, liability or liabilities on behalf of this state, or be or constitute
5 a pledge of the faith and credit of this state, but all ~~such~~ notes ~~shall be~~ or guarantees are
6 payable solely from funds pledged or available for their payment as authorized in this chapter.
7 ~~Such~~ The notes shall or guarantees do not constitute a charge, lien, nor encumbrance, legal or
8 equitable, upon any property of the commission, other than funds received pursuant to an
9 interim financing agreement.

10 Each note issued under this chapter ~~shall~~ must recite in substance that the note,
11 including interest thereon, is payable solely from a loan or grant to be made by an agency or
12 instrumentality of the United States government, or North Dakota, and that the note does not
13 constitute a debt of the commission within the meaning of any constitutional or statutory limit.

14 **SECTION 3.** Section 61-02-68.14 of the North Dakota Century Code is created and
15 enacted as follows:

16 **61-02-68.14. Guarantee issued by commission.** The commission may guarantee
17 evidences of indebtedness issued or other obligations undertaken by the owners of water
18 projects eligible to receive municipal, rural, and industrial water supply funds pursuant to Pub.
19 L. 99-294 [100 Stat. 418], or evidences of indebtedness issued or other obligations undertaken
20 by a not-for-profit organization establishing a financing program for the owners of the water
21 projects eligible to receive municipal, rural, and industrial water supply funds pursuant to Pub.
22 L. 99-294 [100 Stat. 418] for the purpose of providing the owners with construction period
23 financing. Construction period financing may include the cost of construction of works or
24 projects, funding of debt service reserves and capitalized interest, and the payment of the costs
25 of issuance. A commission guarantee of indebtedness or other obligations of an owner of a
26 water project must be authorized by resolution of the commission and must be evidenced by a
27 written agreement approved by the commission.

28 **SECTION 4.** Section 61-02-68.15 of the North Dakota Century Code is created and
29 enacted as follows:

30 **61-02-68.15. Pledges.** The commission may pledge the municipal, rural, and industrial
31 water supply funds authorized by Pub. L. 99-294 [100 Stat. 418] as security for a guarantee or

1 note. A pledge is valid and binding whenever the pledge is made. The revenues or other
2 moneys pledged and thereafter received by the commission are immediately subject to the lien
3 of the pledge without physical delivery or further act, and the lien of the pledge is valid and
4 binding as against all parties having claims of any kind against the commission, regardless of
5 whether the parties have notice. Neither the resolution nor any other instrument by which a
6 pledge is created need be filed or recorded, except in the records of the commission.

7 **SECTION 5.** Section 61-02-68.16 of the North Dakota Century Code is created and
8 enacted as follows:

9 **61-02-68.16. Reserve fund.**

10 1. The commission shall establish and maintain a reserve fund in which there must
11 be deposited all moneys appropriated by the legislative assembly for the purpose
12 of the fund, all proceeds of notes issued or guaranteed by the commission required
13 to be deposited in the fund by terms of a contract or a resolution of the commission
14 with respect to the proceeds of notes, any moneys or funds of the commission that
15 it determines to deposit in the fund, any moneys made available to the commission
16 for the purposes of the fund from any other source, and any contractual right to the
17 receipt of moneys by the commission for the purpose of the fund, including a letter
18 of credit or similar instrument. Moneys in the reserve fund must be held and
19 applied solely to the payment of the interest on and the principal of notes and
20 sinking fund payments as they become due and payable and for the retirement of
21 notes, including payment of any redemption premium required to be paid when any
22 notes are redeemed or retired before maturity, and for the payment of principal and
23 interest on evidences of indebtedness or obligations guaranteed by the
24 commission. Moneys in the reserve fund may not be withdrawn if the withdrawal
25 would reduce the amount in the reserve fund to an amount less than the required
26 debt service reserve, except for payment of the interest due and payable on notes
27 and the principal of notes maturing and payable and sinking fund payments and for
28 the retirement of notes in accordance with the terms of a contract between the
29 commission and its noteholders, for the payment of principal and interest on
30 evidences of indebtedness or obligations of an owner of water projects for which a
31 guarantee has been issued by the commission, and for payment of interest or

1 principal or sinking fund payments or retirement of notes or draws upon a
2 guarantee, for which other moneys of the commission are not then available in
3 accordance with the terms of the contract. The reserve fund may not be used for
4 the payment of a guarantee by the commission unless the commission has
5 determined that notes of the commission cannot be issued under acceptable terms
6 for the payment of the guarantee or that the payment of the guarantee will not
7 reduce the reserve fund to an amount less than the required debt service reserve.
8 The required debt service reserve must be an aggregate amount equal to at least
9 the largest amount of money required by the terms of all contracts between the
10 commission and its noteholders to be raised in the current or any succeeding
11 calendar year for the payment of interest on and maturing principal of outstanding
12 notes and the payment required by the terms of any contract to a sinking fund
13 established for the payment or redemption of the notes.

14 2. If the establishment of the reserve fund for an issue or the maintenance of an
15 existing reserve fund at a required level under this section would necessitate the
16 investment of all or any portion of a new reserve fund or all or any portion of an
17 existing reserve fund at a restricted yield, because to not restrict the yield may
18 cause the notes to be taxable under the Internal Revenue Code, then at the
19 discretion of the commission a reserve fund does not need be established before
20 the issuance of notes or the reserve fund need not be funded to the levels required
21 by other subsections of this section or an existing reserve fund may be reduced.

22 3. Notes may not be issued by the commission unless there is in the reserve fund the
23 required debt service reserve for all notes then issued and outstanding and the
24 notes to be issued. This chapter does not prevent or preclude the commission
25 from satisfying this requirement by depositing so much of the proceeds of the
26 notes to be issued, upon their issuance, as is needed to achieve the required debt
27 service reserve. The commission may issue its notes for the purpose of providing
28 an amount necessary to increase the amount in the reserve fund to the required
29 debt service reserve, or to meet any higher or additional reserve as may be fixed
30 by the commission with respect to the fund.

- 1 4. In order to assure the maintenance of the required debt service reserve, there
2 must be appropriated by the legislative assembly and paid to the commission for
3 deposit in the reserve fund any sum certified by the commission as necessary to
4 restore the reserve fund to an amount equal to the required debt service reserve or
5 to maintain a reserve fund established by the commission under this chapter and
6 required according to the terms of a guarantee issued by the commission. The
7 commission may approve a resolution for the issuance of notes, as provided by
8 this chapter, which states in substance that this subsection is not applicable to the
9 required debt service reserve for notes issued under that resolution.
- 10 5. If the maturity of a series of notes of the commission is not more than three years
11 from the date of issuance of the notes, the commission may determine that no
12 reserve fund need be established for that respective series of notes or that the
13 reserve fund may be in an amount less than the required debt service reserve. If
14 the determination is made, holders of that respective series of notes do not have
15 an interest in or claim on existing reserve funds established for the security of the
16 holders of previously issued commission notes, and do not have an interest in or
17 claim on reserve funds established for the holders of subsequent issues of notes of
18 the commission.

19 **SECTION 6.** Section 61-02-68.17 of the North Dakota Century Code is created and
20 enacted as follows:

21 **61-02-68.17. Additional reserves and funds.** The commission may establish
22 additional and further reserves or other funds or accounts as may be necessary, desirable, or
23 convenient to further the accomplishment of the purposes of the commission to comply with the
24 provisions of an agreement made by or a resolution of the commission.

25 **SECTION 7.** Section 61-02-68.18 of the North Dakota Century Code is created and
26 enacted as follows:

27 **61-02-68.18. Protection of service during term of guarantee or loan.**

- 28 1. The service provided or made available by owners of water projects through the
29 construction or acquisition of an improvement, or the improvement revenues,
30 financed in whole or in part with a guarantee or loan to the owners of water
31 projects from the commission or any other state entity, may not be curtailed or

1 limited by inclusion of all or any part of the area served by the owners of water
2 projects within the boundaries of any other owners of water projects, or by the
3 granting of any private franchise for similar service within the area served by the
4 owners of water projects, during the term of the guarantee or loan. The owners of
5 water projects providing the service may not be required to obtain or secure a
6 franchise, license, or permit as a condition of continuing to serve the area if it is
7 included within the boundaries of another owner of a water project during the term
8 of the guarantee or loan.

9 2. Under the circumstances described in subsection 1, nothing prevents the two
10 owners of water projects and the commission or other state entity from negotiating
11 an agreement for the right or obligation to provide the service in question, provided
12 that an agreement is invalid unless the commission or other state agency or
13 enterprise is a party to the agreement and unless the agreement contains
14 adequate safeguards to ensure the security and timely payment of any outstanding
15 notes of the commission issued to fund the loan.

16 **SECTION 8.** Section 61-02-68.19 of the North Dakota Century Code is created and
17 enacted as follows:

18 **61-02-68.19. Interim financing notes, guarantees, or bonds for municipal, rural,**
19 **and industrial water supply projects - Public interest.** Guarantees made under section
20 61-02-68.14 or bonds or interim notes issued under chapter 61-02 for the purpose of providing
21 construction period financing for owners of water projects eligible to receive municipal, rural,
22 and industrial water supply funds pursuant to Pub. L. 99-294 [100 Stat. 418] are in the public
23 interest and are not subject to the limitation contained in subsection 2 of section 61-02-46.

24 **SECTION 9.** A new chapter to title 61 of the North Dakota Century Code is created and
25 enacted as follows:

26 **Definitions.** In this chapter, unless the context or subject matter requires otherwise:

- 27 1. "Bond" means an evidence of indebtedness of the program issued by the
28 commission.
- 29 2. "Bondholder" or any similar term, when used with reference to a bond of the
30 program, means any person who is the bearer of any outstanding bond of the
31 program.

- 1 3. "Commission" means the state water commission.
2 4. "Fully marketable form" means a municipal security duly executed and
3 accompanied by an approving legal opinion of a counsel whose opinions are
4 generally accepted by the purchasers of municipal securities.
5 5. "Municipal security" means an evidence of indebtedness issued by an irrigation
6 district.
7 6. "Program" means the North Dakota irrigation district finance program established
8 by the commission under this chapter.
9 7. "Required debt service reserve" means the amount required to be on deposit in the
10 reserve fund.
11 8. "Reserve fund" means the program reserve fund or funds.
12 9. "Revenues" means any or all fees, charges, moneys, profits, payments of principal
13 of or interest on municipal securities, investment income, revenues, appropriations,
14 liquidation of security, and all other income derived or to be derived by the
15 commission under the program.

16 **Creation of program.** The North Dakota irrigation district finance program is
17 established under the operation, management, and control of the commission. The program is
18 constituted as an instrumentality of the state exercising public and governmental functions.

19 **Participation voluntary - Agreement to participate.** Participation in the program by
20 an irrigation district is voluntary and no irrigation district may be required to sell its municipal
21 security issues to the program. Notwithstanding any other law, an irrigation district that wishes
22 to participate in the program may enter into an agreement with the program for the purchase by
23 the program of a municipal security issue of the irrigation district, including the purchase by the
24 program of an issue of refunding municipal securities, which may be required by agreement
25 with the program to be issued at a rate of interest higher or lower than that of the municipal
26 security issue to be refunded.

27 **Guarantee, lending, and borrowing powers.** The program may guarantee municipal
28 securities issued by an irrigation district. The program may lend money to irrigation districts
29 through the purchase and holding of municipal securities which are eligible for purchase by the
30 program, under this chapter, according to the terms of a guarantee by the program for the
31 payment of debt service on a municipal security of an irrigation district. However, the program

1 may lend money to irrigation districts through the purchase and holding of municipal securities
2 issued by the irrigation district, without regard to the initial issuance of a guarantee of the
3 principal amount and interest payable on the municipal securities issued, if the commission
4 approves a resolution that authorizes the program to purchase and hold those municipal
5 securities. The authorizing resolution must state that the commission has determined that
6 private bond markets will not be responsive to the needs of the issuing irrigation district
7 concerning the municipal securities or that the municipal securities cannot be sold through
8 private bond markets without the guarantee of the program. The program may hold municipal
9 securities acquired under this chapter for any length of time necessary. The program, for the
10 purposes authorized by this chapter, may issue its bonds payable solely from the revenues
11 available to the program which are authorized or pledged for payment of program bonds and
12 obligations, and assist irrigation districts as provided in this chapter. Bonds or guarantees of
13 the program issued under this chapter are not a debt or liability of the state and do not
14 constitute a loan of the credit of the state, create any debt or liability on behalf of the state, or
15 constitute a pledge of the faith and credit of the state. The bonds are payable solely from
16 revenues pledged or available for their payment as authorized in this chapter. Each bond must
17 contain on its face a statement to the effect that the program is obligated to pay the principal or
18 interest, and redemption premium, if any, and that neither the faith and credit nor the taxing
19 power of the state is pledged to the payment of the principal or the interest on the bonds.
20 Specific funds pledged to fulfill the program's obligations are obligations of the program. All
21 expenses incurred in carrying out this chapter are payable solely from revenues or funds
22 provided or to be provided under this chapter and nothing in this chapter may be construed to
23 authorize the program to incur any indebtedness or liability on behalf of or payable by the state.
24 Guarantees or bonds issued under this chapter are in the public interest and are not subject to
25 the limitation contained in subsection 2 of section 61-02-46.

26 **How bonds or guarantees may be secured.** A bond or guarantee issued by the
27 program may be secured by works or lands and the income derived from those works or lands.

28 **Powers.** The program has the following powers:

- 29 1. To sue and be sued.
- 30 2. To make and enforce bylaws and rules for the conduct of its affairs and business
31 and for use of its services.

- 1 3. To acquire, hold, use, and dispose of its income, revenue, funds, and moneys in
2 accordance with law.
- 3 4. To acquire, rent, lease, hold, use, and dispose of other personal property for its
4 purposes.
- 5 5. To borrow money and to issue its negotiable bonds or notes and to provide for and
6 secure their payment and to provide for the rights of the holders, and to purchase,
7 hold, and dispose of any of its bonds and obligations.
- 8 6. To fix, revise, charge, and collect fees and charges for the use of its services or
9 facilities.
- 10 7. To perform any acts and do all things authorized by this chapter, through its
11 officers, agents, or employees, or by contracts with any person.
- 12 8. To make and enforce all contracts necessary or desirable for the program or
13 pertaining to any loan to a political subdivision or any purchase or sale of municipal
14 securities or other investments or to the performance of its duties and execution of
15 its powers under this chapter.
- 16 9. To purchase or hold municipal securities of irrigation districts at the prices and in
17 the manner deemed advisable by the program and to sell municipal securities
18 acquired or held by it in the manner deemed advisable by the program.
- 19 10. To invest any funds or moneys of the program not then required for loans to
20 irrigation districts and for the purchase of municipal securities in the same manner
21 as permitted for the investment of funds belonging to the state or the Bank of North
22 Dakota.
- 23 11. To fix and prescribe any form of application or procedure to be required of an
24 irrigation district for the purpose of any guarantee, loan, or the purchase of its
25 municipal securities, and to fix the terms and conditions of any guarantee, loan, or
26 purchase and to enter into agreement with irrigation districts with respect to any
27 such guarantee, loan, or purchase.
- 28 12. To consider the need, desirability, or eligibility of a guarantee or loan, the ability of
29 an irrigation district to secure borrowed money from other sources, and the costs
30 of that borrowing without program involvement.

- 1 13. To impose and collect charges from an irrigation district for its costs and services
2 in review or consideration of any proposed guarantee or loan to an irrigation district
3 or purchase of municipal securities of an irrigation district, and to impose and
4 collect charges whether or not a guarantee or loan has been made or municipal
5 securities have been guaranteed or purchased.
- 6 14. To fix and establish any and all terms and provisions with respect to any guarantee
7 or purchase of municipal securities by the program, including dates and maturities
8 of bonds, provisions as to redemption or payment prior to maturity, and any and all
9 other matters necessary or advisable in the judgment of the program.
- 10 15. To procure insurance against any losses in connection with its property,
11 operations, or assets in the amounts and from the insurers as necessary to pay the
12 premiums on the insurance.
- 13 16. To the extent permitted under its contracts with the holders of bonds of the
14 program, to consent to any modification with respect to rates of interest, time, and
15 payment of any installment of principal or interest, security, or any other term of
16 bond, contract, or agreement of any kind to which the program is a party.
- 17 17. To do all acts and things necessary, convenient, or desirable to carry out the
18 powers expressly granted or necessarily implied in this chapter.

19 **Guarantee of the program.** A guarantee by the program of municipal securities of an
20 irrigation district must be authorized by resolution of the commission and must be evidenced by
21 a written agreement approved by the commission.

22 **Bonds of the program.** Bonds of the program must be authorized by resolution of the
23 commission and may be issued in the form, with dates, interest rates, denominations, rights of
24 conversion, registration, priority of payment, manner, location, and form of payment, terms of
25 redemption, at public or private sale, and at the time and price determined by the commission
26 to be in the best interest of the program.

27 **Pledges.** Any pledge of revenue made by the commission as security for a program
28 guarantee or program bonds is valid and binding from the time when the pledge is made. The
29 revenues or other moneys so pledged and thereafter received by the program are immediately
30 subject to the lien of the pledge, without any physical delivery or further act, and the lien of any
31 pledge is valid and binding against all parties having claims of any kind against the program,

1 regardless of whether the parties have notice. Neither the resolution nor any other instrument
2 by which a pledge is created must be filed or recorded, except in the records of the program.

3 **Reserve fund.**

4 1. The program shall establish and maintain a reserve fund in which there must be
5 deposited all moneys appropriated by the state for the purpose of the fund, all
6 proceeds of bonds required to be deposited by terms of any contract between the
7 program and its bondholders or any resolution of the program with respect to the
8 proceeds of bonds, any other moneys or funds of the program which are deposited
9 by the program, any contractual right to the receipt of moneys by the program for
10 the purpose of the fund, including a letter of credit or similar instrument, and any
11 other moneys made available to the program only for the purposes of the fund
12 from any other source. Moneys in the reserve fund must be held and applied
13 solely to the payment of the interest on and the principal of bonds and sinking fund
14 payments as they become due and payable and for the retirement of bonds,
15 including payment of any redemption premium required to be paid when any bonds
16 are redeemed or retired prior to maturity, and for the payment of principal and
17 interest on municipal securities guaranteed by the program. Moneys in the reserve
18 fund may not be withdrawn if the withdrawal would reduce the amount in the
19 reserve fund to less than the required debt service reserve, except for payment of
20 interest then due and payable on bonds and the principal of bonds then maturing
21 and payable, sinking fund payments, the retirement of bonds in accordance with
22 the terms of any contract between the program and its bondholders, the payment
23 of principal and interest on municipal securities of an irrigation district for which a
24 guarantee has been issued by the program, and for the payments on account of
25 which interest or principal or sinking fund payments or retirement of bonds or
26 execution of a guarantee, other moneys of the program are not then available in
27 accordance with the terms of the contract. The reserve fund may not be used for
28 the payment of a guarantee by the program unless the commission has
29 determined that bonds of the program cannot be issued under acceptable terms
30 for the payment of the guarantee, or the payment of the guarantee will not reduce
31 the reserve fund to an amount less than the required debt service reserve. The

1 required debt service reserve must be an aggregate amount equal to at least the
2 largest amount of money required by the terms of all contracts between the
3 program and its bondholders to be raised in the then current or any succeeding
4 calendar year for the payment of interest on and maturing principal of outstanding
5 bonds, and sinking fund payments required by the terms of any contracts to
6 sinking funds established for the payment or redemption of the bonds.

7 2. If the establishment of the reserve fund for an issue or the maintenance of an
8 existing reserve fund at a required level under this section would necessitate the
9 investment of all or any portion of a new reserve fund or all or any portion of an
10 existing reserve fund at a restricted yield, because not restricting the yield may
11 cause the bonds to be taxable under the Internal Revenue Code, then, at the
12 discretion of the program, no reserve fund need be established prior to the
13 issuance of bonds, the reserve fund need not be funded to the levels required by
14 this section, or an existing reserve fund may be reduced.

15 3. No bonds may be issued by the program unless there is in the reserve fund the
16 required debt service reserve for all bonds then issued and outstanding and for the
17 bonds to be issued. Nothing in this chapter prevents the program from satisfying
18 this requirement by depositing upon issuance so much of the proceeds of the
19 bonds to be issued, as is needed to achieve the required debt service reserve.
20 The program may, at any time, issue its bonds or notes for the purpose of
21 providing any amount necessary to increase the amount in the reserve fund to the
22 required debt service reserve, or to meet higher or additional reserves as may be
23 fixed by the program.

24 4. In order to ensure maintenance of the required debt service reserve, the legislative
25 assembly shall appropriate and deposit in the reserve fund the amount certified by
26 the commission as necessary to restore the reserve fund to an amount equal to
27 the required debt service reserve, or maintain a reserve fund established by the
28 commission under this chapter and required according to the terms of a guarantee
29 issued by the program. However, the commission may approve a resolution for
30 the issuance of bonds, as provided by this chapter, which states in substance that

1 this subsection is not applicable to the required debt service reserve for bonds
2 issued under the resolution.

3 5. If the maturity of a series of bonds of the program is three years or less from the
4 date of issuance of the bonds, the program may determine that no reserve fund
5 need be established for that respective series of bonds, or that it may be
6 established in an amount less than the required debt service reserve. If such a
7 determination is made, holders of the respective series of bonds may have no
8 interest in or claim on existing reserve funds established for the security of the
9 holders of previously issued program bonds and may have no interest in or claim
10 on reserve funds established for the holders of subsequent issues of bonds of the
11 program.

12 **Additional reserves and funds.** The program may establish additional reserves,
13 funds, or accounts as it deems necessary to further the program or to comply with any
14 agreement made by, or any resolution of, the program.

15 **Personal liability - Purchase of bonds - Bonds as legal investments - Security.**

16 1. Neither a member of the commission nor any person executing bonds issued
17 under this chapter is liable personally on any bonds by reason of the issuance of
18 those bonds.

19 2. The program has the power to purchase bonds of the program out of any available
20 funds or moneys of the program. The program may hold, cancel, or resell bonds
21 or notes, subject to any agreements with holders of its bonds.

22 3. Notwithstanding any other law, the state and all public officers, boards, and
23 agencies, and political subdivisions and agencies of the state, all national banking
24 associations, state banks, trust companies, savings banks and institutions, savings
25 and loan associations, investment companies, and other persons carrying on a
26 banking business, and all executors, administrators, guardians, trustees, and other
27 fiduciaries may legally invest any sinking funds, moneys, or other funds belonging
28 to them or within their control in any bonds issued by the program pursuant to this
29 chapter.

30 4. The bonds are authorized security for any and all public deposits.

31 **Tax exemptions - Exemption of property from execution sale.**

- 1 1. All property of the program and all bonds issued under this chapter are deemed to
2 be serving essential public and governmental purposes and the property and the
3 bonds issued, their transfer and their income, including any profits made on their
4 sale, are exempt from all state, county, and municipal taxes.
- 5 2. All property of the program is exempt from levy and sale by virtue of an execution
6 and no execution or other judicial process may issue against the property, nor may
7 any judgment against the program be a charge or lien upon its property; provided,
8 that nothing contained in this chapter applies to or limits the rights of the holder of
9 any bonds to pursue any remedy for the enforcement of any pledge or lien given
10 by the program on its revenues. Any action or proceeding in any court to set aside
11 a resolution authorizing the issuance of bonds by the program under this chapter
12 or to obtain any relief upon the ground that a resolution is invalid must be
13 commenced within ten days after the adoption of that resolution by the
14 commission. After the expiration of that period of limitation, no claim for relief or
15 defense founded upon the invalidity of the resolution or any of its provisions may
16 be asserted, nor may the validity of the resolution or any of its provisions be open
17 to question in any court on any ground whatever.

18 **Insurance or guaranty.** The program is authorized and empowered to obtain from any
19 department or agency of the United States or from nongovernmental insurer any insurance or
20 guaranty, or from a financial institution a letter of credit to the extent the insurance, guaranty, or
21 letter of credit available now or in the future for the payment or repayment of, interest or
22 principal in whole or in part, on any bonds issued by the program, or on any municipal
23 securities purchased or held by the program, or on any guarantee issued by the program,
24 pursuant to this chapter; and to enter into any agreement or contract with respect to any
25 insurance or guaranty, or letter of credit, and pay any required fee, unless doing so would
26 impair or interfere with the ability of the program to fulfill the terms of any agreement made with
27 the holders of its bonds or guarantees.

28 **Remedies on default of municipal securities.** In the event of a default by an
29 irrigation district in the payment of interest on or principal of any municipal securities owned or
30 held by the program, the program may proceed to enforce payment, pursuant to law, of the
31 interest or principal or other amount then due and payable.

1 **Form of municipal securities and investments.** All municipal securities held by the
2 program as permitted or provided for under this chapter must at all times be purchased and
3 held in fully marketable form, subject to provision for any registration in the name of the
4 program. All municipal securities at any time purchased, held, or owned by the program must,
5 upon delivery to the program, be in fully marketable form and accompanied by the
6 documentation required from time to time by the program.

7 **Presumption of validity.** After issuance, all bonds of the program are conclusively
8 presumed to be fully authorized and issued under the laws of this state, and any person or
9 governmental unit is estopped from questioning their authorization, sale, issuance, execution,
10 or delivery by the program.

11 **Protection of service during term of guarantee or loan.**

12 1. The service provided or made available by an irrigation district through the
13 construction or acquisition of an improvement, or the improvement revenues,
14 financed in whole or in part with a guarantee or loan to the irrigation district from
15 the program or any other state agency or enterprise, may not be curtailed or
16 limited by inclusion of all or any part of the area served by the irrigation district
17 within the boundaries of any other irrigation district, or by the granting of any
18 private franchise for similar service within the area served by the irrigation district
19 during the term of the guarantee or loan. The irrigation district providing the
20 service may not be required to obtain or secure any franchise, license, or permit,
21 as a condition of continuing to serve the area if it is included within the boundaries
22 of another irrigation district during the term of the guarantee or loan.

23 2. Under the circumstances described in subsection 1, nothing prevents the two
24 irrigation districts and the program or other state agency or enterprise from
25 negotiating an agreement for the right or obligation to provide the service in
26 question, provided that any agreement is invalid and unenforceable unless the
27 program or other state agency or enterprise is a party to the agreement and unless
28 the agreement contains adequate safeguards to ensure the security and timely
29 payment of any outstanding bonds of the program issued to fund the loan.

30 **Program revenues - Source.** The state water commission may use resource trust
31 fund revenues appropriated to it by Senate Bill No. 2023, as approved by the fifty-sixth

1 legislative assembly, for the purpose of funding the reserve funds or paying the obligations of
2 the program.

3 **SECTION 10. EMERGENCY.** This Act is declared to be an emergency measure.