

## **BILL ANALYSIS**

Senate Research Center

S.B. 1902  
By: Lucio  
Natural Resources  
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Enrolled

### **DIGEST AND PURPOSE**

Currently, certain counties do not have a regional water authority. S.B. 1902 creates the Rio Grande Regional Water Authority as a conservation and reclamation district within Cameron, Hidalgo, Starr, Willacy, Webb, and Zapata counties.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 6.01 (Section 11.3271, Water Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

#### ARTICLE I. GENERAL PROVISIONS

SECTION 1.01. DEFINITIONS.

SECTION 1.02. CREATION.

SECTION 1.03. PURPOSE OF AUTHORITY.

SECTION 1.04. FINDING OF BENEFIT AND PUBLIC PURPOSE.

SECTION 1.05. BOUNDARIES.

SECTION 1.06. WATER RIGHTS NOT AFFECTED.

SECTION 1.07. AUTHORITY PROHIBITED FROM CONDEMNING WATER RIGHTS.

#### ARTICLE II. BOARD OF DIRECTORS

SECTION 2.01. BOARD OF DIRECTORS.

SECTION 2.02. INITIAL DIRECTORS.

SECTION 2.03. VACANCY.

SECTION 2.04. OATH AND BOND REQUIREMENT FOR DIRECTOR.

SECTION 2.05. DIRECTOR COMPENSATION AND REIMBURSEMENT OF EXPENSES.

SECTION 2.06. OFFICERS.

SECTION 2.07. MEETINGS.

SECTION 2.08. EMPLOYEES.

SECTION 2.09. DUTIES OF GENERAL MANAGER.

SECTION 2.10. COMPENSATION OF EMPLOYEES.

SECTION 2.11. SURETY BOND.

SECTION 2.12. CONFLICT OF INTEREST

SECTION 2.13. REGULAR OFFICE OF AUTHORITY.

SECTION 2.14. RECORDS.

#### ARTICLE III. POWERS AND DUTIES

SECTION 3.01. POWER UNDER CONSTITUTION AND OTHER LAW.

SECTION 3.02. AD VALOREM TAX PROHIBITED.

SECTION 3.03. NONCONTRACTUAL FEES PROHIBITED.

SECTION 3.04. STATE SUPERVISION AND APPROVAL.

SECTION 3.05. ADDITIONAL POWERS RELATING TO ACQUISITION OR OPERATION OF PROPERTY.

SECTION 3.06. ADDITIONAL POWERS RELATING TO CONTRACT, LEASE, AGREEMENT, OR CONVEYANCE.

SECTION 3.07. COURT-APPOINTED RECEIVER.

#### ARTICLE IV. GENERAL FINANCIAL MATTERS

SECTION 4.01. PROCEDURE FOR PAYMENT.

SECTION 4.02. RECORDS RELATING TO MONEY.

SECTION 4.03. FILING OF AUDIT.

#### ARTICLE V. BONDS

SECTION 5.01. BOND PROVISIONS.

SECTION 5.02. DEED OF TRUST OR MORTGAGE LIEN.

SECTION 5.03. ELECTION FOR REVENUE BONDS NOT REQUIRED.

SECTION 5.04. LIMITATIONS ON AUTHORITY TO ISSUE BONDS.

SECTION 5.05. BONDS EXEMPT FROM TAXATION.

SECTION 5.06. FULL AUTHORITY.

#### ARTICLE VI. RIO GRANDE WATERMASTER

SECTION 6.01. Amends Subchapter G, Chapter 11, Water Code, by adding Section 11.3271, as follows:

Sec. 11.3271. POWERS AND DUTIES OF RIO GRANDE WATERMASTER; DELIVERY OF WATER DOWN BANKS AND BED OF RIO GRANDE. (a) Provides that this section applies only to the watermaster with jurisdiction over the Rio Grande and the water division for which that watermaster is appointed.

- (b) Requires the watermaster to divide the water of the streams or other sources of supply of the division in accordance with the adjudicated water rights.
- (c) Requires the watermaster to regulate or cause to be regulated the controlling works of reservoirs and diversion works in time of water shortage, as is necessary because of the rights existing in the streams of the division, or as is necessary to prevent the waste of water or its diversion, taking, storage, or use in excess of the quantities to which the holders of water rights are lawfully entitled.
- (d) Authorizes the watermaster to regulate the distribution of water from any system of works that serves users whose rights have been separately determined.
- (e) Provides that the watermaster's duties do not include activities that relate to other programs of the Texas Commission on Environmental Quality (TCEQ), except as provided by this section. Requires the watermaster's duties to include activities that relate to situations of imminent threat to public health and safety or the environment. Requires TCEQ to adopt rules defining situations of imminent threat under this section and addressing the watermaster's duties in response to terrorism.
- (f) Authorizes the watermaster to store in a reservoir for release at a later time water in transit that is being conveyed down the banks and bed of the Rio Grande under a permit issued by the commission and in accordance with rules prescribed by TCEQ. Defines "water in transit." Requires the contract to specify that the contract is for the purchase and delivery of a specified amount of water less the carriage losses incurred in transit, as described and measured according to TCEQ rules.
- (g) Authorizes the watermaster to store water under Subsection (f) only if the storage does not hinder the ability of any other holders of Rio Grande surface water rights to store the maximum authorized capacity in a reservoir as specified by TCEQ rules and relevant permits, certified filings, or certificates of adjudication.
- (h) Requires TCEQ, before granting a permit to convey water down the banks and bed of the Rio Grande, to adopt rules that provide for the methods and procedures by which the watermaster shall account for any discharge, delivery, conveyance, storage, diversion, or associated loss of water conveyed down the banks and bed of the Rio Grande. Prohibits a permit to convey water down the banks and bed of the Rio Grande from allowing the permit holder to share in any beneficial state water inflows into the Rio Grande. Provides that the permit holder is entitled to convey only the amount of water specified in the permit, less the carriage losses incurred in transit, as described and measured according to TCEQ rules. Requires a rule adopted by TCEQ under this subsection to be consistent with the Treaty Relating to the Utilization of the Waters of the Colorado and Tijuana Rivers, and of the Rio Grande (Rio Bravo) from Fort Quitman, Texas, to the Gulf of Mexico, concluded by the United States and the United Mexican States on February 3, 1944, and with any minute order adopted by the International Boundary and Water Commission.
- (i) Requires TCEQ, in considering an application for a permit to convey water down the banks and bed of the Rio Grande, to consider the quality of the water to be conveyed. Prohibits TCEQ from issuing a permit if it determines that the water to be conveyed would degrade the water quality of the Rio Grande.
- (j) Provides that notwithstanding any other law, the watermaster is the official recorder for all instruments, including deeds, deeds of trust, financing statements, security agreements, and liens, that TCEQ authorizes or requires to be filed in connection with water rights relating to water in the lower, middle, or upper basin

of the Rio Grande that are subject to a permit, certified filing, or certificate of adjudication. Requires an instrument to be filed with the watermaster under this subsection in the same manner as required by other law for the same type of instrument. Provides that the filing of an instrument under this subsection results in the same legal and administrative status and consequences as a filing under other law for the same type of instrument. Requires an instrument filed under this subsection to be construed by a court, financial institution, or other affected person in the same manner as an instrument of the same type that is filed under other law. Authorizes the watermaster to charge and collect a fee for the recordation of instruments under this subsection in the same amount as the fee collected by the county clerk of Cameron County for the recordation of similar instruments. Requires TCEQ, by rule, to prescribe the procedures necessary for the proper implementation of this subsection, including reasonable transition provisions, if appropriate.

(k) Provides that this section does not apply to the Rio Grande above the Fort Quitman Dam.

#### ARTICLE VII. EFFECTIVE DATE; TRANSITION

SECTION 7.01. EFFECTIVE DATE. This Act takes effect September 1, 2003.

SECTION 7.02. ADOPTION OF RULES. Requires TCEQ, as soon as practicable after September 1, 2003, to adopt rules necessary for the implementation of Section 11.3271, Water Code, as added by this Act, and to expedite any application for a permit for the delivery of water down the banks and bed of the Rio Grande under Section 11.042, Water Code.