

By: Lucio, Hinojosa

S.B. No. 1902

A BILL TO BE ENTITLED

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AN ACT

relating to the creation, administration, powers, duties, operation, and financing of the Rio Grande Regional Water Authority; authorizing the issuance of bonds.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE I. GENERAL PROVISIONS

SECTION 1.01. DEFINITIONS. In this Act:

(1) "Authority" means the Rio Grande Regional Water Authority.

(2) "Board" means the board of directors of the authority.

(3) "Bond" includes a note.

(4) "Commission" means the Texas Commission on Environmental Quality.

(5) "Director" means a member of the board.

SECTION 1.02. CREATION. (a) A conservation and reclamation district, to be known as the Rio Grande Regional Water Authority is created.

(b) The authority is created under and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

(c) The authority is a governmental agency and a political subdivision of this state.

SECTION 1.03. PURPOSE OF AUTHORITY. The authority is

1 created to supplement, and not to replace, the services, regulatory
2 powers, and authority of irrigation districts, water development
3 supply corporations, counties, municipalities, and other political
4 subdivisions within their respective boundaries and corporate
5 limits.

6 SECTION 1.04. FINDING OF BENEFIT AND PUBLIC PURPOSE.

7 (a) The authority is created to serve a public use and benefit.

8 (b) All of the land and other property included within the
9 boundaries of the authority will be benefited by the improvement
10 projects and the services that are to be accomplished by the
11 authority under powers conferred by Section 59, Article XVI, Texas
12 Constitution, and other powers granted under this Act.

13 SECTION 1.05. BOUNDARIES. The boundaries of the authority
14 are coextensive with the boundaries of Cameron, Hidalgo, Starr,
15 Webb, Willacy, and Zapata counties.

16 SECTION 1.06. WATER RIGHTS NOT AFFECTED. This Act does not
17 affect any existing rights, or existing priorities in the rights,
18 to water from the source of supply. The formation of a contract for
19 the purchase of water with the authority is not an abandonment or
20 waiver of those rights or priorities and is not an abandonment of
21 the original point of diversion from the source of supply.

22 SECTION 1.07. AUTHORITY PROHIBITED FROM CONDEMNING WATER
23 RIGHTS. The authority is prohibited from condemning water rights.

24 ARTICLE II. BOARD OF DIRECTORS

25 SECTION 2.01. BOARD OF DIRECTORS. (a) The board consists
26 of 15 directors.

27 (b) Nine directors are appointed by the governor, with the

1 advice and consent of the senate, as follows:

- 2 (1) six directors who represent irrigation districts;
- 3 (2) one director who represents independent
- 4 irrigation water rights holders and holds a certificate of
- 5 adjudication for at least 500 acre-feet irrigation water rights;
- 6 (3) one director who represents water utilities; and
- 7 (4) one director who represents municipalities.

8 (c) One director is appointed from each of the six counties

9 in the authority by majority vote of the commissioners court of that

10 county. In January of a year in which a director's term expires,

11 the commissioners court of the appropriate county shall appoint a

12 director for a two-year term beginning February 1 of that year.

13 Directors appointed as provided by this subsection must be

14 certified to the board by the county judge of the county from which

15 the director is appointed.

16 (d) Directors appointed under Subsection (b) of this

17 section shall be appointed to ensure that at all times:

- 18 (1) at least one director is a qualified voter of each
- 19 county in the authority; and
- 20 (2) not more than three directors are qualified voters
- 21 of the same county.

22 (e) Initial directors serve until permanent directors are

23 appointed.

24 (f) Permanent directors appointed under Subsection (b) of

25 this section serve staggered four-year terms. Permanent directors

26 appointed under Subsection (c) of this section serve staggered

27 two-year terms.

1 (g) Each director must be a qualified voter of the state
2 residing within the boundaries of the authority.

3 SECTION 2.02. INITIAL DIRECTORS. (a) In appointing the
4 initial directors of the board, the governor shall appoint four
5 directors to terms expiring February 1, 2005, and five directors to
6 terms expiring February 1, 2007.

7 (b) In appointing the initial directors of the board, the
8 commissioners courts of Webb, Cameron, and Starr counties shall
9 appoint directors to terms expiring February 1, 2004, and the
10 commissioners courts of Hidalgo, Zapata, and Willacy counties shall
11 appoint directors to terms expiring February 1, 2005.

12 SECTION 2.03. VACANCY. (a) The governor shall fill a
13 vacancy that occurs in the office of a director appointed by the
14 governor.

15 (b) The commissioners court of a county shall fill a vacancy
16 that occurs in the office of a director appointed from that county.

17 (c) A person appointed to a vacant position serves for the
18 unexpired part of the term.

19 SECTION 2.04. OATH AND BOND REQUIREMENT FOR DIRECTOR.

20 (a) Each director, not later than 15 days after the date of
21 appointment, must qualify by taking the constitutional oath of
22 office and by filing a good and sufficient bond with the secretary
23 of state.

24 (b) The bond is subject to approval by the secretary of
25 state and must be:

- 26 (1) in the amount of \$1,000;
27 (2) payable to the authority; and

1 (3) conditioned on the faithful performance of the
2 duties as a director.

3 SECTION 2.05. DIRECTOR COMPENSATION AND REIMBURSEMENT OF
4 EXPENSES. (a) A director is not entitled to any compensation for
5 service on the board.

6 (b) A director is entitled to receive reimbursement for
7 actual and necessary expenses incurred in connection with service
8 on the board or attendance at board meetings or other board
9 business.

10 SECTION 2.06. OFFICERS. (a) The board shall elect from
11 among its members a president, a vice president, and a
12 secretary-treasurer.

13 (b) The president is the chief executive officer of the
14 authority.

15 (c) The vice president shall act as president if the
16 president is absent or unable to act.

17 (d) The secretary-treasurer shall act as secretary of the
18 board. The board shall select a temporary secretary if the
19 secretary-treasurer is absent or unable to act.

20 SECTION 2.07. MEETINGS. (a) The president shall preside
21 at all meetings of the board.

22 (b) The board shall set, by order entered in the minutes of
23 its proceedings, a specified time for the regular meetings of the
24 board. The board may meet for a specific occasion if called by
25 order of the president, vice president, or a majority of the
26 directors.

27 (c) The board shall hold its meetings at its office unless

1 the board directs otherwise for a specific occasion.

2 SECTION 2.08. EMPLOYEES. The authority may hire employees
3 to obtain any service or material required by the authority.

4 SECTION 2.09. DUTIES OF GENERAL MANAGER. The board may
5 employ a general manager for the authority and may delegate to the
6 general manager full authority to manage and operate the affairs of
7 the authority subject only to the orders of the board.

8 SECTION 2.10. COMPENSATION OF EMPLOYEES. The board shall
9 set the reasonable compensation to be paid to the general manager
10 and other employees of the authority.

11 SECTION 2.11. SURETY BOND. A bond required to be given by a
12 director, officer, or employee of the authority must be executed by
13 a surety company authorized to do business in this state, as surety
14 on the bond.

15 SECTION 2.12. CONFLICT OF INTEREST. The board shall comply
16 with Chapter 171, Local Government Code, relating to conflicts of
17 interest with a business entity in which a board member has a
18 substantial interest.

19 SECTION 2.13. REGULAR OFFICE OF AUTHORITY. The board shall
20 establish and maintain a regular office for conducting authority
21 business within the authority's territory.

22 SECTION 2.14. RECORDS. The secretary-treasurer of the
23 board shall keep a record of all proceedings and orders of the
24 board.

25 ARTICLE III. POWERS AND DUTIES

26 SECTION 3.01. POWER UNDER CONSTITUTION AND OTHER LAW. The
27 authority has all of the rights, powers, privileges, authority,

1 functions, and duties, except as limited by this Act, of a
2 conservation and reclamation district under the constitution and
3 other laws of this state, including those:

4 (1) expressly authorized or implied by Section 59,
5 Article XVI, Texas Constitution, for a conservation and reclamation
6 district; and

7 (2) given by general law, including Chapters 49, 51,
8 and 54, Water Code.

9 SECTION 3.02. AD VALOREM TAX PROHIBITED. Notwithstanding
10 Section 3.01 of this Act, the authority may not impose an ad valorem
11 tax.

12 SECTION 3.03. NONCONTRACTUAL FEES PROHIBITED.
13 Notwithstanding Section 3.01 of this Act, the authority may impose
14 a fee on a public or private entity only if:

15 (1) a contractual relationship exists between the
16 authority and the entity; and

17 (2) the authority expressly authorizes the fee.

18 SECTION 3.04. STATE SUPERVISION AND APPROVAL. The
19 authority is subject to the commission's continuing supervision
20 under Chapters 5 and 12, Water Code.

21 SECTION 3.05. ADDITIONAL POWERS RELATING TO ACQUISITION OR
22 OPERATION OF PROPERTY. (a) In this section, "property" includes a
23 right, including a water right, land, tenement, easement,
24 improvement, reservoir, dam, canal, lateral, plant, work, and
25 facility.

26 (b) The authority may investigate, plan, acquire,
27 construct, maintain, or operate any property the authority

1 considers necessary or proper for the accomplishment of the
2 purposes of the authority, including water treatment, wastewater
3 treatment, water conveyance, and desalination of water.

4 (c) The power described by Subsection (b) of this section
5 includes the power to acquire property inside or outside the
6 authority that is incidental or helpful to carrying out the
7 authority's purposes under this Act.

8 SECTION 3.06. ADDITIONAL POWERS RELATING TO CONTRACT,
9 LEASE, AGREEMENT, OR CONVEYANCE. (a) The authority may enter into
10 a contract, lease, or other agreement necessary or convenient to
11 carry out a power given to the authority by this Act.

12 (b) The authority may enter into a contract, lease, or
13 agreement with any person, including:

14 (1) an individual or artificial entity;

15 (2) a corporation, including a municipal corporation
16 and a public or private corporation; and

17 (3) a government or governmental agency, including the
18 United States and this state, or a political subdivision of this
19 state.

20 (c) The authority may enter into an international
21 cooperation agreement to accomplish the purposes of this Act or any
22 other law as provided by Chapter 792, Government Code.

23 (d) The authority may:

24 (1) convey or cause to be conveyed any of its property
25 to the United States;

26 (2) enter into a lease, regardless of whether it
27 includes a privilege of purchase, with the United States relating

1 to any property and obligating the authority to pay rent under the
2 lease from the income or other revenue of the property;

3 (3) apply for, accept, receive, and administer gifts,
4 grants, loans, and other funds available from any source; and

5 (4) participate with the commission in an action
6 authorized under Section 5.127, Water Code, as added by Chapter
7 728, Acts of the 77th Legislature, Regular Session, 2001.

8 (e) A contract, lease, or agreement under this section must
9 be approved by resolution of the board.

10 (f) This section does not authorize the assumption by the
11 authority of any obligation requiring a payment from taxes.

12 (g) The property to which Subsection (d) of this section
13 applies includes a right, land, tenement, easement, improvement,
14 reservoir, dam, canal, plant, lateral, work, and facility.

15 SECTION 3.07. COURT-APPOINTED RECEIVER. The authority may
16 serve as the court-appointed receiver in a matter determined by a
17 court concerning the disposition of assets of any district
18 authorized by Section 59, Article XVI, Texas Constitution.

19 ARTICLE IV. GENERAL FINANCIAL MATTERS

20 SECTION 4.01. PROCEDURE FOR PAYMENT. A warrant for the
21 payment of money by the authority may be drawn and signed by the
22 president and the secretary-treasurer if the account under which
23 the payment is to be made results from a contract made by the board
24 and is ordered paid by the board.

25 SECTION 4.02. RECORDS RELATING TO MONEY. The
26 secretary-treasurer shall:

27 (1) receive and give a receipt for all money received

1 by the authority; and

2 (2) keep records of all money received and spent by the
3 authority.

4 SECTION 4.03. FILING OF AUDIT. In addition to copies of the
5 annual audit of the authority that are filed as required by Section
6 49.194, Water Code, a copy shall be filed with the depository of the
7 authority and the office of the auditor.

8 ARTICLE V. BONDS

9 SECTION 5.01. BOND PROVISIONS. (a) For the purpose of
10 providing funds for purchasing or otherwise providing works,
11 plants, facilities, or appliances necessary to the accomplishment
12 of the purposes authorized by this Act, and for the purpose of
13 carrying out any other power conferred by this Act, the authority
14 may borrow money and issue negotiable bonds.

15 (b) A bond issued under this section may be:

16 (1) sold for cash, at a public or private sale, at a
17 price determined by the board;

18 (2) issued on terms determined by the board in
19 exchange for property of any kind or any interest in property that
20 the board determines necessary or convenient for any corporate
21 purpose; or

22 (3) issued to refund bonds issued at any time under
23 this Act.

24 (c) The issuance of bonds must be authorized by resolution
25 of the board, and the bonds must mature, serially or otherwise, in
26 not more than 50 years from their date of issuance.

27 (d) A resolution authorizing the issuance of bonds may

1 contain provisions that become part of the contract between the
2 authority and the purchasers and subsequent holders of the bonds:

3 (1) reserving the right to redeem the bonds at the time
4 or times, in the amounts, and at the prices provided;

5 (2) providing for the setting aside of sinking funds
6 or reserve funds and the regulation and disposition of those funds;

7 (3) pledging, to secure the payment of the principal
8 of and interest on the bonds and the sinking fund or reserve fund
9 payments agreed to be made with respect to the bonds, all or any
10 part of the gross or net revenues subsequently received by the
11 authority with respect to the property to be acquired or
12 constructed with the bonds or with proceeds of the bonds, or all or
13 any part of the gross or net revenues subsequently received by the
14 authority from any source;

15 (4) prescribing the purposes to which the bonds or any
16 bonds later issued, or the proceeds of the bonds, may be applied;

17 (5) agreeing to set and collect rates and charges
18 sufficient to produce revenues that are adequate to pay the items
19 specified in any resolution or resolutions authorizing any bonds,
20 and prescribing the use and disposition of all revenues;

21 (6) prescribing limitations on the issuance of
22 additional bonds and on all agreements that may be made with the
23 purchasers and successive holders of the bonds;

24 (7) relating to the construction, extension,
25 improvement, operation, maintenance, depreciation, replacement,
26 and repair of the properties of the authority and the carrying of
27 insurance on all or any part of the property covering loss or damage

1 or loss of use and occupancy resulting from specified risks;

2 (8) fixing the procedure, if any, by which, if the
3 authority desires, the terms of any contract with the holders of
4 bonds may be amended or abrogated and setting the amount of bonds
5 the holders of which must consent to amendment or abrogation, and
6 the manner in which the consent shall be evidenced;

7 (9) providing for the execution and delivery by the
8 authority to a bank or trust company authorized by law to accept
9 trusts, or to the United States or any office or agency of the
10 United States, of indentures or agreements authorized to be made
11 with or for the benefit of the holders of the bonds and other
12 provisions that may be contained in the indentures or agreements;

13 or

14 (10) making any other provisions, not inconsistent
15 with provisions of this Act, that the board may approve.

16 SECTION 5.02. DEED OF TRUST OR MORTGAGE LIEN. Bonds, within
17 the discretion of the board, may be additionally secured by a deed
18 of trust or mortgage lien on physical properties of the authority,
19 and all franchises, easements, water rights and appropriation
20 permits, leases, contracts, and all rights appurtenant to the
21 properties, vesting in the trustee power to sell the properties for
22 the payment of the indebtedness, power to operate the properties,
23 and all other powers and authority for the further security of the
24 bonds.

25 SECTION 5.03. ELECTION FOR REVENUE BONDS NOT REQUIRED. The
26 authority may issue bonds payable solely from revenues without an
27 election.

1 SECTION 5.04. LIMITATIONS ON AUTHORITY TO ISSUE BONDS. The
2 authority may not issue bonds or create indebtedness that would in
3 any way be payable from ad valorem taxes levied by the authority on
4 property within the authority.

5 SECTION 5.05. BONDS EXEMPT FROM TAXATION. Bonds and the
6 interest on bonds issued under this Act are exempt from taxation,
7 except inheritance taxes, by this state or by any municipal
8 corporation, county, or other political subdivision or taxing
9 district of this state.

10 SECTION 5.06. FULL AUTHORITY. The authority set out in this
11 Act for the authorization and issuance of bonds is in addition to,
12 and not in lieu of, the authority otherwise established under
13 general law and may not be construed as a limitation on, or a
14 modification of, general law providing for authorization and
15 issuance of bonds, notes, and other forms of obligations. Nothing
16 in this Act may be construed as affecting any existing contract,
17 bond, note, or other obligation of the authority or any indenture,
18 covenant, mortgage, or other agreement relating to them.

19 ARTICLE VI. EFFECTIVE DATE

20 SECTION 6.01. EFFECTIVE DATE. This Act takes effect
21 September 1, 2003.