

The Legislature
of the
State of New Mexico

49th Legislature, 1st Session

LAWS 2009

CHAPTER 100

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR

HOUSE AGRICULTURE AND WATER RESOURCES COMMITTEE

SUBSTITUTE FOR HOUSE BILL 185

Introduced by



CHAPTER 100

AN ACT

1
2 RELATING TO SPECIAL DISTRICTS; ENACTING A SECTION OF THE NMSA
3 1978 TO PROVIDE FOR THE CREATION OF THE LOWER RIO GRANDE
4 PUBLIC WATER WORKS AUTHORITY; PROVIDING FOR POWERS AND DUTIES
5 OF THE AUTHORITY.

6
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

8 Section 1. A new section of Chapter 73 NMSA 1978 is
9 enacted to read:

10 "LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY.--

11 A. The "Lower Rio Grande public water works
12 authority" is created. The authority is a political
13 subdivision of the state and shall be an independent public
14 body. The authority is composed of Berino mutual domestic
15 water consumers and mutual sewage works association, Desert
16 Sands mutual domestic water consumers association, La Mesa
17 mutual domestic water consumers association, Mesquite mutual
18 domestic water consumers and mutual sewage works association
19 and Vado mutual domestic water consumers association, all
20 serving unincorporated communities within Dona Ana county.
21 The voting community membership of the five founding entities
22 have approved by resolution the development of the authority.

23 B. The authority may adopt rules and resolutions,
24 governance policies and procedures necessary to exercise the
25 powers conferred pursuant to this section.

1 C. All functions, appropriations, money, records
2 and equipment and all personal property and real property,
3 including water rights, easements, permits and infrastructure,
4 as well as all encumbrances, debts and liabilities pertaining
5 to or owned by the founding entities shall be transferred to
6 the authority.

7 D. The authority's service area shall consist of
8 the founding entities' existing place of use on file with and
9 approved by the state engineer and shall be filed in the
10 public records of Dona Ana county. An application shall be
11 filed with the state engineer to combine and commingle water
12 rights and to combine the existing entities' place of use into
13 the authority's service area. In the event that another
14 entity elects to merge into the authority, the merger shall
15 include the combining and commingling of water rights with the
16 authority, and the authority's service area shall be amended
17 to include that entity's place of use and shall be filed with
18 the state engineer. The authority's initial service area and
19 any subsequent amendments to its service area shall be
20 designated in a plat filed in the public records of Dona Ana
21 county.

22 E. The authority may provide for water and
23 wastewater services, road improvements for the protection of
24 the authority's infrastructure or renewable energy projects
25 that are integral to the operation and maintenance of the

1 authority's facilities or any combination or parts thereof.

2 F. The authority shall exercise all powers allowed
3 pursuant to law, including:

4 (1) regulating, supervising and operating
5 the authority's facilities;

6 (2) establishing rates and imposing
7 assessments, fees and charges and taking action necessary for
8 the enforcement thereof;

9 (3) assessing a standby charge for the
10 privilege of connection into the authority's service at some
11 date in the future if the property line is within three
12 hundred feet of the authority's service lines and the property
13 line is located within the boundaries of the authority. This
14 section applies to new connections after the enactment of this
15 act;

16 (4) acquiring, from a willing seller only,
17 holding and using water rights in an amount necessary to meet
18 its reasonable needs not to exceed forty years pursuant to
19 Section 72-1-9 NMSA 1978;

20 (5) shutting off, after notice, unauthorized
21 connections, illegal connections or a connection for which
22 charges are delinquent in payment;

23 (6) entering into contracts for services
24 with private entities, the state, municipalities, counties and
25 the federal government and other public bodies to further its

1 public purposes;

2 (7) entering into joint powers agreements
3 with other governmental entities;

4 (8) acquiring and disposing of real
5 property, personal property and rights of way;

6 (9) condemning property pursuant to the
7 Eminent Domain Code as the last resort and only for the
8 purposes of construction, maintenance and operations of the
9 authority's infrastructure;

10 (10) hiring and retaining agents, employees
11 and consultants, as needed;

12 (11) adopting and using a governmental seal;

13 (12) placing a lien on property for unpaid
14 assessments, charges and fees and enforcing the lien in a
15 manner pursuant to law;

16 (13) suing and being sued and being a party
17 to suits, actions and proceedings; and

18 (14) having and exercising all rights and
19 powers necessary, incidental to or implied from the specific
20 powers granted in this section.

21 G. As a political subdivision of the state and a
22 member-owned community water system, the authority shall be
23 subject to the:

24 (1) applicable rules and regulations of the
25 department of environment, and in its discretion the

1 department may:

2 (a) conduct periodic reviews of the
3 operation of the authority;

4 (b) require the authority to submit
5 information to the department;

6 (c) upon department of environment
7 discretion or upon a petition of twenty-five percent of the
8 members of the authority, conduct an investigation as it deems
9 necessary to ensure the authority's compliance with all
10 applicable statutes, rules, regulations and reporting
11 requirements; and

12 (d) after a hearing, set and collect
13 rates and fees and use the same for the proper operation and
14 management of the authority;

15 (2) applicable rules and regulations of the
16 department of finance and administration, local government
17 division and budget and finance bureau;

18 (3) Open Meetings Act;

19 (4) Inspection of Public Records Act;

20 (5) Audit Act;

21 (6) Procurement Code;

22 (7) Governmental Conduct Act;

23 (8) special election procedures pursuant to
24 Chapter 1, Article 24 NMSA 1978;

25 (9) Chapter 72 NMSA 1978; and

1 (10) applicable rules and regulations of the
2 state engineer.

3 H. The authority is a political subdivision of the
4 state and a member-owned community water system and shall not
5 be subject to the jurisdiction of the public regulation
6 commission or the provisions of the Public Utility Act.

7 I. The authority may issue utility system revenue
8 bonds and obligations for acquiring real and personal property
9 needed for the utility system and for extending, enlarging,
10 renovating, repairing or otherwise improving its facilities.
11 The authority may issue revenue anticipation notes with
12 maturities and terms to be approved by the board of directors
13 of the authority. The authority may pledge irrevocably net
14 revenues from the operation of the utility system for payment
15 of the principal, premiums and interest on the bonds. The
16 utility system revenue bonds:

17 (1) may have interest, appreciated principal
18 value or any part thereof payable at intervals or at maturity
19 as the authority determines;

20 (2) may be subject to prior redemption at
21 the authority's option at such time and upon such terms and
22 conditions, with or without the payment of a premium, as
23 determined by the authority;

24 (3) may mature at any time not exceeding
25 forty years after the date of issuance;

1 (4) may be serial in form and maturity, may
2 consist of one bond payable at one time or in installments or
3 may be in another form as determined by the authority;

4 (5) shall be sold for cash at, above or
5 below par and at a price that results in a net effective
6 interest rate that does not exceed the maximum permitted by
7 the Public Securities Act; and

8 (6) may be sold at a public or negotiated
9 sale.

10 J. The authority's board of directors may adopt a
11 resolution declaring the necessity for the issuance of utility
12 system revenue bonds or other obligations and may authorize
13 the issuance of utility system revenue bonds or other
14 obligations by an affirmative vote of a majority of all
15 members of the authority's board of directors. Utility
16 revenue bonds and the resolution authorizing their issuance
17 shall be subject to voter approval with oversight from the
18 department of finance and administration and the New Mexico
19 finance authority. The bonds authorized by the authority and
20 their income shall be exempt from taxation by the state and
21 its political subdivisions.

22 K. Except for the purpose of refunding previous
23 utility system revenue bond issues, the authority shall not
24 sell utility system revenue bonds payable from pledged
25 revenues after the expiration of three years from the date of

1 the resolution authorizing their issuance. Any period of time
2 during which a utility system revenue bond is in litigation
3 shall not count toward the determination of the expiration
4 date of that issue.

5 L. The authority shall be governed by a board of
6 directors. The directors of the initial board shall consist
7 of five directors representing each of the founding entities.
8 The directors of the initial board shall serve until their
9 successors are elected. After the terms of the initial
10 directors are completed, the succeeding board of directors
11 shall be elected by districts from a minimum of five and a
12 maximum of seven electoral districts. Each director, at the
13 time of election, shall reside within the electoral district
14 of the authority from which that member is elected. The
15 boundaries and the number of electoral districts shall be
16 established by the initial board within two years of the
17 creation of the authority. The board may in its governance
18 document provide for redistricting upon any change in the
19 authority's boundary. The elected board of directors shall
20 serve staggered terms to be established in the governance
21 document developed by the initial board. Elections shall be
22 conducted in accordance with the special election procedures
23 pursuant to Chapter 1, Article 24 NMSA 1978 and may be
24 conducted by the Dona Ana county elections bureau.

25 M. As used in this section, "public water works

1 authority" means a utility organized as a political
2 subdivision of the state for the purposes of constructing
3 infrastructure and furnishing water and wastewater services
4 for domestic, commercial or industrial uses, road improvements
5 for the protection of the authority's infrastructure and
6 renewable energy projects; and entering into agreements with
7 other entities for the provision of other services, including
8 but not limited to water conservation and reclamation, source
9 water protection, drainage, flood control, solid waste,
10 planning and zoning."

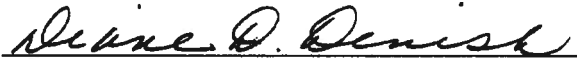
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BEN LUJAN, SPEAKER
HOUSE OF REPRESENTATIVES



STEPHEN R. ARIAS, CHIEF CLERK
HOUSE OF REPRESENTATIVES



DIANE D. DENISH, PRESIDENT
SENATE



LENORE M. NARANJO, CHIEF CLERK
SENATE

Approved by me this 6th day of April, 2009



BILL RICHARDSON, GOVERNOR
STATE OF NEW MEXICO