

## BILL ANALYSIS

Senate Research Center  
80R14896 SGA-F

H.B. 3438  
By: Flores (Lucio)  
Natural Resources  
5/16/2007  
Engrossed

### AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law requires the board of directors of the Rio Grande Regional Water Authority to include fifteen members consisting of six county appointed members from each member county and nine gubernatorial appointments, and prohibits a county from having more than three board members at a time. Since most irrigators are located in the lower half of the Rio Grande Valley, the governor has had difficulty appointing board members without violating the three members per county requirement.

H.B. 3438 creates an 18-member board for the Rio Grande Regional Water Authority with 12 members to be appointed by the governor and removes the three members per county limit. This bill also requires the chair of the board to vote only to break ties and includes a watermaster as a non-voting member.

### RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1.01, Chapter 385, Acts of the 78th Legislature, Regular Session, 2003, by adding Subdivisions (4-a) and (6) through (8) to define "conference," "municipal class entity," "water supply corporation," and "watermaster."

SECTION 2. Amends Chapter 385, Acts of the 78th Legislature, Regular Session, 2003, by adding Article IA, as follows:

#### ARTICLE IA. CONFERENCE

Sec. 1A.01. CONFERENCE MEMBERSHIP. (a) Provides that each county, municipal class entity, water supply corporation, and irrigation district or other water district in the authority is a member of the conference.

(b) Authorizes the board of directors (board) of the Rio Grande Regional Water Authority (authority) to determine whether a prospective member is qualified to become a member of the conference.

Sec. 1A.02. ADVISORY COMMITTEE. Authorizes the board to appoint an advisory committee composed of representatives of the conference members to advise the board in administering this Act.

Sec. 1A.03. IRRIGATION DISTRICTS COMMITTEE. (a) Requires the irrigation districts that are members of the conference to convene as a committee (committee) to prepare a list of nominees for director positions under Section 2.01(b)(1) of this Act at least 60 days before directors' terms are scheduled to expire or whenever a vacancy occurs in those positions. Requires the committee to provide the list to the governor not later than the 21st day after the date on which the committee convenes.

(b) Authorizes the committee members to select a presiding officer to conduct committee meetings and represent the entire committee.

SECTION 3. Amends Section 2.01, Chapter 385, Acts of the 78th Legislature, Regular Session, 2003, by amending Subsections (a), (b), (c), and (f) and adding Subsections (c-1), (h), and (i), as follows:

(a) Provides that the board consists of 18, rather than 15, directors.

(b) Provides that 12 directors, rather than nine, are appointed by the governor, with the advice and consent of the senate. Sets forth the composition of the 12 directors with regard to representation.

(c) Increases the term of a director to four years from two years. Requires a director appointed as provided by this subsection to meet certain requirements, in addition to meeting the requirements of Subsection (c-1) of this section.

(c-1) Requires a director appointed under Subsection (c) of this section to reside in the most populous municipality in the county from which the director is appointed if the county meets certain requirements.

(f) Provides that directors appointed under Subsection (b) or (c) of this section serve staggered four-year terms. Deletes existing text providing that permanent directors appointed under Subsection (c) of this section serve staggered two-year terms.

(h) Authorizes the governor in making an appointment under Subsection (b) to reject one or more of the nominees on a list submitted by the committee and request a new list of different nominees. Requires the second list of nominees to be submitted to the governor not later than the 14th day after the date of the governor's request for a new list. Authorizes the governor, if the governor rejects one or more of the nominees on the second list, to request a third, final list of nominees, that are required to be submitted to the governor not later than the 14th day after the date of the governor's request for the third list. Authorizes the governor, if the governor rejects one or more of the nominees on the third list, to select any person who represents an irrigation district that is a member of the conference to serve as a director.

(i) Provides that the watermaster serves as a nonvoting advisor to the board.

SECTION 4. Amends Chapter 385, Acts of the 78th Legislature, Regular Session, 2003, by adding Section 2.035, as follows:

Sec. 2.035. REMOVAL FROM OFFICE. Provides that it is grounds for the removal of a director from office, if the director is absent from more than half of the regularly scheduled board meetings that the director is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

SECTION 5. Amends Section 2.06(b), Chapter 385, Acts of the 78th Legislature, Regular Session, 2003, as follows:

(b) Provides that the president is the chief executive officer of the authority. Prohibits the president from voting at a board meeting except to break a tie vote.

SECTION 6. Amends Section 3.07, Chapter 385, Acts of the 78th Legislature, Regular Session, 2003, as follows:

Sec. 3.07. COURT-APPOINTED RECEIVER. Authorizes the authority to serve as the court-appointed receiver in a matter determined by a court concerning the disposition of assets of any political subdivision, municipally owned utility, or water supply corporation. Deletes existing text authorizing the authority to serve as the court-appointed receiver in a matter determined by a court concerning the disposition of assets of any district authorized by Section 59, Article XVI, Texas Constitution.

SECTION 7. Amends Chapter 385, Acts of the 78th Legislature, Regular Session, 2003, by adding Section 3.08, as follows:

Sec. 3.08. DETERMINATION OF WATER RIGHTS. (a) Requires the watermaster to provide to the board a list of all water rights held inside the boundaries of the authority and the authorized use for each right not later than September 1 of each year.

(b) Requires the board to review and certify each list in a timely manner.

(c) Requires the board to provide certain information in writing to the governor and to each member of the legislature whose legislative district is located wholly or partly inside the boundaries of the authority, not later than December 1 of each even-numbered year.

SECTION 8. Amends Chapter 385, Acts of the 78th Legislature, Regular Session, 2003, by adding Section 4.04, as follows:

Sec. 4.04. FEES AND ASSESSMENTS; AUTHORIZED CONTRIBUTIONS. (a) Authorizes the authority to impose a fee or assessment on a member of the conference or another water user to pay authorized expenses of the authority.

(b) Requires the board, each fiscal year, to determine the amount of the fee or assessment based on the water rights held by the affected entity.

(c) Requires the board to follow certain procedures to determine the number of water rights.

(d) Prohibits an initial fee or assessment imposed under this section from exceeding five cents for each water right held by the affected entity.

(e) Authorizes the board to adopt standardized forms and procedures to implement this section.

(f) Authorizes the affected entity to charge any fee or assessment paid to the authority to the operation and maintenance fund of the entity or raise and pay the fee or assessment in any other authorized manner.

(g) Authorizes any county in the authority to contribute county money to support certain expenses of the authority, as authorized by the commissioners court of the county. Requires a county's contribution to be made as part of a contract with the authority, and requires the contract to make clear how the contribution serves a public purpose of the county.

SECTION 9. Requires the watermaster appointed by the Texas Commission on Environmental Quality under Subchapter G, Chapter 11, Water Code, for the segment of the Rio Grande basin inside the boundaries of the authority, to determine the number of water rights held by each member of the conference of the authority on or after the 90th day after the effective date of this Act, and not later than one year after the effective date of this Act.

SECTION 10. (a) Provides for the expiration of the terms of members of the board of directors of the authority serving on the effective date of this Act.

(b) Requires the committee to convene as provided by Section 1A.03, Chapter 385, Acts of the 78th Legislature, Regular Session, 2003, as added by this Act, and submit to the governor an initial list of nominees for the director positions under Section 2.01(b)(1) of that chapter, as amended by this Act, not later than September 21, 2007.

(c) Except as provided by Subsection (d) of this section, not later than September 30, 2007:

(1) Requires the governor to appoint 12 members of the board of directors of the authority as provided by Section 2.01(b), Chapter 385, Acts of the 78th Legislature, Regular Session, 2003, as amended by this Act.

(2) Requires the commissioners courts of Cameron, Hidalgo, Starr, Webb, Willacy, and Zapata counties to each appoint a member of the board of directors of the authority as provided by Section 2.01(c), Chapter 385, Acts of the 78th Legislature, Regular Session, 2003, as amended by this Act.

(d) Provides that appointments to the board of directors of the authority under Subsection (c)(1) of this section required to be made on or before September 30, 2007, are not required to be made from a list of nominees submitted by the committee of irrigation districts convened under Section 1A.03, Chapter 385, Acts of the 78th Legislature, Regular Session, 2003, as added by this Act, or subject to senate confirmation.

(e) Requires the directors to draw lots to determine their terms so that nine directors serve terms expiring February 1, 2009, and nine directors serve terms expiring February 1, 2011, at the first meeting of the board of directors of the authority after directors are appointed under Subsection (c) of this section.

SECTION 11. Repealer: Sections 1.07 ((Authority Prohibited From Conducting Water Rights), 2.01(d) (relating to the appointment of directors for certain assurance), and 3.03 (Noncontractual Fees Prohibited), Chapter 385, Acts of the 78th Legislature, Regular Session, 2003.

SECTION 12. Effective date: September 1, 2007.