

1-1 By: Lucio, Hinojosa S.B. No. 1902
1-2 (In the Senate - Filed April 7, 2003; April 9, 2003, read
1-3 first time and referred to Committee on Natural Resources;
1-4 April 25, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 10, Nays 0; April 25, 2003,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1902 By: Lucio

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

1-10 relating to the creation, administration, powers, duties,
1-11 operation, and financing of the Rio Grande Regional Water
1-12 Authority; authorizing the issuance of bonds.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 ARTICLE I. GENERAL PROVISIONS

1-15 SECTION 1.01. DEFINITIONS. In this Act:

1-16 (1) "Authority" means the Rio Grande Regional Water
1-17 Authority.

1-18 (2) "Board" means the board of directors of the
1-19 authority.

1-20 (3) "Bond" includes a note.

1-21 (4) "Commission" means the Texas Commission on
1-22 Environmental Quality.

1-23 (5) "Director" means a member of the board.

1-24 SECTION 1.02. CREATION. (a) A conservation and
1-25 reclamation district, to be known as the Rio Grande Regional Water
1-26 Authority is created.

1-27 (b) The authority is created under and is essential to
1-28 accomplish the purposes of Section 59, Article XVI, Texas
1-29 Constitution.

1-30 (c) The authority is a governmental agency and a political
1-31 subdivision of this state.

1-32 SECTION 1.03. PURPOSE OF AUTHORITY. The authority is
1-33 created to supplement, and not to replace, the services, regulatory
1-34 powers, and authority of irrigation districts, water development
1-35 supply corporations, counties, municipalities, and other political
1-36 subdivisions within their respective boundaries and corporate
1-37 limits.

1-38 SECTION 1.04. FINDING OF BENEFIT AND PUBLIC PURPOSE.
1-39 (a) The authority is created to serve a public use and benefit.

1-40 (b) All of the land and other property included within the
1-41 boundaries of the authority will be benefited by the improvement
1-42 projects and the services that are to be accomplished by the
1-43 authority under powers conferred by Section 59, Article XVI, Texas
1-44 Constitution, and other powers granted under this Act.

1-45 SECTION 1.05. BOUNDARIES. The boundaries of the authority
1-46 are coextensive with the boundaries of Cameron, Hidalgo, Starr,
1-47 Webb, Willacy, and Zapata counties.

1-48 SECTION 1.06. WATER RIGHTS NOT AFFECTED. This Act does not
1-49 affect any existing rights, or existing priorities in the rights,
1-50 to water from the source of supply. The formation of a contract for
1-51 the purchase of water with the authority is not an abandonment or
1-52 waiver of those rights or priorities and is not an abandonment of
1-53 the original point of diversion from the source of supply.

1-54 SECTION 1.07. AUTHORITY PROHIBITED FROM CONDEMNING WATER
1-55 RIGHTS. The authority is prohibited from condemning water rights.

1-56 ARTICLE II. BOARD OF DIRECTORS

1-57 SECTION 2.01. BOARD OF DIRECTORS. (a) The board consists
1-58 of 15 directors.

1-59 (b) Nine directors are appointed by the governor, with the
1-60 advice and consent of the senate, as follows:

1-61 (1) six directors who represent irrigation districts;

1-62 (2) one director who represents independent
1-63 irrigation water rights holders and holds a certificate of

2-1 adjudication for at least 500 acre-feet irrigation water rights;

2-2 (3) one director who represents water utilities; and

2-3 (4) one director who represents municipalities.

2-4 (c) One director is appointed from each of the six counties
2-5 in the authority by majority vote of the commissioners court of that
2-6 county. In January of a year in which a director's term expires,
2-7 the commissioners court of the appropriate county shall appoint a
2-8 director for a two-year term beginning February 1 of that year.
2-9 Directors appointed as provided by this subsection must be
2-10 certified to the board by the county judge of the county from which
2-11 the director is appointed.

2-12 (d) Directors appointed under Subsection (b) of this
2-13 section shall be appointed to ensure that at all times:

2-14 (1) at least one director is a qualified voter of each
2-15 county in the authority; and

2-16 (2) not more than three directors are qualified voters
2-17 of the same county.

2-18 (e) Initial directors serve until permanent directors are
2-19 appointed.

2-20 (f) Permanent directors appointed under Subsection (b) of
2-21 this section serve staggered four-year terms. Permanent directors
2-22 appointed under Subsection (c) of this section serve staggered
2-23 two-year terms.

2-24 (g) Each director must be a qualified voter of the state
2-25 residing within the boundaries of the authority.

2-26 SECTION 2.02. INITIAL DIRECTORS. (a) In appointing the
2-27 initial directors of the board, the governor shall appoint four
2-28 directors to terms expiring February 1, 2005, and five directors to
2-29 terms expiring February 1, 2007.

2-30 (b) In appointing the initial directors of the board, the
2-31 commissioners courts of Webb, Cameron, and Starr counties shall
2-32 appoint directors to terms expiring February 1, 2004, and the
2-33 commissioners courts of Hidalgo, Zapata, and Willacy counties shall
2-34 appoint directors to terms expiring February 1, 2005.

2-35 SECTION 2.03. VACANCY. (a) The governor shall fill a
2-36 vacancy that occurs in the office of a director appointed by the
2-37 governor.

2-38 (b) The commissioners court of a county shall fill a vacancy
2-39 that occurs in the office of a director appointed from that county.

2-40 (c) A person appointed to a vacant position serves for the
2-41 unexpired part of the term.

2-42 SECTION 2.04. OATH AND BOND REQUIREMENT FOR DIRECTOR.

2-43 (a) Each director, not later than 15 days after the date of
2-44 appointment, must qualify by taking the constitutional oath of
2-45 office and by filing a good and sufficient bond with the secretary
2-46 of state.

2-47 (b) The bond is subject to approval by the secretary of
2-48 state and must be:

2-49 (1) in the amount of \$1,000;

2-50 (2) payable to the authority; and

2-51 (3) conditioned on the faithful performance of the
2-52 duties as a director.

2-53 SECTION 2.05. DIRECTOR COMPENSATION AND REIMBURSEMENT OF
2-54 EXPENSES. (a) A director is not entitled to any compensation for
2-55 service on the board.

2-56 (b) A director is entitled to receive reimbursement for
2-57 actual and necessary expenses incurred in connection with service
2-58 on the board or attendance at board meetings or other board
2-59 business.

2-60 SECTION 2.06. OFFICERS. (a) The board shall elect from
2-61 among its members a president, a vice president, and a
2-62 secretary-treasurer.

2-63 (b) The president is the chief executive officer of the
2-64 authority.

2-65 (c) The vice president shall act as president if the
2-66 president is absent or unable to act.

2-67 (d) The secretary-treasurer shall act as secretary of the
2-68 board. The board shall select a temporary secretary if the
2-69 secretary-treasurer is absent or unable to act.

3-1 SECTION 2.07. MEETINGS. (a) The president shall preside
3-2 at all meetings of the board.

3-3 (b) The board shall set, by order entered in the minutes of
3-4 its proceedings, a specified time for the regular meetings of the
3-5 board. The board may meet for a specific occasion if called by
3-6 order of the president, vice president, or a majority of the
3-7 directors.

3-8 (c) The board shall hold its meetings at its office unless
3-9 the board directs otherwise for a specific occasion.

3-10 SECTION 2.08. EMPLOYEES. The authority may hire employees
3-11 to obtain any service or material required by the authority.

3-12 SECTION 2.09. DUTIES OF GENERAL MANAGER. The board may
3-13 employ a general manager for the authority and may delegate to the
3-14 general manager full authority to manage and operate the affairs of
3-15 the authority subject only to the orders of the board.

3-16 SECTION 2.10. COMPENSATION OF EMPLOYEES. The board shall
3-17 set the reasonable compensation to be paid to the general manager
3-18 and other employees of the authority.

3-19 SECTION 2.11. SURETY BOND. A bond required to be given by a
3-20 director, officer, or employee of the authority must be executed by
3-21 a surety company authorized to do business in this state, as surety
3-22 on the bond.

3-23 SECTION 2.12. CONFLICT OF INTEREST. The board shall comply
3-24 with Chapter 171, Local Government Code, relating to conflicts of
3-25 interest with a business entity in which a board member has a
3-26 substantial interest.

3-27 SECTION 2.13. REGULAR OFFICE OF AUTHORITY. The board shall
3-28 establish and maintain a regular office for conducting authority
3-29 business within the authority's territory.

3-30 SECTION 2.14. RECORDS. The secretary-treasurer of the
3-31 board shall keep a record of all proceedings and orders of the
3-32 board.

3-33 ARTICLE III. POWERS AND DUTIES

3-34 SECTION 3.01. POWER UNDER CONSTITUTION AND OTHER LAW. The
3-35 authority has all of the rights, powers, privileges, authority,
3-36 functions, and duties, except as limited by this Act, of a
3-37 conservation and reclamation district under the constitution and
3-38 other laws of this state, including those:

3-39 (1) expressly authorized or implied by Section 59,
3-40 Article XVI, Texas Constitution, for a conservation and reclamation
3-41 district; and

3-42 (2) given by general law, including Chapters 49, 51,
3-43 and 54, Water Code.

3-44 SECTION 3.02. AD VALOREM TAX PROHIBITED. Notwithstanding
3-45 Section 3.01 of this Act, the authority may not impose an ad valorem
3-46 tax.

3-47 SECTION 3.03. NONCONTRACTUAL FEES PROHIBITED.
3-48 Notwithstanding Section 3.01 of this Act, the authority may impose
3-49 a fee on a public or private entity only if:

3-50 (1) a contractual relationship exists between the
3-51 authority and the entity; and

3-52 (2) the authority expressly authorizes the fee.

3-53 SECTION 3.04. STATE SUPERVISION AND APPROVAL. The
3-54 authority is subject to the commission's continuing supervision
3-55 under Chapters 5 and 12, Water Code.

3-56 SECTION 3.05. ADDITIONAL POWERS RELATING TO ACQUISITION OR
3-57 OPERATION OF PROPERTY. (a) In this section, "property" includes a
3-58 right, including a water right, land, tenement, easement,
3-59 improvement, reservoir, dam, canal, lateral, plant, work, and
3-60 facility.

3-61 (b) The authority may investigate, plan, acquire,
3-62 construct, maintain, or operate any property the authority
3-63 considers necessary or proper for the accomplishment of the
3-64 purposes of the authority, including water treatment, wastewater
3-65 treatment, water conveyance, and desalination of water.

3-66 (c) The power described by Subsection (b) of this section
3-67 includes the power to acquire property inside or outside the
3-68 authority that is incidental or helpful to carrying out the
3-69 authority's purposes under this Act.

4-1 SECTION 3.06. ADDITIONAL POWERS RELATING TO CONTRACT,
4-2 LEASE, AGREEMENT, OR CONVEYANCE. (a) The authority may enter into
4-3 a contract, lease, or other agreement necessary or convenient to
4-4 carry out a power given to the authority by this Act.

4-5 (b) The authority may enter into a contract, lease, or
4-6 agreement with any person, including:

4-7 (1) an individual or artificial entity;
4-8 (2) a corporation, including a municipal corporation
4-9 and a public or private corporation; and

4-10 (3) a government or governmental agency, including the
4-11 United States and this state, or a political subdivision of this
4-12 state.

4-13 (c) The authority may enter into an international
4-14 cooperation agreement to accomplish the purposes of this Act or any
4-15 other law as provided by Chapter 792, Government Code.

4-16 (d) The authority may:
4-17 (1) convey or cause to be conveyed any of its property
4-18 to the United States;

4-19 (2) enter into a lease, regardless of whether it
4-20 includes a privilege of purchase, with the United States relating
4-21 to any property and obligating the authority to pay rent under the
4-22 lease from the income or other revenue of the property;

4-23 (3) apply for, accept, receive, and administer gifts,
4-24 grants, loans, and other funds available from any source; and

4-25 (4) participate with the commission in an action
4-26 authorized under Section 5.127, Water Code, as added by Chapter
4-27 728, Acts of the 77th Legislature, Regular Session, 2001.

4-28 (e) A contract, lease, or agreement under this section must
4-29 be approved by resolution of the board.

4-30 (f) This section does not authorize the assumption by the
4-31 authority of any obligation requiring a payment from taxes.

4-32 (g) The property to which Subsection (d) of this section
4-33 applies includes a right, land, tenement, easement, improvement,
4-34 reservoir, dam, canal, plant, lateral, work, and facility.

4-35 SECTION 3.07. COURT-APPOINTED RECEIVER. The authority may
4-36 serve as the court-appointed receiver in a matter determined by a
4-37 court concerning the disposition of assets of any district
4-38 authorized by Section 59, Article XVI, Texas Constitution.

4-39 ARTICLE IV. GENERAL FINANCIAL MATTERS

4-40 SECTION 4.01. PROCEDURE FOR PAYMENT. A warrant for the
4-41 payment of money by the authority may be drawn and signed by the
4-42 president and the secretary-treasurer if the account under which
4-43 the payment is to be made results from a contract made by the board
4-44 and is ordered paid by the board.

4-45 SECTION 4.02. RECORDS RELATING TO MONEY. The
4-46 secretary-treasurer shall:

4-47 (1) receive and give a receipt for all money received
4-48 by the authority; and

4-49 (2) keep records of all money received and spent by the
4-50 authority.

4-51 SECTION 4.03. FILING OF AUDIT. In addition to copies of the
4-52 annual audit of the authority that are filed as required by Section
4-53 49.194, Water Code, a copy shall be filed with the depository of the
4-54 authority and the office of the auditor.

4-55 ARTICLE V. BONDS

4-56 SECTION 5.01. BOND PROVISIONS. (a) For the purpose of
4-57 providing funds for purchasing or otherwise providing works,
4-58 plants, facilities, or appliances necessary to the accomplishment
4-59 of the purposes authorized by this Act, and for the purpose of
4-60 carrying out any other power conferred by this Act, the authority
4-61 may borrow money and issue negotiable bonds.

4-62 (b) A bond issued under this section may be:
4-63 (1) sold for cash, at a public or private sale, at a
4-64 price determined by the board;

4-65 (2) issued on terms determined by the board in
4-66 exchange for property of any kind or any interest in property that
4-67 the board determines necessary or convenient for any corporate
4-68 purpose; or

4-69 (3) issued to refund bonds issued at any time under

5-1 this Act.

5-2 (c) The issuance of bonds must be authorized by resolution
5-3 of the board, and the bonds must mature, serially or otherwise, in
5-4 not more than 50 years from their date of issuance.

5-5 (d) A resolution authorizing the issuance of bonds may
5-6 contain provisions that become part of the contract between the
5-7 authority and the purchasers and subsequent holders of the bonds:

5-8 (1) reserving the right to redeem the bonds at the time
5-9 or times, in the amounts, and at the prices provided;

5-10 (2) providing for the setting aside of sinking funds
5-11 or reserve funds and the regulation and disposition of those funds;

5-12 (3) pledging, to secure the payment of the principal
5-13 of and interest on the bonds and the sinking fund or reserve fund
5-14 payments agreed to be made with respect to the bonds, all or any
5-15 part of the gross or net revenues subsequently received by the
5-16 authority with respect to the property to be acquired or
5-17 constructed with the bonds or with proceeds of the bonds, or all or
5-18 any part of the gross or net revenues subsequently received by the
5-19 authority from any source;

5-20 (4) prescribing the purposes to which the bonds or any
5-21 bonds later issued, or the proceeds of the bonds, may be applied;

5-22 (5) agreeing to set and collect rates and charges
5-23 sufficient to produce revenues that are adequate to pay the items
5-24 specified in any resolution or resolutions authorizing any bonds,
5-25 and prescribing the use and disposition of all revenues;

5-26 (6) prescribing limitations on the issuance of
5-27 additional bonds and on all agreements that may be made with the
5-28 purchasers and successive holders of the bonds;

5-29 (7) relating to the construction, extension,
5-30 improvement, operation, maintenance, depreciation, replacement,
5-31 and repair of the properties of the authority and the carrying of
5-32 insurance on all or any part of the property covering loss or damage
5-33 or loss of use and occupancy resulting from specified risks;

5-34 (8) fixing the procedure, if any, by which, if the
5-35 authority desires, the terms of any contract with the holders of
5-36 bonds may be amended or abrogated and setting the amount of bonds
5-37 the holders of which must consent to amendment or abrogation, and
5-38 the manner in which the consent shall be evidenced;

5-39 (9) providing for the execution and delivery by the
5-40 authority to a bank or trust company authorized by law to accept
5-41 trusts, or to the United States or any office or agency of the
5-42 United States, of indentures or agreements authorized to be made
5-43 with or for the benefit of the holders of the bonds and other
5-44 provisions that may be contained in the indentures or agreements;
5-45 or

5-46 (10) making any other provisions, not inconsistent
5-47 with provisions of this Act, that the board may approve.

5-48 SECTION 5.02. DEED OF TRUST OR MORTGAGE LIEN. Bonds, within
5-49 the discretion of the board, may be additionally secured by a deed
5-50 of trust or mortgage lien on physical properties of the authority,
5-51 and all franchises, easements, water rights and appropriation
5-52 permits, leases, contracts, and all rights appurtenant to the
5-53 properties, vesting in the trustee power to sell the properties for
5-54 the payment of the indebtedness, power to operate the properties,
5-55 and all other powers and authority for the further security of the
5-56 bonds.

5-57 SECTION 5.03. ELECTION FOR REVENUE BONDS NOT REQUIRED. The
5-58 authority may issue bonds payable solely from revenues without an
5-59 election.

5-60 SECTION 5.04. LIMITATIONS ON AUTHORITY TO ISSUE BONDS. The
5-61 authority may not issue bonds or create indebtedness that would in
5-62 any way be payable from ad valorem taxes levied by the authority on
5-63 property within the authority.

5-64 SECTION 5.05. BONDS EXEMPT FROM TAXATION. Bonds and the
5-65 interest on bonds issued under this Act are exempt from taxation,
5-66 except inheritance taxes, by this state or by any municipal
5-67 corporation, county, or other political subdivision or taxing
5-68 district of this state.

5-69 SECTION 5.06. FULL AUTHORITY. The authority set out in this

6-1 Act for the authorization and issuance of bonds is in addition to,
6-2 and not in lieu of, the authority otherwise established under
6-3 general law and may not be construed as a limitation on, or a
6-4 modification of, general law providing for authorization and
6-5 issuance of bonds, notes, and other forms of obligations. Nothing
6-6 in this Act may be construed as affecting any existing contract,
6-7 bond, note, or other obligation of the authority or any indenture,
6-8 covenant, mortgage, or other agreement relating to them.

6-9 ARTICLE VI. EFFECTIVE DATE

6-10 SECTION 6.01. EFFECTIVE DATE. This Act takes effect
6-11 September 1, 2003.

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