

Upper Colorado River Authority
P.O. Box 1482
San Angelo, Texas 76902
915-655-0565 (Fax)915-655-1371

987
UCRA

CHAIRPERSON
PATRICIA IVEY
805 Hillcrest
Robert Lee, Tx 76945
915-453-2582

VICE CHAIRPERSON
RUBY GUTIERREZ
17 S. Chadbourne, Ste. 504
San Angelo, Tx 76901
915-653-3999

SECRETARY
SARA ORTIZ
301 Castlewood No. 6A
New Braunfels, Tx 78130
210-606-5553

TREASURER
CARROL E. HILL
P.O. Box 3388
San Angelo, Tx 76902
915-947-2700

DIRECTORS

RAY ALDERMAN
503 S. Main
Winters, Tx 79567
915-754-4588

C. SKEETE FOSTER
815 N. 6th
Box 668
Sterling City, Tx 76951
800-850-8848

DORRIS SONNENBERG
P.O. Box 328
Bronte, Tx 76933
915-473-2911

RALPH HOELSCHER
14446 E. Arrington Road
Miles, Tx 76861
915-468-2592

JEFFIE ROBERTS
HC 34, Box 117
Robert Lee, Tx 76945
915-453-2957

August 19, 1997

Honorable Dan Morales
Attorney General of
The State of Texas
P.O. Box 12548
Capitol Station
Austin, Texas 78711-2548

RE: Legal Opinion as to a Member

Dear General Morales,

As legal counsel for the Upper Colorado River Authority I have been directed to seek a legal opinion from your office on behalf of the UCRA Board as to the legality of a Board Member to remain on the UCRA Board after moving and what authority under State Law does the Board have to take action, as to limiting membership in its by-laws.

The details are as follows:

1. Previously a Board member was appointed to the UCRA Board.
2. At the time of the Board member's appointment he or she was a resident of a county which by statute includes Coke County, Tom Green County, and all adjoining counties.
3. After confirmation he or she sold their home and moved to another area of the state.
4. He or she stated to the Board their present permanent residence was in the previous county of appointment and any change of residency was temporary because of work or family matters.

The Board has the following questions:

1. Can this Board Member continue to serve upon moving?
2. Can the Board put some limits in their by laws as to residency not required by statute?

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Opinion Committee

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I.D. # 39746

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Enclosed are the pertaining statutes and any prior Board material as to this issue for your review.

Please contact me if I may be of any help in regards to the UCRA's request for said Attorney General's opinion.

Sincerely,

A handwritten signature in black ink, appearing to read "RLS" followed by a stylized flourish.

Randol L. Stout
RLS/ms
enc

ENROLLED

H.B. No. 3053

1 AN ACT

2 relating to the operation of the Upper Colorado River Authority.

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

4 SECTION 1. Sections 3, 4, 5, and 6, Chapter 126, General
5 Laws, Acts of the 44th Legislature, Regular Session, 1935, are
6 amended to read as follows:

7 Sec. 3. (a) The powers, rights, privileges and functions of
8 the District shall be exercised by a Board of nine (9) directors
9 (herein called the Board), all of whom shall be residents of and
10 freehold property taxpayers in the State of Texas; it is further
11 provided that three (3) of said directors shall be resident
12 citizens of Tom Green County, three (3) of said directors shall be
13 resident citizens of Coke County, and the remaining three (3)
14 directors shall be resident citizens of counties contiguous to the
15 District, or in any County any part of which may be within
16 twenty-five (25) miles of said District. All of the directors
17 shall be appointed by the Governor of the State of Texas and
18 confirmed by the Senate of Texas. [~~Provided that no person shall~~
19 ~~be eligible for such appointment if he has, during the preceding~~
20 ~~three (3) years before his appointment been employed by an electric~~
21 ~~power and light company, gas company, telephone company, or any~~
22 ~~other utility company of any kind or character whatsoever.]
23 Directors are appointed for staggered terms of six (6) years with
24 three directors' terms expiring on February 1 of each odd-numbered~~

1 year. At the expiration of the term of any director, another
 2 director shall be appointed by the Governor. Each director shall
 3 hold office until the expiration of the term for which he was
 4 appointed and thereafter until his successor shall have been
 5 appointed and qualified, unless sooner removed as in this Act
 6 provided. Any director may be removed by the Governor for
 7 inefficiency, neglect of duty or misconduct in office, after at
 8 least ten (10) days written notice of the charges against him and
 9 an opportunity to be heard in person or by counsel at public
 10 hearing. A vacancy resulting from the death, resignation or
 11 removal of any director shall be filled by the Governor for the
 12 unexpired term of such director. Each director shall qualify by
 13 taking the official oath of office prescribed by General Statute.

14 ~~(b) [Each director shall receive a fee of Fifty (\$50.00)~~
 15 ~~Dollars per day for each day spent in attending meetings of the~~
 16 ~~Board.~~

17 ~~{(c)}~~ Until the adoption of by-laws fixing the time and
 18 place of regular meetings, and the manner in which special meetings
 19 may be called, meetings of the Board shall be held at such times
 20 and places as five (5) of the directors may designate in writing.
 21 Five (5) directors shall constitute a quorum at any meeting, and,
 22 except as otherwise provided in this Act, or in the by-laws, all
 23 actions may be taken by the affirmative vote of a majority of the
 24 directors present at any such meeting, except that no contract
 25 which involves an amount greater than Ten Thousand (\$10,000.00)
 26 Dollars or which is to run for a longer period than a year, and no
 27 bonds, notes or other evidence of indebtedness and no amendment of

1 the by-laws shall be valid unless authorized or ratified by the
2 affirmative vote of at least five directors.

3 Sec. 4. The Board shall select a Secretary who shall keep
4 true and complete records of all proceedings of the Board. Until
5 the appointment of a Secretary, or in the event of his absence or
6 inability to act, a Secretary pro tem shall be selected by the
7 Board. The Board shall also select a Chairman [General-Manager],
8 who shall be the chief executive officer of the District, and a
9 Treasurer, who may also hold the office of Secretary. All such
10 officers shall have such powers and duties, shall hold office for
11 such term and be subject to removal in such manner as may be
12 provided in the by-laws. The Board shall fix the compensation of
13 such officers. The Board may appoint such officers, agents and
14 employees, fix their compensation and term of office and the method
15 by which they may be removed, and delegate to them such of its
16 power and duties as it may deem proper.

17 Sec. 5. The moneys of the District shall be disbursed only
18 on checks, drafts, orders or other instruments signed by such
19 persons as shall be authorized to sign the same by the by-laws, or
20 resolution concurred in by not less than five directors. The
21 Chairman [General-Manager], the Treasurer and all other officers,
22 agents and employees of the District who shall be charged with the
23 collection, custody or payment of any funds of the District shall
24 give bond conditioned on the faithful performance of their duties
25 and an accounting for all funds and property of the District coming
26 into their respective hands, each of which bonds shall be in form
27 and amount and with a surety (which shall be a surety company

1 authorized to do business in the State of Texas) approved by the
2 Board, and the premiums on such bonds shall be paid by the District
3 and charged as an operating expense. Such bonds shall be payable
4 to the Board of Directors and their successors in office for the
5 use and benefit of the District.

6 Sec. 6. The general office of the District shall be located
7 by vote of a majority of Board of Directors, the county in which
8 said general offices are located to constitute the domicile of the
9 District and such general offices shall be in charge of the
10 Chairman [General-Manager]. The District shall cause to be kept
11 complete and accurate accounts conforming to approved methods of
12 bookkeeping. Said accounts and all contracts, documents and
13 records of the District shall be kept at said principal office.
14 Said accounts and contracts shall be open to public inspection at
15 all reasonable times. The Board shall cause to be made and
16 completed within ninety days after the end of each calendar year,
17 an audit of the books of account and financial records of the
18 District for such calendar year, such audit to be made by an
19 independent Certified Public Accountant or firm of Certified Public
20 Accountants. Copies of a written report of such audit certified to
21 by said accountant or accountants, shall be placed and kept on file
22 [~~with-the-Board-of-Water-Engineers,~~] with the Treasurer of the
23 State of Texas, with the Texas Natural Resource Conservation
24 Commission, and at said principal office, and shall be open to
25 public inspection at all reasonable times.

26 SECTION 2. The importance of this legislation and the
27 crowded condition of the calendars in both houses create an

H.B. No. 305

1 emergency and an imperative public necessity that th
2 constitutional rule requiring bills to be read on three severa
3 days in each house be suspended, and this rule is hereby suspended,
4 and that this Act take effect and be in force from and after its
5 passage, and it is so enacted.

President of the Senate

Speaker of the House

I certify that H.B. No. 3053 was passed by the House on May 7, 1995, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 3053 was passed by the Senate on May 24, 1995, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____
Date

Governor