

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



THIRTEENTH CONGRESS

Second Regular Session

House Bill No. 3763

Introduced By : Hon. Prospero C. Nograles

EXPLANATORY NOTE

The amendment seeks to restore to the Board of Water Districts the power to define the duties and fix the compensation of the personnel as provided for in Section 23 of Presidential Decree No. 198 in its original text.

As a background, Presidential Decree No. 198 is the primary law governing the creation, consequences, incidents, and operations of the water districts. In said law, the powers of the board, among others are;

"Section 17- Performance of District Powers – All powers, privileges, and duties of the district shall be exercised and performed by and through the board. Provided, however, That any executive, administrative, or ministerial powers shall be delegated and redelegated by the board to officers or agents designated for such purpose by the board.

Section 18 – Functions Limited to Policy-Making- The function of the board shall be to establish policy. The board shall not engage in the detailed management of the district.

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Section 23 – Additional Officers – At the first meeting of the board, or as soon thereafter as practicable, the board shall appoint, by a majority vote, a general manager, an auditor, and an attorney, and shall define their duties and fix their compensation. Said officers shall serve at the pleasure of the board.

Section 24 Duties – The duties of the officer shall be those customary to the office held and as determined and specified from time to time by the board. The general manager, who shall not be a director, shall, subject to

approval of the board, have full supervision and control of the maintenance, operation and construction of water, supply and wastewater disposal and administrative faculties of the district, with full power and authority to exercise management prerogatives as set forth in the district's personnel rules and regulations."

Presidential Decree No. 198 has been amended several times. It was first amended by Presidential Decree No. 768 which was approved as law on August 15, 1975. Among the relevant modification were the amendments of Section 23 and 24 of Presidential Decree No. 198, to be read as follows:

"Section 23. The General Manager- At the first meeting of the board, or as soon thereafter as practicable, the board shall appoint, by a majority vote, a general manager and shall define his duties and fix his compensation. Said officer shall serve at the pleasure of the board."

"Section 24. Duties- The duties of the General Manager and other officers shall be determined and specified from time to time by the board. The general Manager, who shall not be a director, shall have full supervision and control of the maintenance and operation of water district facilities, with power and authority to appoint all personnel of the district; Provided, That the appointment of personnel in the supervisory level shall be subject to approval by the board."

From the foregoing amendments, it may be observed that the power to appoint the Auditor and Attorney, except the General Manager, was removed from the board. Conversely, the power to appoint the auditor, Attorney and all the other personnel of water districts was conferred to the General Manager. However, the amending law was silent as to who will define the duties and fix the compensation of the aforesaid personnel.

Consequently, Presidential Decree No. 198 was further amended by Presidential Decree No. 1479 which was passed into law on June 11, 1978. This amending law however has not brought significant changes in the abovementioned matters.

Then came Republic Act No. 6758 or the Compensation and Position Classification Act of 1989. Nevertheless, the advent of this law has not produced real impact on the compensation of the personnel of water districts until the promulgation of the EN BANC decision in the landmark case of Davao City Water District, et al, vs. CSC and COA, G.R. No. 95237-38 on September 13, 1991. In said decision, the Supreme Court took a firm and final stand that water districts are government owned-controlled corporations, thus, they are covered by the Civil Service Commission and the Commission on Audit. Necessarily then, the personnel of water districts are covered by Compensation and Position Classification Act of 1989.

Suffice it to say that the aforesaid landmark Supreme Court decision clipped the powers of the board to fix and determine the compensation package of the personnel by reason of the limits prescribed by Republic Act No. 6758, and the ceiling set forth by the Department of Budget and Management on the salary of government employees. As a logical consequence, the water district could not augment the compensation of their personnel despite their financial capability to do so.

The most recent amendment to Presidential Decree No. 198 is Republic Act No. 9286 which was passed into law on April 02, 2004. This particular law reiterated the power of the board to define the duties and to fix the compensation of the general manager. More significantly, the security of tenure of the general manager is placed in black and white. The provision that the general manager shall serve at the pleasure of the board was removed. It was unfortunate however that the power of the board to define the duties and fix the compensation of the employees was not restored. Hence, this amendment is proposed.

The case in point now is whether or not the personnel following the rank of the general managers, should be given the same privileges accorded to the latter, whose compensation is fixed by the board, in the light of the enactment of Republic Act No. 9286, amending section 23 of Presidential Decree No. 198.

The author believes that the circumstances of the general managers and the rest of the personnel of water districts are substantially the same that they should be treated alike. Thus, it is deemed fitting to authorize the board not only to define the duties and fix the compensation of the general managers, but also that of the personnel, subject to the financial capability and viability of the concerned water districts as maybe necessary or opposite for their effective management, operation, and administration.

The proposed amendment if realized would ultimately boost the self-worth of the personnel, thereby motivating them to work harder for the welfare of water districts and the water consuming public in general. Furthermore, the proposed amendment would lend support and encouragement to the growth and stability of the water districts in the country, and ensure continued performance of their public service functions, which is to provide safe, adequate, and viable waterworks system.

It may be recalled that the rationale behind the passage of Republic Act No. 9286 was to open additional financial incentives for the board and the general managers of viable water districts taking into account that the latter are performing critical government functions. It was in the contemplation of the 12th Congress that water utilities should be made at par with the other utilities. One way of doing it is to make the compensation of the forerunners of water utilities competitive with the compensation received by the forerunner of the other utilities.

It was noted that among the utilities sector, the compensation and benefits of the forerunners of water utilities sector are way below when compared to the infrastructure and power utilities sector.

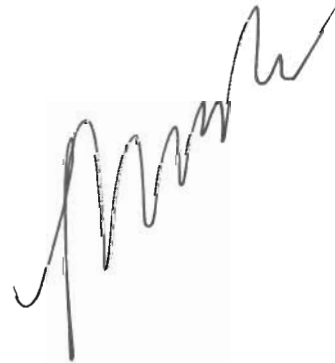
It is also worth to mention that water districts are unique entities. As already known, water districts are financially independent, viable, self-reliant and self-supporting corporations, generating revenues for their own operations, without any subsidy or equity from the National Government. These attributes of the water districts could be credited not only to the competence and sheer dedication coupled with administrative and technical expertise of the board and the general managers, but to the rank and file as well.

It bears stressing that the necessary funds to be defrayed in the compensation of the personnel of water districts come solely from the revenues they generated, independent of any subsidy from the national treasury. While it is true that water districts obtain financial assistance from Local Water Utilities Administration, these financial assistances however were not extended in a form of subsidy, but of loans wherein the water districts are bound to pay. Yet, despite the self-sufficiency of the water districts, their personnel at present are the lowest paid among the ranks of public utilities in terms of compensation.

It is submitted that Congress has the plenary power to grant the personnel of water districts the same compensation leeway and privileges accorded to the general managers and such other employees of the public utilities. A legislative act restoring power to the board to fix compensation of the personnel is particular apt at this point in time. Thus, to enable the country's water districts

The primordial issue in the mind of the author behind this endeavor is to address the longing of the personnel of water districts for an equitable compensations and emoluments. The rest of the personnel of water districts, which compromise mostly of rank and file, should be given equal opportunity to such augmented compensation, similar to that of the general managers, whenever the financial conditions of the water districts so permit.

The workforce has to be rewarded equally with the forerunners of the water districts for their combined efforts to deliver safe and potable water to the public, to foster sustainable water resources responsive to the increasing need of safe and potable water, and lastly, to increase their respective revenue by congruently increasing the number of connections they serve. It is the intention of the author to promote the efficiency of the services delivered by the water districts by allowing them to use the profits from their operations to upgrade their facilities and equipments, and provide for the personnel to render better services. More importantly, this proposed amendment allows the water districts to attract and keep competent professionals and dedicated people to enter and stay within ranks.

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THIRTEENTH CONGRESS

Second Regular Session

House Bill No. **3763**

Introduced By : Hon. Prospero C. Nograles

AN ACT FURTHER AMENDING PRESIDENTIAL DECREE NO. 198, AS
AMENDED, OTHERWISE KNOWN AS "THE PROVINCIAL WATER UTILITIES
ACT OF 1973"

*Be it enacted by the Senate and the House of Representatives of the Philippines
in Congress assembled:*

SECTION 1. The provision of Section 17 of Presidential Decree No. 198, as amended, is hereby amended to read as follows:

Section 17 – Performance of District Powers.- All powers, privileges, and duties of the district shall be exercised and performed by and through the board, including the power to define the duties and fix the compensation and emoluments of the personnel, and the latter shall be exempt from the Compensation and Position Classification Law, and the Attrition Law; Provided, however, That any executive, administrative, or ministerial power shall be delegated and redelegated by the board of officers or agents designated for such purpose by the board.

SECTION 2. Separability Clause.- If any provision of this Act is declared unconstitutional or invalid, the other provisions not affected thereby shall continue to be in force and effect.

SECTION 3. Repealing Clause. – All acts, decrees, executive orders, rules and regulations or any part thereof inconsistent with the provisions of this Act are hereby are hereby repealed and modified accordingly.

SECTION 4. Effectivity Clause.- This Act shall take effect fifteen (15) days following its complete publication in the Official Gazette or in a newspaper of general circulation in the Philippines.

Approved.

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