

1-1 By: Flores (Senate Sponsor - Lucio) H.B. No. 2250  
1-2 (In the Senate - Received from the House May 5, 2003;  
1-3 May 7, 2003, read first time and referred to Committee on Natural  
1-4 Resources; May 21, 2003, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;  
1-6 May 21, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2250 By: Lucio

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the powers and duties of the Rio Grande watermaster and  
1-11 the delivery of water down the banks and bed of the Rio Grande.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter G, Chapter 11, Water Code, is amended  
1-14 by adding Section 11.3271 to read as follows:

1-15 Sec. 11.3271. POWERS AND DUTIES OF RIO GRANDE WATERMASTER;  
1-16 DELIVERY OF WATER DOWN BANKS AND BED OF RIO GRANDE. (a) This  
1-17 section applies only to the watermaster with jurisdiction over the  
1-18 Rio Grande and the water division for which that watermaster is  
1-19 appointed.

1-20 (b) The watermaster shall divide the water of the streams or  
1-21 other sources of supply of the division in accordance with the  
1-22 adjudicated water rights.

1-23 (c) The watermaster shall regulate or cause to be regulated  
1-24 the controlling works of reservoirs and diversion works in time of  
1-25 water shortage, as is necessary because of the rights existing in  
1-26 the streams of the division, or as is necessary to prevent the waste  
1-27 of water or its diversion, taking, storage, or use in excess of the  
1-28 quantities to which the holders of water rights are lawfully  
1-29 entitled.

1-30 (d) The watermaster may regulate the distribution of water  
1-31 from any system of works that serves users whose rights have been  
1-32 separately determined.

1-33 (e) The watermaster's duties do not include activities that  
1-34 relate to other programs of the commission, except as provided by  
1-35 this section. The watermaster's duties shall include activities  
1-36 that relate to situations of imminent threat to public health and  
1-37 safety or the environment. The commission shall adopt rules:

1-38 (1) defining situations of imminent threat under this  
1-39 section; and

1-40 (2) addressing the watermaster's duties in response to  
1-41 terrorism.

1-42 (f) The watermaster may store in a reservoir for release at  
1-43 a later time water in transit that is being conveyed down the banks  
1-44 and bed of the Rio Grande under a permit issued by the commission  
1-45 and in accordance with rules prescribed by the commission. In this  
1-46 section, "water in transit" means privately owned water, not  
1-47 including state water, that a person has pumped from an underground  
1-48 reservoir and that is in transit between the point of discharge into  
1-49 the river and the place of use or the point of diversion by a person  
1-50 who has contracted with the owner of the water to purchase the  
1-51 water. The contract must specify that the contract is for the  
1-52 purchase and delivery of a specified amount of water less the  
1-53 carriage losses incurred in transit, as described and measured  
1-54 according to commission rules.

1-55 (g) The watermaster may store water under Subsection (f)  
1-56 only if the storage does not hinder the ability of any other holders  
1-57 of Rio Grande surface water rights to store the maximum authorized  
1-58 capacity in a reservoir as specified by commission rules and  
1-59 relevant permits, certified filings, or certificates of  
1-60 adjudication.

1-61 (h) Before granting a permit to convey water down the banks  
1-62 and bed of the Rio Grande, the commission shall adopt rules that  
1-63 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. A permit to convey water down the banks and bed of the Rio Grande may not allow the permit holder to share in any beneficial state water inflows into the Rio Grande. 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 commission rules. A rule adopted by the commission under this subsection must 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) In considering an application for a permit to convey water down the banks and bed of the Rio Grande, the commission shall consider the quality of the water to be conveyed. The commission may not issue a permit if it determines that the water to be conveyed would degrade the water quality of the Rio Grande.

(j) The watermaster shall maintain a central repository which shall be made available to the public that includes certified copies of all instruments, including deeds, deeds of trusts, and liens, that the commission requires to be filed in connection with water rights relating to water in the lower, middle, or upper basin of the Rio Grande and that are subject to a permit, certified filing, or certificate of adjudication. On or after September 1, 2003, a lien against a water right shall not be effective against third parties unless a certified copy of the instrument is filed with the watermaster and all requirements under other law are met. The validity of any liens or filings made prior to September 1, 2003, is not affected by this section. This section does not affect the validity of a lien as between the holder of the water right and the holder of the lien or the requirements or validity of any other law governing the perfection and recordation of these instruments. The executive director may charge a fee for the filing of certified copies of instruments. A fee collected under this section shall be deposited to the credit of the watermaster fund.

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

SECTION 2. (a) This Act takes effect September 1, 2003.

(b) As soon as practicable after September 1, 2003, the Texas Commission on Environmental Quality shall adopt rules necessary for the implementation of this Act and shall 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.

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