

By: Lucio

S.B. No. 1902

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the creation, administration, powers, duties,  
3 operation, and financing of the Rio Grande Regional Water  
4 Authority.

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

6 ARTICLE I. GENERAL PROVISIONS

7 SECTION 1.01. DEFINITIONS. In this Act:

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

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

12 (3) "Bond" includes a note.

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

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

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

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

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

24 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. (a)  
7 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 ARTICLE II. BOARD OF DIRECTORS

23 SECTION 2.01. BOARD OF DIRECTORS. (a) The board consists  
24 of 15 directors.

25 (b) Nine directors are appointed by the governor, with the  
26 advice and consent of the senate, as follows:

27 (1) one director who represents independent

1 irrigators;

2 (2) one director who represents industry;

3 (3) one director who represents water districts;

4 (4) one director who represents water utilities;

5 (5) two directors who represent municipalities; and

6 (6) three directors who represent the public.

7 (c) One director is appointed from each of the six counties  
8 in the authority by majority vote of the commissioners court of that  
9 county. In January of a year in which a director's term expires,  
10 the commissioners court of the appropriate county shall appoint a  
11 director for a two-year term beginning February 1 of that year.  
12 Directors appointed as provided by this subsection must be  
13 certified to the board by the county judge of the county from which  
14 the director is appointed.

15 (d) Directors appointed under Subsection (b) shall be  
16 appointed to ensure that at all times:

17 (1) at least one director is a qualified voter of each  
18 county in the authority; and

19 (2) not more than three directors are qualified voters  
20 of the same county.

21 (e) Initial directors serve until permanent directors are  
22 appointed.

23 (f) Permanent directors appointed under Subsection (b)  
24 serve staggered four-year terms. Permanent directors appointed  
25 under Subsection (c) serve staggered two-year terms.

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

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

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

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

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

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

17          SECTION 2.04. OATH AND BOND REQUIREMENT FOR DIRECTOR. (a)  
18 Each director, not later than 15 days after the date of appointment,  
19 must qualify by taking the constitutional oath of office and by  
20 filing a good and sufficient bond with the secretary of state.

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

- 23                 (1) in the amount of \$1,000;  
24                 (2) payable to the authority; and  
25                 (3) conditioned on the faithful performance of the  
26 duties as a director.

27          SECTION 2.05. DIRECTOR COMPENSATION AND REIMBURSEMENT OF

1 EXPENSES. (a) A director is not entitled to any compensation for  
2 service on the board.

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

7 SECTION 2.06. OFFICERS. (a) The board shall elect from  
8 among its members a president, a vice president, and a  
9 secretary-treasurer.

10 (b) The president is the chief executive officer of the  
11 authority.

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

14 (d) The secretary-treasurer shall act as secretary of the  
15 board. The board shall select a temporary secretary if the  
16 secretary-treasurer is absent or unable to act.

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

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

23 (c) The board shall hold its meetings at its office unless  
24 the board directs otherwise for a specific occasion.

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

27 SECTION 2.09. DUTIES OF GENERAL MANAGER. The board may

1 employ a general manager for the authority and may delegate to the  
2 general manager full authority to manage and operate the affairs of  
3 the authority subject only to the orders of the board.

4 SECTION 2.10. COMPENSATION OF EMPLOYEES. The board shall  
5 set the reasonable compensation to be paid to the general manager  
6 and other employees of the authority.

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

11 SECTION 2.12. CONFLICT OF INTEREST. The board shall comply  
12 with Chapter 171, Local Government Code, relating to conflicts of  
13 interest with a business entity in which a board member has a  
14 substantial interest.

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

18 SECTION 2.14. RECORDS. The secretary-treasurer of the  
19 board shall keep a record of all proceedings and orders of the  
20 board.

21 ARTICLE III. POWERS AND DUTIES

22 SECTION 3.01. POWER UNDER CONSTITUTION AND OTHER LAW. The  
23 authority has all of the rights, powers, privileges, authority,  
24 functions, and duties of a conservation and reclamation district  
25 under the constitution and other laws of this state, including  
26 those:

27 (1) expressly authorized or implied by Section 59,

1 Article XVI, Texas Constitution, for a conservation and reclamation  
2 district; and

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

5 SECTION 3.02. AD VALOREM TAX PROHIBITED. Notwithstanding  
6 Section 3.01 of this Act, the authority may not impose an ad valorem  
7 tax.

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

11 (1) a contractual relationship exists between the  
12 authority and the entity; and

13 (2) the authority expressly authorizes the fee.

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

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

22 (b) The authority may investigate, plan, acquire,  
23 construct, maintain, or operate any property the authority  
24 considers necessary or proper for the accomplishment of the  
25 purposes of the authority, including water treatment, wastewater  
26 treatment, water conveyance, and desalination of water.

27 (c) The power described by Subsection (b) of this section

1 includes the power to acquire property inside or outside the  
2 authority that is incidental or helpful to carrying out the  
3 authority's purposes under this Act.

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

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

10 (1) an individual or artificial entity;

11 (2) a corporation, including a municipal corporation  
12 and a public or private corporation; and

13 (3) a government or governmental agency, including the  
14 United States and this state, or a political subdivision of this  
15 state.

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

19 (d) The authority may:

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

22 (2) enter into a lease, regardless of whether it  
23 includes a privilege of purchase, with the United States relating  
24 to any property and obligating the authority to pay rent under the  
25 lease from the income or other revenue of the property;

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



1           (4) participate with the commission in an action  
2 authorized under Section 5.127, Water Code, as added by Chapter  
3 728, Acts of the 77th Legislature, Regular Session, 2001.

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

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

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

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

15           ARTICLE IV. GENERAL FINANCIAL MATTERS

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

21           SECTION 4.02. RECORDS RELATING TO MONEY. The  
22 secretary-treasurer shall:

23                 (1) receive and give a receipt for all money received  
24 by the authority; and

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

27           SECTION 4.03. FILING OF AUDIT. In addition to copies of the

1 annual audit of the authority that are filed as required by Section  
2 49.194, Water Code, a copy shall be filed with the depository of the  
3 authority and the office of the auditor.

4 ARTICLE V. BONDS

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

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

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

14 (2) issued on terms determined by the board in  
15 exchange for property of any kind or any interest in property that  
16 the board determines necessary or convenient for any corporate  
17 purpose; or

18 (3) issued to refund bonds issued at any time under  
19 this Act.

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

23 (d) A resolution authorizing the issuance of bonds may  
24 contain provisions that become part of the contract between the  
25 authority and the purchasers and subsequent holders of the bonds:

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

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

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

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

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

17           (6) prescribing limitations on the issuance of  
18 additional bonds and on all agreements that may be made with the  
19 purchasers and successive holders of the bonds;

20           (7) relating to the construction, extension,  
21 improvement, operation, maintenance, depreciation, replacement,  
22 and repair of the properties of the authority and the carrying of  
23 insurance on all or any part of the property covering loss or damage  
24 or loss of use and occupancy resulting from specified risks;

25           (8) fixing the procedure, if any, by which, if the  
26 authority desires, the terms of any contract with the holders of  
27 bonds may be amended or abrogated and setting the amount of bonds

1 the holders of which must consent to amendment or abrogation, and  
2 the manner in which the consent shall be evidenced;

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

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

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

21 SECTION 5.03. ELECTION FOR REVENUE BONDS NOT REQUIRED. The  
22 authority may issue bonds payable solely from revenues without an  
23 election.

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

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

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

15                           ARTICLE VI. EFFECTIVE DATE

16           SECTION 6.01. EFFECTIVE DATE. This Act takes effect  
17 September 1, 2003.