

HOUSE AGRICULTURE AND WATER RESOURCES COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 185

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

AN ACT

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

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

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

"[NEW MATERIAL] LOWER RIO GRANDE PUBLIC WORKS AUTHORITY.--

A. The "Lower Rio Grande public water works  
authority" is created. The authority is a political  
subdivision of the state and shall be an independent public  
body. The authority is composed of Berino mutual domestic  
water consumers and mutual sewage works association, Desert  
Sands mutual domestic water consumers association, La Mesa

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1 mutual domestic water consumers association, Mesquite mutual  
2 domestic water consumers and mutual sewage works association  
3 and Vado mutual domestic water consumers association, all  
4 serving unincorporated communities within Dona Ana county. The  
5 voting community membership of the five founding entities have  
6 approved by resolution the development of the authority.

7 B. The authority may adopt rules and resolutions,  
8 governance policies and procedures necessary to exercise the  
9 powers conferred pursuant to this section.

10 C. All functions, appropriations, money, records  
11 and equipment and all personal property and real property,  
12 including water rights, easements, permits and infrastructure,  
13 as well as all encumbrances, debts and liabilities pertaining  
14 to or owned by the founding entities shall be transferred to  
15 the authority.

16 D. The authority's service area shall consist of  
17 the founding entities' existing place of use on file with and  
18 approved by the office of the state engineer and shall be filed  
19 in the public records of Dona Ana county. In the event that  
20 another entity elects to merge into the authority, the merger  
21 shall include the combining and commingling of water rights  
22 with the authority, and the authority's service area shall be  
23 amended to include that entity's place of use and shall be  
24 filed with and approved by the office of state engineer. The  
25 authority's initial service area and any subsequent amendments

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1 to its service area shall be designated in a plat filed in the  
2 public records of Dona Ana county.

3 E. The authority may provide for water and  
4 wastewater services, road improvements for the protection of  
5 the authority's infrastructure or renewable energy projects  
6 that are integral to the operation and maintenance of the  
7 authority's facilities or any combination or parts thereof.

8 F. The authority may exercise all powers allowed  
9 pursuant to law, including:

10 (1) regulating, supervising and operating the  
11 authority's facilities;

12 (2) establishing rates and imposing  
13 assessments, fees and charges and taking action necessary for  
14 the enforcement thereof;

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

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

25 (5) shutting off, after notice, unauthorized

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underscored material = new  
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1 connections, illegal connections or a connection for which  
2 charges are delinquent in payment;

3 (6) entering into contracts for services with  
4 private entities, the state, municipalities, counties and the  
5 federal government and other public bodies to further its  
6 public purposes;

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

9 (8) acquiring and disposing of real property,  
10 personal property and rights of way;

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

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

17 (11) adopting and using a governmental seal;

18 (12) placing a lien on property for unpaid  
19 assessments, charges and fees and enforcing the lien in a  
20 manner pursuant to law;

21 (13) suing and being sued and being a party to  
22 suits, actions and proceedings; and

23 (14) having and exercising all rights and  
24 powers necessary, incidental to or implied from the specific  
25 powers granted in this section.

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1           G. As a political subdivision of the state, the  
2 authority shall be subject to the:

3                   (1) applicable rules and regulations of the  
4 department of environment;

5                   (2) applicable rules and regulations of the  
6 department of finance and administration;

7                   (3) Open Meetings Act;

8                   (4) Inspection of Public Records Act;

9                   (5) Audit Act;

10                  (6) Procurement Code;

11                  (7) Governmental Conduct Act; and

12                  (8) special election procedures pursuant to  
13 Chapter 1, Article 24 NMSA 1978.

14           H. The authority is a political subdivision of the  
15 state and shall not be subject to the jurisdiction of the  
16 public regulation commission or the provisions of the Public  
17 Utility Act.

18           I. The authority may issue utility system revenue  
19 bonds and obligations for acquiring real and personal property  
20 needed for the utility system and for extending, enlarging,  
21 renovating, repairing or otherwise improving its facilities.

22 The authority may issue revenue anticipation notes with  
23 maturities and terms to be approved by the board of directors  
24 of the authority. The authority may pledge irrevocably net  
25 revenues from the operation of the utility system for payment

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1 of the principal, premiums and interest on the bonds. The  
2 utility system revenue bonds:

3 (1) may have interest, appreciated principal  
4 value or any part thereof payable at intervals or at maturity  
5 as the authority determines;

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

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

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

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

19 (6) may be sold at a public or negotiated  
20 sale.

21 J. The authority's board of directors may adopt a  
22 resolution declaring the necessity for the issuance of utility  
23 system revenue bonds or other obligations and may authorize the  
24 issuance of utility system revenue bonds or other obligations  
25 by an affirmative vote of a majority of all members of the

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1 authority's board of directors. Utility revenue bonds and the  
2 resolution authorizing their issuance shall be subject to voter  
3 approval pursuant to Section 3-23-2 NMSA 1978 with oversight  
4 from the department of finance and administration and the New  
5 Mexico finance authority. The bonds authorized by the  
6 authority and their income shall be exempt from taxation by the  
7 state and its political subdivisions.

8 K. Except for the purpose of refunding previous  
9 utility system revenue bond issues, the authority shall not  
10 sell utility system revenue bonds payable from pledged revenues  
11 after the expiration of three years from the date of the  
12 resolution authorizing their issuance. Any period of time  
13 during which a utility system revenue bond is in litigation  
14 shall not count toward the determination of the expiration date  
15 of that issue.

16 L. The authority shall be governed by a board of  
17 directors. The directors of the initial board shall consist of  
18 five directors representing each of the founding entities. The  
19 directors of the initial board shall serve until their  
20 successors are elected. After the terms of the initial  
21 directors are completed, the succeeding board of directors  
22 shall be elected by districts from a minimum of five and a  
23 maximum of seven electoral districts. Each director, at the  
24 time of election, shall reside within the electoral district of  
25 the authority from which that member is elected. The

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1 boundaries and the number of electoral districts shall be  
2 established by the initial board within two years of the  
3 creation of the authority. The board may in its governance  
4 document provide for redistricting upon any change in the  
5 authority's boundary. The elected board of directors shall  
6 serve staggered terms to be established in the governance  
7 document developed by the initial board. Elections shall be  
8 conducted in accordance with the special election procedures  
9 pursuant to Chapter 1, Article 24 NMSA 1978 and may be  
10 conducted by the Dona Ana county elections bureau.

11 M. As used in this section, "public water works  
12 authority" means a public utility organized as a political  
13 subdivision of the state for the purposes of constructing  
14 infrastructure and furnishing water and wastewater services for  
15 domestic, commercial or industrial uses, road improvements for  
16 the protection of the authority's infrastructure and renewable  
17 energy projects; and entering into agreements with other  
18 entities for the provision of other services, including but not  
19 limited to water conservation and reclamation, source water  
20 protection, drainage, flood control, solid waste, planning and  
21 zoning."