



THE ATTORNEY GENERAL
OF TEXAS

AUSTIN, TEXAS 78711

JOHN L. HILL
ATTORNEY GENERAL

April 12, 1973

Honorable Michael D. McKinnon
Chairman, Senate Sub-Committee
on Nominations
Texas State Senate
State Capitol Building
Austin, Texas 78711

Letter Advisory No. 7

Re: The validity of appoint-
ments to the Rio Grande
Valley Municipal Water
Authority

Dear Senator McKinnon:

Your letter requesting our opinion states:

"It has come to the attention of the Senate Sub-Committee on Nominations that the appointments made by Governor Preston Smith to the Rio Grande Valley Municipal Water Authority do not meet the requirements as set out in the statutes. It is our understanding that there should be three (3) directors from Hidalgo County, two (2) directors from Cameron County, one (1) director from Starr County and one (1) director from Willacy County. The attached list of appointees shows three (3) residents of Cameron County, three (3) residents of Hidalgo County and one (1) resident of Willacy County.

"We would appreciate receiving from you as soon as possible a ruling as to the validity of these appointments made by Governor Smith."

The Authority was created in 1969 by Acts, 1969, 61st Leg., Ch. 623, p. 1862 (Article 8280-455, Vernon's Texas Civil Statutes).

The Act named seven persons to the initial Board of Directors. The terms of three were to have expired April 30, 1970, and the terms of the other four were to expire April 30, 1971. It provided that in April, 1970, and in April of each succeeding year the Governor was to appoint directors to succeed those whose terms were about to expire. It provides: "There shall always be three directors who are residents of Hidalgo County, two directors who are residents of Cameron County, one director who is a resident of Starr County, and one director who is a resident of Willacy County."

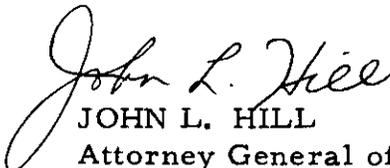
The word "shall", as used in this context, is mandatory and not merely directory. The Governor has no authority to appoint, and the Senate has no authority to confirm the appointment of, individuals whose appointment would cause a geographic composition of the Board different from that called for by the statute.

In other words, once there are three residents of Hidalgo County on the Board, the Governor may not appoint and the Senate may not confirm any other resident from Hidalgo County. Once there are two residents of Cameron County who have been nominated and confirmed, a third resident of that county may neither be nominated nor confirmed. And, similarly, if the remaining two positions are filled, they must be filled with one resident of Willacy County and one of Starr County.

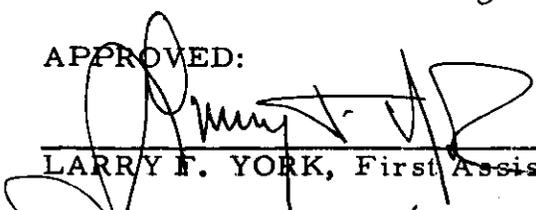
See Article 10, V. T. C. S. ; State Board of Insurance v. Betts, 315 S. W. 2d 279 (Tex. 1958); Chisolm v. Bewley Mills, 287 S. W. 2d 943 (Tex. 1956); Toyah Independent School District v. Pecos-Barstow Independent School District, 466 S. W. 2d 377 (Tex. Civ. App., San Antonio, 1971, no writ).

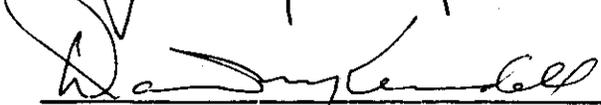
We have limited our review to the question you asked, and our answer should be so understood.

Very truly yours,


JOHN L. HILL
Attorney General of Texas

APPROVED:


LARRY F. YORK, First Assistant


DAVID M. KENDALL, Chairman
Opinion Committee