

FIFTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
Second Regular Session )

HOUSE OF REPRESENTATIVES

H.B. No. 5497



Introduced by Rep. Romero Federico S. Quimbo and Rep. Karlo A. B. Nograles

The scarcity of clean and safe water has become a perennial problem in the Philippines, due to the booming population and the lack of organization in the water industry. The disparity of source and demand has led to various issues on health due to the quality of the water. With the rapid increase in population and the depletion of clean and safe water in the Philippines, it is imperative that true reform and not mere added regulation be made in our water industry.

The perplexed and fragmented approach in water resource and industry management will be effectively addressed in the passage of this Bill. This Bill adopts and institutionalizes the Integrated Water Resources Management approach. Reform and not further regulation of the water industry is the goal of this Bill. The lack of cohesion in management approach had caused inefficient water related programs and activities. The presence of several government agencies involved in water and sanitation in the Philippines has led to inconsistencies in the implementation of water related policies. Authorities with overlapping functions, limited budget and manpower resources are just part of the picture in this grim scenario.

The Bill renames the National Water Resources Board as Water and Sanitation Regulatory Authority. And, through its regulatory reform, the Bill will strengthen and restore the NWRB as the lead agency in water resource and industry management. The Bill will consolidate the envisioned powers of the NWRB which were scattered over the years by the formation of several government agencies creating pointless divisions. The current water scenario theoretically allows the NWRB to check how much water is being appropriated by all entities nationally. The exceptions are supposed to be limited to waters which are used for a domestic uses by the owner of the land over or under which the water flows<sup>1</sup>, or when the person appropriates or uses natural bodies of water with the use of hand-carried receptacles or when appropriation is for bathing or washing, watering or dipping of domestic or farm animals, and navigation of watercrafts or transportation of logs and other objects by flotation.<sup>2</sup> These exceptions, however, have led to the proliferation of single family appropriators for water use which have not been effectively regulated by the NWRB. The Water Code requires registration upon exigencies such as a water crisis only. This introduction of regulatory reforms is consistent with the Bill's objective to fashion

<sup>1</sup> Article 6 of the Water Code

<sup>2</sup> Article 14 of the Water Code

fundamental structural and complementary reforms first before even considering the need for another regulator to enter the chaotic picture.

The fragmented water district model of P.D. 198 has failed to ensure that the water located in our lakes and rivers reaches our faucets. The past 30 years more than amply evinces such fact. In fact, said fragmented water district model of P.D. 198 had only encouraged the monopoly of water services providers by small operators in cahoots with local officials monopolize water services with no incentive to provide quality service.

The division of the country into Provincial Water Resource Zones within which the number of Water Service Providers will be encouraged to band together if not merge is meant to restructure the industry players into a scale that is efficient and cost-effective. This will eradicate the situation wherein several water service providers compete over the resources in order to bring water to each home, without regard to the depletion of such sources. This will also cut the cost of maintenance of said water service providers since many will share said expenses for maintenance.

Achieving effective water governance will induce investors to come in and would facilitate the unitary approach in the operation of service providers. These provisions will eliminate anti-competitive practices and monopolies in the water industry. The Bill will innovate by the creation of a readily accessible, centralized and public database of information regarding the water industry. This will contain the performance and pricing data of service providers within the Water Resource Zone of each province and across all provinces. This kind of information access will keep the playing field fair and competitive and help the public check whether the provider in their area is over-pricing them. If the relative prices of all providers in the country are within reach, the public can easily compare.

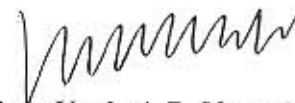
All water providers are now going to be required to meet their specific targets, and the public will know whether they do. In case they fail to meet their targets, the Bill provides for a mechanism that authorizes their replacement. In short, this accessible and integrated information system will be the motor for the creation of an industry with just and reasonable rates, and more importantly, adequate and world-class service.

The Bill aims to integrate water and sanitation. Since health and sanitation concerns inevitably raises the issue of the extraction, use of water and the release of polluted waters that have been used for health and sanitation purposes. Mindful of the effects of the Clean Water Act, our proposal seeks to interpose the powers and authorities of the government, as regards the water quality management.

On the basis of the foregoing considerations, the passage of this Bill is earnestly sought.



**Rep. Romero Federico S. Quimbo**



**Rep. Karlo A.B. Nograles**

HOUSE OF REPRESENTATIVES

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**AN ACT INSTITUTING REFORMS IN THE WATER INDUSTRY,  
RATIONALIZATION, ALLOCATION AND DISTRIBUTION OF SERVICE  
AREAS, PROVISION OF INCENTIVES FOR INFRASTRUCTURE  
DEVELOPMENT OR FOR NEW, CLEAN, EFFICIENT AND ECOLOGICAL  
TECHNOLOGIES, REORGANIZING THE NATIONAL WATER  
RESOURCES BOARD, CREATING LOCAL WATER SUPPLY AND  
SANITATION COMPANIES, AMENDING FOR THE PURPOSE CERTAIN  
LAWS AND FOR OTHER RELATED PURPOSES.**

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

**CHAPTER I  
TITLE AND DECLARATION OF POLICY**

**Section 1. Short Title.** - This Act shall be known as the "Water Sector Reform Act of 2012".

**Section 2. Declaration of Policy.** - It is hereby declared the policy of the State:

- (a) that all waters in the Philippines shall belong to the State, pursuant to the 1987 Philippine Constitution;
- (b) that the State, as owner of all waters in the Philippines, may control and regulate the use, exploitation, development appropriation, protection and conservation of water in order to protect and promote life, public health and welfare, and the environment, including imposing such conditions and restrictions, as may be warranted, on existing holders of licenses;
- (c) to recognize that water is a human right, and it is the obligation of the State to ensure that there is "sufficient, safe, accessible and affordable water, without discrimination;"
- (d) to ensure that all Filipinos shall have access to clean, safe, affordable and adequate supply of water;
- (e) to ensure reasonable, and yet cost-reflective, prices of water which protect both the interests of the consumers and the service providers;

- (f) to monitor and regulate the quality and supply of water in the Service Areas to protect life, public health and the environment;
- (g) to integrate the supply and distribution of water and the provision of sanitation services in provinces or regions to ensure adequacy and efficiency in the supply of water;
- (h) to develop and maintain a centralized, comprehensive and unified data and information base on water resources, and key industry data to ensure the efficient evaluation, analysis, dissemination and enforcement of applicable standards on water resource development, utilization, demand and pricing;
- (i) to provide incentives to and a predictable regulatory environment for investors in order to promote and develop the water industry and allow investors a reasonable return on their investments;
- (j) to rationalize the operation of water utilities and the grant of Public-Private Partnership (PPP) arrangements for the provision of water and/or sanitation services;
- (k) to foster competition among existing and future Water Service Providers to maintain price stability conducive to a balanced and sustainable growth of the industry;
- (l) to organize the Water and Sanitation Regulatory Authority in order to achieve the foregoing State policies; and
- (m) to monitor and regulate the sewerage service industry in relation to the proper collection, treatment, transport and disposal of septage, sewage and wastewater.

**Section 3. Scope.** - This Act shall provide a framework for the restructuring and reformation of the water industry, from sourcing, storage, treatment, distribution, sewerage treatment and reuse, including the provision of incentives to promote investment in new infrastructure for modernization of the industry and the rationalization of the powers, duties, responsibilities and obligations of relevant government agencies and Water Service Providers.

**Section 4. Definition of Terms.** - For purposes of this Act, the term:

- (a) "Authority" - refers to the Water and Sanitation Regulatory Authority;
- (b) "Flood Control" - refers to the methods, acts, and protocols to be observed in order to prevent and reduce the detrimental and catastrophic effects of flood waters;
- (c) "Flood Risk Management" or "FRM" - refers to such acts of defining and determining the appropriate methods, acts and protocols geared in preventing and reducing the risk of incurring loss of both life and property due to flood waters. It also includes, but is not limited to, the implementation of precautionary measures, as well as the installation of infrastructures and

the determination of post-flood clean-up activities in order to arrest the residual effects of flood waters;

- (d) "Integrated Water Resource Management" or "IWRM" – refers to a systematic, collaborative and multi-stakeholder process, which promotes the coordinated development and management of water, land and related resources within hydro geological boundaries, in order to maximize the resultant economic and social welfare in an equitable manner and without compromising the sustainability of vital ecosystems;
- (e) "License" – refers to the authority granted to a person, entity or consortium to provide water and/or sanitation services to a particular Service Area; This term shall include management contracts, PPP Agreements and similar arrangements through which a person, entity or consortium is granted the right to provide water and/or sanitation services to the Service Area;
- (f) "Licensee" – refers to a person, entity or consortium which has been granted a license to operate and provide water and/or sanitation services to a particular Service Area under the provisions of this Act; These terms shall cover persons, entities or consortium who were granted the right to operate and provide water and/or sanitation services through a management contract, PPP Agreement or similar arrangement;
- (g) "Local Government Unit" – refers to the territorial and political subdivisions of the Philippines as defined under the 1987 Constitution of the Philippines, which includes provinces, cities, municipalities and *barangays*;
- (h) "Local Water District" – refers to districts created pursuant Title II of Presidential Decree No. 198, as amended;
- (i) "Local Water Supply and Sanitation Company" or "LWSSC" – refers to a government-owned and controlled corporation which shall have supervision, control and jurisdiction over all waterworks and sewerage systems in a designated PWRZ which shall be created pursuant to the provisions of this Act;
- (j) "LWUA" – refers to the Local Water Utilities Administration created pursuant to Presidential Decree No. 198, as amended;
- (k) "NWRB" – refers to the National Water Resources Board created pursuant to Presidential Decree No. 424, as amended;
- (l) "NEDA" – refers to the National Economic and Development Authority;
- (m) "Private Sewerage System" – refers to a sewerage system owned, operated and controlled by private entities;
- (n) "Provincial Water Resource Zone" or "PWRZ" – refers to the territories and boundaries of which shall be equivalent to the areas comprising each existing province created under Republic Act No. 7160 and other laws, with Metro Manila, the autonomous regions, special economic zones and other special areas considered as separate PWRZs;

- (o) "Public-Private Partnership Agreement" or "PPP Agreement" – refers to management contracts, concession agreements or other similar arrangements between the government and a private person or entity for the provision of water and/or sanitation services in a particular Service Area pursuant to the provisions of this Act;
- (p) "Public Sewerage System" – refers to a sewerage system owned, operated and controlled by the National or Local Government;
- (q) "Relevant Information" – refers to information or data concerning the Water Industry and Water Service Providers essential to its effective monitoring and regulation, and the introduction and maintenance of effective competition, such as but not limited to pricing, performance, quality of service, area of coverage, and water quality;
- (r) "River Basin Cluster" – refers to a grouping of PWRZs and/or portions thereof primarily based upon the proximity of PWRZs and/or portions thereof to the major river basins, subject rules to be promulgated by the Authority;
- (s) "River Basin Organization" or "RBO" – refers to organizations which plan, coordinate and monitor activities within an RBC;
- (t) "Service Area" – refers to a province, region or geographic area identified and designated to a Licensee to provide and operate water and/or sanitation services;
- (u) "Septage" – refers to the sludge produced on individual on-site wastewater disposal systems, principally septic tanks and cesspool;
- (v) "Sewage" – refers to water-borne human or animal wastes, excluding oil or oil waste, which are removed from residences, buildings, institutions, industrial and commercial establishments together with such groundwater, surface water and storm water, as may be present, including such waste from vessels, offshore structures, other receptacles intended to receive or retain waste or other places or the combination thereof;
- (w) "Sewers" – refers to pipes or such other civil works or structures which are built and constructed to treat, carry, transport and dispose sewage;
- (x) "Sewerage System" – refers, but is not limited to any system or network of pipeline, ditches, channels or conduits including pumping stations, lift stations and force mains, service connections including other constructions, devices, and appliances appurtenant thereto, which includes the collection, transport, pumping and treatment of sewage to a point of disposal;
- (y) "Sewerage Service Provider" – refers to a person, entity or consortium engaged in the business of collecting, treating, transporting and disposing of wastewater, sewage and septage, including maintaining and operating sewerage systems, and who are required to register with and secure a license

from the Authority before they may conduct their business or operations in a particular Service Area:

- (z) "Tariff" – refers to an amount which may be charged by Licensees or Water Service Providers for the supply of water and/or sanitation services within their Service Area;
- (aa) "Wastewater" – refers to waste in liquid state containing pollutants;
- (bb) "Water Service Provider" or "WSP" – refers to a person, entity or consortium engaged in the business of allocating, collecting, treating, supplying and distributing water to the public. The term includes Local Water Districts, Water Utilities owned and/or operated by Local Government Units, Rural Waterworks and Sanitation Associates, Barangay Waterworks and Sanitation Associations, Local Water Cooperatives and Local Water Supply and Sanitation Companies (LWSSC);
- (cc) "Water Supply System" – refers to the whole of a system incorporating public mains, pipes, chambers, treatment plants, pumping stations, service or balancing reservoirs or any combination thereof and all other structures, installations, buildings, equipment and appurtenances used, and the lands where the same are located for the storage, abstraction, collection, conveyance, treatment, distribution and supply of water; and
- (dd) "Water Supply Services" - means the treatment of water abstracted from watercourses and the distribution and supply of treated water to consumers and includes the operation and maintenance of a water supply system.

## **CHAPTER II**

### **REFORM IN THE WATER SERVICES INDUSTRY**

**Section 5. *Organization of the Water Industry.*** – The organization of the water industry shall be accomplished in order to introduce higher efficiency, enhanced private sector participation, consumer protection, competitive pricing, greater innovation and improving access to safe water, incorporating for these purposes, Integrated Water Resources Management thrust in every activity. For this purpose, any law to the contrary notwithstanding, regulatory power over all WSPs shall be exclusively lodged in the Authority. The NWRB, the LWUA and other similar agencies and offices, shall cooperate with the Authority to ensure the immediate and smooth consolidation of regulatory functions; *Provided* that, the LWUA may, with respect to Local Water Districts with remaining financial obligations to it, institute temporary monitoring systems to ensure the compliance with such outstanding obligations only until they are satisfied; *Provided* further, that the enforcement of such systems shall be with the supervision of the Authority.

**Section 6. *Provincial Water Resource Zones and River Basin Chisters.*** – There are hereby created Provincial Water Resource Zones (PWRZs), the territories and boundaries of which shall be equivalent to the areas comprising each existing province created under Republic Act No. 7160 and other laws, with Metro Manila, the autonomous regions, special economic zones and other special areas considered as separate PWRZs; *Provided* that the Authority may redefine or modify the geographic

boundaries of a PWRZ based on the existence of special geographic conditions, the location of water sources or other circumstances which warrant such redefinition of boundaries.

Consistent with the principles of Integrated Water Resources Management, PWRZs and/or portions thereof shall be grouped into River Basin Clusters (RBCs) for purposes of water resource management applying the river basin/watershed approach to ensure rational, efficient and ecologically sustainable allocation of water within the RBC. The grouping of PWRZs and/or portions thereof into RBCs shall primarily be based upon the proximity of PWRZs and/or portions thereof to the major river basins, subject rules to be promulgated by the Authority.

Subject to the provisions of Presidential Decree No. 1067, otherwise known as the Water Code of the Philippines, the Authority shall exercise power and authority over water resources, and if applicable, existing water utilities and providers within the PWRZ and RBCs. In the case of Metro Manila and special economic zones, the Metropolitan Waterworks and Sewerage System ("MWSS") and the appropriate special economic zone authority, respectively, shall continue to exercise jurisdiction and authority.

**Section 7. Amalgamation of Existing WSPs.** - The creation, selection or assignment of WSPs which shall service a PWRZ shall be subject to the provisions of this Act. The number of WSPs servicing each PWRZ shall be determined and limited by the Authority created hereunder for the purpose of achieving economies of scale, effective competition and efficiency of service: *Provided* that, in no case shall the number of WSPs be reduced to an extent where it will result in anti-competitive practices.

For this purpose, within two (2) years from the passage of this Act, the LWUA shall cause and implement the amalgamation of WSPs within each PWRZ into one or more LWSSCs, in accordance with the rules and regulations that the Authority shall promulgate. The Authority shall exercise overall supervision over the amalgamation process and shall develop the necessary rules and guidelines during the transition period to ensure that there shall be no diminution of service levels and quality for consumers.

The Authority shall provide technical support and training to WSPs and their personnel in order to aid them during the amalgamation process. Where applicable, personnel of existing WSPs that will be amalgamated shall, subject to the provisions of this Act, be absorbed by the resulting LWSSC to the extent that it is administratively viable: *Provided*, that the rights accorded to such personnel pursuant to civil service laws shall not be impaired.

Subject to the application of Section 24 of this Act on amalgamation of water assets, an existing and operating WSP shall, upon approval by the LWUA and the Authority, have the option to provide, operate and maintain the Water Supply System and/or Sewerage System in its current area of operation within a corresponding PWRZ, upon the showing that the WSP meets financial and operational benchmarks, including capital investments, price levels, service quality, customer satisfaction, profitability, productivity gains, expansion of basic services, subsidies, functioning of new and existing markets, and other performance metrics set by the Authority. In such cases, the License covering the PWRZ, or a portion thereof, as defined and

contemplated in this Act may be granted to the WSP itself. *Provided* that in addition to the mandatory clauses and provisions for Licenses granted under this Act, said License shall expressly state that the failure of the WSP to comply with the Authority's standards for two (2) years shall be a ground to automatically cancel the License without need of judicial recourse. The WSP shall be monitored and supervised by the Authority in all aspects of its operation necessary to ensure compliance with the provisions of this Act and the rules to be issued by the Authority thereunder.

An existing and operating WSP may, upon approval of the LWUA and the Authority and upon compliance with financial and operational benchmarks to be set by the Authority, act as the lead entity in the amalgamation process and constitute itself into the LWSSC that will exercise jurisdiction over the PWRZ or a portion thereof. Said resulting LWSSC shall be subject to the authority and jurisdiction of the Authority herein created.

All employees and personnel, if qualified, of existing WSPs in a particular PWRZ shall be given preference in the hiring of personnel by the LWSSC or subsequent Licensee in the said PWRZ. All displaced or separated personnel from the service as a result of the aforesaid amalgamation of WSPs shall be entitled to separation pay and other benefits in accordance with existing laws, rules or regulations.

**Section 8. Creation of a Unified Database for Water Industry:** - In furtherance of the policies set forth in this Act, all information regarding the water industry, WSPs, including the rights and contracts involved in the utilization of water resources shall be lodged with the Authority. It shall be the Authority's duty to receive and consolidate basic data, to act as a central registry or central repository of information, and to provide access to reliable, standardized information on the water industry and WSPs.

For this purpose, the Authority shall assume the power, authority and responsibility of creating and maintaining a unified, publicly accessible, computerized and centralized database of all relevant information as defined in this Act, including but not limited to, the use of benchmarking techniques to process information related to pricing, performance, quality of service, and coverage targets of all WSPs within and across PWRZs.

WSPs, their subsidiaries and affiliates, and other entities that provide water services are required to submit Relevant Information on a regular basis to the Authority.

The Authority may request and collect data from other offices and agencies in the government in order to ensure the timeliness, accuracy and relevance of the database. It shall be the duty of the government official receiving such request from the Authority to facilitate the transfer of requested information at the soonest possible time, subject only to the restrictions on confidentiality, as implemented by other laws or valid agreements.

The Authority shall, on a quarterly basis, issue a consolidated report containing the performance, pricing and quality data gathered from WSPs. Each report shall contain graphical representations of the above data reflecting the relative performance of WSPs within a PWRZ and across PWRZs. The public shall have, as a matter of right, ready and immediate access to Relevant Information possessed and collected by the

Authority. In order to encourage effective competition and consumer participation, the Authority shall ensure that online access to data pertinent to the monitoring of the water industry is free and open. For non-web based requests, the Authority is empowered to charge reasonable fees to recoup costs incurred in producing copies for the requesting party.

Any provision of law notwithstanding, the functions of the LWUA related to data and information gathering, evaluation, inspection, and analysis of the water industry and WSPs are hereby transferred to the Authority. The LWUA shall, within six (6) months from the passage of this Act, transfer to the Authority all accumulated data and information, including methodologies and best practices in generating the same, relating to the water industry and WSPs. Both entities shall coordinate in order to ensure a smooth transmission of functions and the integrity of accumulated information.

A continuing nationwide educational campaign shall be developed and undertaken by the Authority to promote the benefits of a unified information system to the economy; to create awareness on the rights of consumers; and to brief consumers of other related information.

**Section 9. Declaration of the Water Industry as a Priority Investment Sector.** - The Water Industry is hereby declared a priority investment sector that will regularly form part of the country's Investment Priority Plan, unless declared otherwise by law.

**Section 10. Incentives for Investment in the Water Industry.** - LWSSCs, WSPs, Licensees, developers and operators of water industry facilities formed and organized under this Act shall, upon certification by the Authority, in consultation with the Board of Investments, be entitled to the following incentives:

- (a) **Income Tax Holiday (ITH)** - For the first ten years (10) of its commercial operations, the duly registered developer or operator shall be exempt from income taxes levied by the national government.

Additional investments in the project shall be entitled to additional income tax exemption on the income attributable to the investment.

- (b) **Duty-free Importation of Machinery, Equipment and Materials** - Within the first ten (10) years upon the issuance of a certification by the Authority, the importation of machinery and equipment, and materials and parts thereof, including control and communication equipment, shall not be subject to tariff duties; *Provided, however,* that the said machinery, equipment, materials and parts are directly and actually needed and used exclusively in the facilities for processing, distribution and delivery of water to the point of use and covered by shipping documents in the name of the duly registered operator to whom the shipment will be directly delivered by customs authorities; *Provided, further,* that endorsement of the Authority is obtained before the importation of such machinery, equipment, materials and parts are made.

Endorsement of the Authority must be secured before any sale, transfer or disposition of the imported capital equipment, machinery or spare parts is made.

When the aforementioned sale, transfer or disposition is made under any of the conditions provided for in the foregoing paragraphs after ten (10) years from the date of importation, the sale, transfer or disposition shall no longer be subject to the payment of taxes and duties:

- (c) Special Realty Tax Rates on Equipment and Machinery. – Any law to the contrary notwithstanding, realty and other taxes on civil works, equipment, machinery, and other improvements of a registered WSP actually and exclusively used for WSP facilities shall not exceed one and a half percent (1.5%) of their original cost, less accumulated normal depreciation or net book value.
- (d) Net Operating Loss Carry-Over (NOLCO). – The NOLCO of a WSP during the first three (3) years from the start of commercial operation which had not been previously offset as deduction from gross income shall be carried over as a deduction from gross income for the next seven (7) consecutive taxable years immediately following the year of such loss: *Provided, however*, that operating loss resulting from the availment of incentives provided for in this Act shall not be entitled to NOLCO:
- (e) Accelerated Depreciation. – If, and only if, a WSP fails to receive an ITH before full operation, it may apply for Accelerated Depreciation in its tax books and be taxed based on such: *Provided*, that if it applies for Accelerated Depreciation, the project or its expansions shall no longer be eligible for an ITH. Accelerated depreciation of plant, machinery, and equipment that are reasonably needed and actually used for the exploration, development and utilization of water resources may be depreciated using a rate not exceeding twice the rate which would have been used had the annual allowance been computed in accordance with the rules and regulations prescribed by the Secretary of the Department of Finance and the provisions of the National Internal Revenue Code (NIRC) of 1997, as amended. Any of the following methods of accelerated depreciation may be adopted:
  - (i) Declining balance method; and
  - (ii) Sum-of-the years digit method.
- (f) Tax Credit on Domestic Capital Equipment and Services. – A tax credit equivalent to one hundred percent (100%) of the value of the value-added tax and custom duties that would have been paid on the machinery, equipment, materials and parts, had these items been imported, shall be given to a WSP who purchases machinery, equipment, materials, and parts from a domestic manufacturer for purposes set forth in this Act: *Provided*, that prior approval by the Authority was obtained by the WSP: *Provided, further*, that the acquisition of such machinery, equipment, materials, and parts shall be made within the validity of the WSP's contract, license or other agreement to service as a PWRZ.

The availment of incentives under this Act shall be regulated by the Authority. Should an existing WSP be entitled to incentives under another law, the WSP shall be required to state whether it prefers to adopt the incentives laid out in this Act in lieu of

other incentives under other laws. Such statement shall be in a public document addressed to the Authority for its approval.

### **CHAPTER III**

#### **RIVER BASIN CLUSTERS AND RIVER BASIN ORGANIZATIONS**

**Section 11. *IWRM Principles in River Basin Clusters.*** – Principles of Integrated Water Resources Management (IWRM) shall be adopted as the strategy for the management and administration of the River Basin Clusters (RBCs) defined pursuant to Section 6 of this Act. The appropriation and utilization of water in RBCs for domestic, municipal, irrigation, power generation, fisheries, livestock raising, recreational and other purposes shall be in accordance with IWRM principles including the following:

- (a) Fresh water, a resource which is limited and vulnerable, is vital in the sustenance of life, progress and development;
- (b) Water, capable of being appropriated to various uses, possesses economic value and thus should be considered an economic good; and
- (c) A collaborative multi-stakeholder approach shall be utilized in the development and management of water resources.

The Authority, in collaboration with the DENR and other relevant agencies, shall promulgate rules and regulations to implement the foregoing policies.

**Section 12. *Creation and Composition of River Basin Organizations.*** – The Authority shall create River Basin Organizations (RBOs) for each River Basin Cluster (RBC) which shall be composed of:

- (a) One (1) representative for each LWSSCs within the RBC;
- (b) One (1) representative for each provincial or city government within the RBC;
- (c) Two (2) representatives from the private sector appointed by the Authority. The private sector representatives must have recognized competence in the relevant fields in the water and sanitation industry and shall be knowledgeable principles of Integrated Water Resource Management; and
- (d) Other multi-sectoral members and key stakeholders in the water industry to be determined by the Authority.

**Section 13. *Functions of River Basin Organizations.*** – The River Basin Organizations shall have the following functions:

- (a) To plan, coordinate and monitor all activities within the river basin located in the RBC;
- (b) To engage in Flood Risk Management (FRM) with respect to the RBC;

- (c) To create a special task force in extreme cases of disasters brought about by flood waters in coordination with the respective LGUs where the RBCs are located;
- (d) To formulate Integrated Water Resources Management (IWRM) policies and plans and recommend the same for the approval of the Authority;
- (e) To set-up efficient assessment procedures of available water in different sectors (i.e. commercial, municipal, agricultural) in order to achieve supply optimization, including, but not limited to water balances, wastewater reuse, and environment impacts of distribution and use options;
- (f) To oversee and coordinate the implementation, promotion, revision and enhancement of the IWRM Plan; and
- (g) To secure funding sources to support the identified projects and programs for the river basin within the RBC.

**Section 14. *Integration of Planning, Management, Rehabilitation and Development of River Basins.*** – Adopting the river basin or watershed approach to water resource management, the Authority shall integrate and rationalize the planning, management, rehabilitation and development of river basins, including but not limited to river basin infrastructure development, flood control, environmental protection and integrated water resources management. The Authority shall coordinate initiatives, programs and projects of local government units, non-government organizations and other entities concerning the development and rehabilitation of river and catchment basins. In order to create an effective policy environment for the management of river basins, the Authority shall harmonize, consolidate and enhance all relevant river basin policies, rules and regulations.

To ensure that an equitable access to water within an RBC, the Authority shall set guidelines in the effective and efficient water allocation and distribution. The Authority shall identify the character of the water available in the various river and catchment basins and shall ensure the effective water distribution in accordance with the needs of the different sectors found in the RBC.

In order to prevent and reduce the dire effects of flood waters, the Authority shall make disaster awareness and preparedness a priority, and will develop measures to ensure that the methods used in flood control will effectively minimize the damage brought about by flood waters. The Authority shall also focus on “post-flood” activities such as clean-up, restoration and renovation of infrastructures that were affected by the flood waters.

**Section 15. *River Basin Database Management.*** – The Unified Database for the Water Industry created pursuant to Section 8 of this Act shall also serve as the central river basin database to which all River Basin Organizations, government agencies and other organizations with relevant mandates and developmental initiatives within the river basins are required to regularly submit their updated databases for integration and consolidation.

**Section 16. *River Basin Conservation, Protection and Rehabilitation.*** – The Authority, in coordination with the River Basin Organizations, the DENR and other appropriate agencies involved in river basin management, shall undertake river basin conservation, protection and rehabilitation and shall adopt appropriate soil and water conservation, and protection measures to safeguard the hydrological integrity of river basins and help sustain the protection of water for various purposes and uses.

#### CHAPTER IV

#### CREATION OF LOCAL WATER SUPPLY AND SANITATION COMPANIES

**Section 17. *Creation of Local Water Supply and Sanitation Companies.*** – There are hereby created government-owned and -controlled corporations to be known as the LWSSC which shall have supervision, control and jurisdiction over all water and sanitation systems within the PWRZs created pursuant to this Act and take ownership of all assets of WSPs within such PWRZs.

Water and sanitation systems in Metro Manila and in all special and economic zones shall remain under the supervision, control and jurisdiction of the MWSS and the appropriate special/economic zone authority, respectively.

**Section 18. *Purpose and Objective, Domicile and Term of Existence.*** – The principal purpose of the LWSSCs is to manage, operate and maintain the water and sanitation systems with a PWRZ and, subject to rules and guidelines to be promulgated by the Authority, to enter into PPP Agreements with eligible persons or entities.

Each LWSSC shall have its principal office and place of business within its jurisdictional area in its designated PWRZ.

LWSSCs shall exist for a period of fifty (50) years from its organization and establishment, unless otherwise provided by law.

**Section 19. *Powers and Functions of the Local Water Supply and Sanitation Companies.*** – The LWSSCs shall have the following powers and functions:

- (a) To construct, maintain, and operate dams, reservoirs, conduits, aqueducts, tunnels, purification plants, water mains, pipes, fire hydrants, hydraulic structures, pumping stations, machineries and other waterworks for the purpose of supplying water to the inhabitants of its territory, for domestic and other purposes; and to purify, research and develop, regulate and control the use, as well as prevent the wastage of water;
- (b) To construct, maintain, and operate such sanitary sewerages, as may be necessary, for the proper sanitation and other uses of the areas comprising the PWRZ and to make sure that such sanitary sewerages are capable of accommodating the regular to heavy flow of rain water;
- (c) To acquire, purchase, hold, transfer, sell, lease, rent, mortgage, encumber, and otherwise dispose of real and personal property, consistent with the purpose for which the LWSSC is created and reasonably required for the transaction of the lawful business of the same;

(d) To construct works across, over, through and/or alongside, any stream, water-course, canal, ditch, flume, street, avenue, highway or railway, whether public or private, as the location of said works may require; *Provided*, that, such works be constructed in such manner as to afford security to life and property and so as not to obstruct traffic; *Provided*, further, that the stream, water-course, canal, ditch, flume, street, avenue, highway or railway so crossed or intersected be restored without unnecessary delay to its former state. Any person or entity whose right may be prejudiced by said works shall not obstruct the same; however, he shall be given reasonable notice before the construction and shall be paid just compensation. The LWSSC shall likewise have the right to locate, construct and maintain such works on, over and/or through any street, avenue, or highway and land and/or real rights of the Republic of the Philippines or any of its branches, agencies and political subdivisions upon due notice to the office, or entity concerned, subject solely to the condition that the street, avenue, or highway in which said works are constructed be restored without unnecessary delay to its former state unless otherwise agreed upon by the LWSSC and the office or entity concerned;

(e) To exercise the right of eminent domain for the purpose for which the LWSSC is created;

(f) To sue and be sued;

(g) To adopt and establish the policies and goals as may be necessary or proper for the orderly conduct of its business or operations;

(h) To borrow money and incur such liabilities, including the issuance of bonds, securities or other evidences of indebtedness utilizing its assets as collateral and/or through the guarantees of the National Government; *Provided*, however, that all such debts or borrowings shall have been paid off before the end of its corporate life;

(i) To approve, regulate, and supervise the establishment, operation and maintenance of waterworks within its jurisdiction operated for commercial, industrial and governmental purposes and to fix just and equitable rates or fees that may be charged to customers thereof;

(j) To establish, operate and maintain the waterworks and sewerage system within its jurisdiction;

(k) To approve and regulate the establishment and construction of waterworks and sewerage systems in privately owned subdivisions within its jurisdiction;

(l) To have exclusive and sole right to test, mount, dismount and remount water meters within its jurisdiction;

(m) To enter into PPP Agreements with persons or entities to operate and maintain water and sanitation systems within the PWRZ, subject to the provisions of this Act;

(n) To exercise primary and exclusive jurisdiction over disputes between WSPs, or between customers and WSPs, within an LWSSC, where such cases involve contesting rates, levels and quality of service, fees, fines and penalties imposed in the exercise of an LWSSC's powers, functions and responsibilities, as set forth herein; and

(o) To compel a PPP partner or WSP to submit required documents and information through subpoena duces tecum in the conduct of inquiry or investigation of possible violations of the Act or other related issuances and rules.

**Section 20. Composition, Qualification, Appointment and Tenure of the Board of Trustees.** - The corporate powers and functions of the LWSSC shall be vested in and exercised by a Board of Trustees composed five (5) members, to wit:

(a) One (1) member who shall be appointed by the Provincial Governor;

(b) One (1) member who shall be nominated by the League of Cities or Municipalities covering the jurisdictional area of an LWSSC;

(c) One (1) member representing the private sector who shall be appointed by the President of the Philippines;

(d) One (1) *ex-officio* member representing the Department of Finance, as nominated by the Secretary of Finance; and

(e) One (1) *ex-officio* member representing the NEDA, as nominated by the Director-General.

The member representing the private sector shall act as Chairman. The Chairman and the members of the Board, except the *ex-officio* members, shall serve for a term of three (3) years, except that the members initially appointed shall serve, as designated in their appointments, one for one year, one for two years and one for three years; *Provided*, that, any person chosen to fill a vacancy shall serve only for the unexpired term of the member whom he succeeds.

No person shall be appointed as a member of the Board unless he is a Filipino citizen, of good moral character and of recognized competence in relevant fields in the water industry or in civil engineering and/or sanitary engineering, business management, economics, finance, and law, with at least five (5) years of actual and distinguished experience in their respective fields of expertise.

The Authority shall issue guidelines on the appointment process for the Board of Trustees of the LWSSCs to facilitate the completion of the board compositions.

**Section 21. Meetings of the Board; Quorum, Required Votes.** - The Board of Trustees shall, immediately after its organization, adopt rules and procedures in the conduct of its meetings. A majority of the Board shall constitute a quorum for the transaction of business and the affirmative vote of three shall be required for the adoption of any action.

**Section 22. LWUA as a Specialized Lending Institution.** – After the completion of the amalgamation process in accordance with Section 7 hereof, the LWUA shall function solely as a specialized lending institution which shall provide financial services to qualified local water utilities, LWSSCs, Licensees and Water Service Providers.

## **CHAPTER V ECONOMIC POLICY AND REGULATIONS**

**Section 23. Operation of a Water Supply System and/or Sewerage System.** – The function and responsibility of providing, operating and maintaining a Water Supply System and/or Sewerage System in a PWRZ shall fall upon the LWSSC concerned. In the case of special and economic zones and Metro Manila, the special/economic zone authority or MWSS, respectively, all of which shall be subject to guidance from the Authority.

Subject to the provisions of this Act and the rules to be promulgated by the Authority, an LWSSC may enter into a PPP Agreement with a person or entity for the provision, operation and maintenance of a Water Supply System and/or Sewerage System in a PWRZ; *Provided* that an LWSSC which opts to provide water and/or sanitation services in a PWRZ shall comply with performance standards which shall be determined and monitored by the Authority within a period of three (3) years. LWSSCs which fail to attain such performance standards within the aforesaid period shall be mandated to enter into a PPP Agreement with eligible persons or entities in accordance with rules to be determined by the Authority.

**Section 24. Amalgamation of Water Assets.** – Within the periods provided herein, the LWUA shall, under the supervision of, and based on the rules promulgated by, the Authority, cause the amalgamation of assets of WSPs pertaining to water supply and sanitation within a particular PWRZ. This is to ensure a unified and comprehensive Water Supply System and/or Sewerage System that shall supply water and sanitation services to the entire PWRZ concerned. As much as possible, a single, unified and comprehensive Water Supply and/or Sewerage System shall cover all aspects of such systems, including water resource development, treatment, storage, distribution and reuse. For this purpose, the initial sum of ten million pesos (Php10,000,000.00) shall be appropriated to facilitate the amalgamation process and this amount shall be charged against proceeds from PPP or other arrangements which may be entered as regards these assets.

The Authority shall guide the LWUA and the WSPs concerned to ensure an efficient, smooth and orderly amalgamation of operations and assets. WSPs undergoing amalgamation may, subject to existing laws, enter into such arrangements that will facilitate the management or temporary ownership of their assets pending amalgamation.

The assets of the amalgamated WSPs within a PWRZ shall, subject to just compensation, be transferred to and held by the LWUA; *Provided* that the management and ownership of the LWUA over such assets shall be transferred to the appropriate LWSSC upon the completion of the amalgamation process, as determined by the Authority. In the case of special and economic zones and Metro Manila, the entity exercising jurisdiction over such areas will exercise the aforementioned authority. For this purpose, the LWUA is empowered to acquire, sell, dispose,

contract, change and transfer ownership or control of assets, rights and contracts concerning WSPs and its assets. The LWUA shall, in the exercise of this responsibility defer to the guidelines promulgated by the Authority concerning the amalgamation process.

**Section 25. *Licensing.*** - Each LWSSC is empowered and encouraged to enter into a partnership with a qualified Licensee for the provision, operation and maintenance of the Water Supply System and/or Sewerage System for its respective PWRZ, through the issuance of a License, the execution of a PPP Agreement, or any other similar arrangement; *Provided* that such partnership shall be made in accordance with the rules and regulations to be promulgated by the Authority on the matter, as well as the provisions of Republic Act No. 9184. The LWSSC shall secure the endorsement of the Provincial Government for any partnership under this section.

**Section 26. *Qualifications of Licensee.*** - Licensees must meet the following qualifications:

- (a) Must be a citizen of the Philippines or corporations or associations organized under the laws of the Philippines at least sixty percent of the capital stock of which is owned by such citizens;
- (b) Minimum paid-up capitalization of one million pesos (Php 1,000,000.00);
- (c) Established track record to be defined by the Authority; and
- (d) Any other qualifications that the Authority may deem appropriate.

**Section 27. *Rights and Duties of Licensees.*** - Licensees shall have the duty to ensure that its activities are conducted so as to further the public interest and, in particular, that they:

- (a) foster the maintenance and development of efficient, coordinated, and economic cooperation of their activities;
- (b) give priority to FRM and propose measures towards the end of developing the methods of flood control;
- (c) ensure that their Water Supply and/or Sanitation Services are provided in a diligent, conscientious and workmanlike manner, in accordance with applicable laws and the standards and practices generally accepted in the Philippine and international water supply and/or sanitation industry; and
- (d) comply with drinking water quality requirements.

Licensees shall, to the extent allowed by law and specified in the License, have the right to acquire or lease land and lay or repair water or sewerage mains and other relevant facilities in public ways, when required to fulfill their obligations. In as far as laying or repairing of water or sewerage mains are concerned, the same shall be done expeditiously and efficiently to avoid contributing to the risk of damage brought about by flood waters.

Subject to any condition imposed by the Authority, a Licensee may disconnect the supply of piped water services and/or sanitation services to a customer if such customer defaults in the payment of amount(s) due to that Licensee in respect of water supplied or sanitation services provided, or for acts of pilferage pursuant to Sections 8, 9, 10, and 11 of Republic Act No. 8041, otherwise known as the "National Water Crisis Act of 1995."

**Section 28. Mandatory Provisions.**— Any License issued under this Act shall include provisions on the following matters:

- (a) Incentives and disincentives for Licensees;
- (b) Severance of affected employees and personnel;
- (c) Dispute resolution mechanism in accordance with the Section 32 of this Act;
- (d) Transferability of License, Management Contract, PPP Agreement or award in case of failure to meet the standard set by the Authority; and
- (e) Any other provision the Authority or the LWSSC shall deem appropriate to achieve the stated objectives of this Act.

**Section 29. Non-Derogation; Effect on Existing Licenses and Similar Arrangements.**— Except for what is provided for in Section 7 hereof on the amalgamation of WSPs, nothing in this Act shall be construed as to derogate any rights arising from existing Licenses, management contracts, concession agreements and similar arrangements.

**Section 30. Revision and Subrogation Mechanisms.**— The Authority shall have the power to revise the terms of a License in the event of the Licensee's failure to meet the quality standards set by the Authority within a period of two (2) years from the start of its operations after observance of due process. This right includes the right to replace the current Licensee with another qualified Licensee.

**Section 31. Mechanism for Setting Tariffs, Rates and Other Charges.**—The Authority shall formulate an objective, rational and transparent mechanism for fixing and adjusting Tariffs, rates and other charges imposed by Licensees which (i) allows the economic viability of the provision of water and/or sanitation services;(ii) grants the Licensees a reasonable return on investments;(iii) encourages the inflow of investments in the water sector, promotes efficiency and continuous improvement in water systems and facilities; (iv) ensures affordable and reasonable rates and fees for the average consumer; and (v) protects the welfare of consumers.

The aforesaid mechanism for fixing and adjusting Tariffs, rates and other charges shall apply conventional and internationally accepted rate-setting methods and shall consider the following factors, among others:

- (a) Rational and prudent operating costs of providing water and/or sanitation services, including a reasonable rate of return on investments;
- (b) Costs of debt in domestic and international markets and the cost of equity for utility businesses in the Philippines and abroad; and

- (c) Service quality and performance of a Licensee based on key indicators, such as, but not limited to, water quality, availability, unaccounted for water (or non-revenue water), service coverage, including incentives for Licensees which achieve specified levels of performance benchmarked against existing industry data, and disincentives for Licensees which fail to attain the same.

Any escalation on Tariffs, rates and other charges shall be primarily based upon the level of compliance with key performance metrics which shall reflect current industry standards maintained and updated in the Unified Database for the Water Industry, as set forth in Section 8 of this Act.

**Section 32. Arbitration.** - All disputes, controversies, or disagreements between LWSSCs and licensed WSPs or private sector partners, except where such involve an allegation of a criminal act, arising out of, in connection with or in relation to a PPP Agreement executed pursuant to this Act, which cannot be amicably settled or resolved through mutual consultations or negotiation among the parties, shall be finally settled by domestic arbitration in accordance with Republic Act No. 876 (Arbitration Law), as amended, and Republic Act No. 9285 (Alternative Dispute Resolution Law of 2004), as amended. The decision of the arbitrators shall be final and conclusive on the parties.

An Arbitration Clause reflecting the foregoing policy shall be included in all PPP Agreements executed pursuant to this Act.

**Section 33. Lifeline Rate.** - In line with the policy of granting universal access to water services, more particularly to the marginalized sector, the Authority shall establish a socialized pricing mechanism. This will enable the setting of a lifeline rate or a targeted subsidy on the basic water consumption of low-income market end-users who cannot afford to pay at full cost and ensure that the overall tariff rate supports the viability of the Licensees, as described in Section 31 of this Act. The Authority, after due notice and hearing, shall determine the level of basic water consumption and the discount rate.

**Section 34. Missionary Water Services.** - The Authority shall encourage and promote missionary water services or the provision of water services to remote, rural and unviable areas that do not have sufficient or adequate access to water with the end in view of elevating water services in such areas to a viable and sustainable level. Missionary water service initiatives shall be funded from the revenues from water services provided in missionary areas and from such charges which may be collected from all consumers within a PWRZ, subject to implementing regulations which shall be determined and formulated by the Authority.

**Section 35. Water Crisis Provision.** - The Authority shall adopt a proactive approach to avert a water crisis by initiating water conservation efforts and water use efficiency, incentivizing the use of efficient water distribution systems, utilizing integrated, systematic and predictive water management and monitoring systems, encouraging the financing, construction, improvement and operation of water facilities, and analogous efforts and initiatives in order to increase water supply and improve water quality. The Authority shall create plans and programs, and issue rules and regulations to accomplish the foregoing.

In the event the President of the Philippines determines that a water crisis is impending, Congress may, through a joint resolution, authorize the employment of emergency measures to increase water supply under such terms and conditions as it may approve, and reorganize the Joint Executive-Legislative Water Crisis Commission created pursuant to Republic Act No. 8041, otherwise known as the "National Water Crisis Act of 1995", to exercise the powers and perform the functions stated in the said law.

## **CHAPTER VI ORGANIZATION**

**Section 36. *The Authority.*** – There is hereby created and established an independent Authority to be named the Water and Sanitation Regulatory Authority, hereinafter referred to as the "Authority", which shall be organized within one hundred eighty (180) days upon effectivity of this Act, primarily from but not limited to the NWRB and similar government agencies, offices or bureaus tasked with the allocation, distribution and preservation of water as a valuable resource.

The Authority shall be placed under the administrative supervision of the Office of the President.

**Section 37. *Powers and Functions of the Authority.*** – The Authority, pursuant to Section 5 of this Act, shall exercise to the exclusion of other agencies, regulatory power over all WSPs and for this purpose shall have the following powers and functions:

- (a) Evaluate, review, monitor, examine and approve all applications for the appropriation, and use of waters, development of sewerage systems and treatment of wastewater.
- (b) Formulate policy directions, strategies and targets to meet the goals and objectives for water sourcing, supply, allocation, distribution, including preservation, wastewater treatment and sewerage development and septic management.
- (c) Issue and promulgate rules, regulations and guidelines, as may be necessary, to implement and enforce its powers and functions under this Act.
- (d) Set and enforce just and reasonable technical criteria, methods, standards, benchmarks and other measurements of service.
- (e) Primary jurisdiction in matters relating to the appropriation, utilization, exploitation, development, control and conservation, protection of all waters, as well as proper disposal and/or treatment of sewage, septage and wastewater in the country, including autonomous regions.
- (f) Manage, administer and operate all watersheds;

(g) Establish rules and regulations to monitor, avoid and provide remedies for any abuse or anti-competitive or discriminatory act or behavior by or against any participant in the water supply and sanitation industry;

(h) Adopt and require that books, records and accounts be kept and maintained in accordance with the prescribed uniform accounting system;

(i) Fix and determine proper and adequate fees for services;

(j) Fix and determine proper and adequate rates of depreciation of properties and equipment used in water supply and sanitation industry;

(k) Impose and collect annual levies determined, as a percentage of gross revenue accruing in relation to the licensed activities, and reasonable fees and surcharges as may be necessary for achieving the purposes, powers and functions of the Authority;

(l) Require the submission of reports, documents, testimony and other Relevant Information as set forth in this Act, through subpoena ad testificandum or duces tecum if necessary;

(m) Determine and require the monitoring and submission of such data, statistics and other information from public and private entities and any or all licensees, as may be necessary, for the effective and efficient exercise of its duties, functions, powers and responsibilities;

(n) Investigate, *motu proprio* or upon complaint in writing, any matter concerning the operation of the service, and require that service be provided in proper and suitable manner;

(o) Impose penalties and fines against any Licensee or against its owners, directors, officers, agents or representatives for any violation of this Act or of the license, order, rule regulation or requirement issued by the Authority;

(p) Require any Licensee to pay the actual expenses incurred by the Authority in any investigation, if it shall be found that a Licensee violated any provision of this Act or of the license, order, rule regulation or requirement issued by the Authority;

(q) Advise, apprise and coordinate with other relevant agencies of the national or local government on any matter relating to water supply and sanitation industry;

(r) Deputize agents, whether from the public or private sector, to assist in the performance of any of the powers and functions of the Authority;

(s) Upon appeal and after due hearing, appoint an interim or temporary management committee to ensure continuity of service in case a Service Provider Licensee fails to meet conditions of the license;

(t) Appoint, hire and maintain adequate staff and personnel, advisers, and/or consultants, with suitable qualifications and experience, as necessary;

(u) Exercise exclusive appellate jurisdiction over appeals from LWSSC decisions and resolutions regarding contesting rates, levels and quality of service, fees, fines and penalties imposed in the exercise of an LWSSC's powers, functions and responsibilities, as set forth herein where said cases involve disputes between WSPs, or between customers and WSPs, within an LWSSC;

(v) Exercise primary and exclusive jurisdiction over disputes between LWSSCs and between customers and LWSSCs regarding contesting rates, levels and quality of service, and such other matters relative to the exercise of the powers and responsibilities of LWSSCs; and

(w) Such other incidental powers and functions as may be necessary to attain the objectives of this Act.

**Section 38. *Water Resource Regulation.*** – When exercising its water resource regulation functions, the Authority shall be guided by the provisions of Presidential Decree No. 1067, otherwise known as the Water Code of the Philippines, on Appropriation of Waters, resolution of cases arising from water use, including conflicts between water users, as well as any other applicable provisions of the Water Code and other relevant laws or government issuances.

**Section 39. *Composition.*** – All the powers of the Authority shall be vested in and exercised by a Board of Officers, a collegial body of nine (9) members. Seven (7) members shall be full-time employees of the Authority composed of a Chairperson and six (6) Officers, appointed by the President of the Philippines. Each member, including the Chairperson shall concurrently head and serve the following Departments of the Authority: (1) Administration; (2) Registry; (3) Tariffs; (4) Engineering and Infrastructure Development; (5) Environmental and Consumer Protection; (6) Audit and Finance; and (7) Legal and Enforcement. While the remaining two (2) officers shall be *ex-officio* members representing the Department of Finance and the National Economic Development Authority (“NEDA”) nominated by the Secretary and the Director-General, respectively.

**Section 40. *Common Qualifications for Concurrent and Ex-Officio Officers.*** – Each Officer, including the Chairperson must be citizens and residents of the Philippines, at least thirty five (35) years of age, and of good moral character, recognized integrity and competence in the field of law, business, commerce, finance, accounting or public administration, water or utility economics, management, physical or engineering services, hydrology and other related services, with at least three (3) years actual and distinguished experience in their respective fields of expertise.

**Section 41. *Special Qualifications for Concurrent Officers.*** – In addition to the qualifications enumerated, the Chairperson, who shall concurrently head the Administration Department shall be a member of the Philippine Bar with at least ten (10) years experience in the active practice of law. The Officer who shall concurrently head the Legal and Enforcement Department shall be a member of the Philippine Bar with at least ten (10) years experience in the active practice of law; while the Officer who shall concurrently head the Audit and Finance Department shall be a certified public accountant with at least (10) ten years experience in active practice. Additional requirements and qualifications for the officers, including the Chairperson, may be set forth under the Implementing Rules and Regulations to be promulgated upon creation and formation of the Authority in conformity with this Act.

**Section 42. *Prohibition and Disqualification.*** – The Chairperson and Officers of the Authority or any of their relatives within the fourth civil degree of consanguinity or affinity, legitimate or common law, shall be prohibited from holding any interest whatsoever, either as investor, stockholder, officer or director, in any company or entity engaged in the business of transmitting, generating, supplying or distributing any form of water and must, therefore, divest, through sale or legal disposition, any and all interests in the water sector upon assumption of office.

**Section 43. *Term.*** – The Chairperson and Concurrent Officers of the Board shall be entitled to a term of seven (7) years; *Provided*, however, that among the Officers first appointed upon creation of the Authority, the Chairperson shall serve for a period of seven (7) years, three (3) Officers shall serve for five (5) years and the remaining three (3) Officers shall serve for four (4) years without reappointment; *Provided*, further, that any member whose term has expired, as specified herein, shall serve as such until his successor shall have been appointed and qualified; *Provided*, moreover, that any appointment to fill a vacancy in the Authority arising from death, removal, retirement or resignation shall be made only for the unexpired term; *Provided*, finally, that in no case shall any member serve for more than seven (7) years in the Authority.

*Ex-Officio* Officers of the Authority shall serve at the pleasure of the appointing power. But in no case shall *ex-officio* member serve for more than seven (7) years in the Authority. *Ex-Officio* Officers shall participate in the activities of the Authority to the extent that the participation is not incompatible with their respective positions with the Department of Finance or NEDA, as the case may be.

**Section 44. *Security of Tenure.*** – Concurrent Officers of the Authority shall enjoy security of tenure and shall not be suspended or removed from office except for just cause, as specified by law.

**Section 45. *Board Meetings.*** – The Board shall meet at least once a week, or as often as may be necessary upon the call of the Chairman of the Board or by a majority of the Board of Officers to ensure performance of its functions, subject to holidays, calamities, emergencies or supervening events.

**Section 46. *Quorum.*** – The presence of at least five (5) Officers of the Board shall constitute a quorum, which shall be necessary for the transaction of any business. The affirmative vote of a majority of the Officers present in a quorum shall be adequate for the approval of any resolution, decision or action.

**Section 47. *Administrative Function.*** - The Chairperson, shall concurrently head the Administrative Department and shall exercise direct executive control and supervision of the internal operations of the Authority, its Officers, staff and personnel, agents and representatives. The Chairperson is also authorized to represent the Authority in all dealings and transactions with other offices, agencies, and instrumentalities of the Government and with all persons and other entities, private or public, domestic or foreign.

**Section 48. *The Registrar.*** - There is hereby created and established the Water Industries and Sewerage Registry, headed by a Registrar, tasked with implementing the unified database referred to in Section 8 of this Act. The Registrar, shall conduct appropriate research and comprehensive studies to provide the necessary technical inputs to facilitate the Authority in the conduct of its functions.

**Section 49. *Efficient Database Management, Confidentiality and Non-Disclosure.*** - The Registrar, as custodian of vital information necessary for the development of the water and sanitation industry, shall develop cost-effective methods and systems for data accumulation and dissemination while ensuring confidentiality of sensitive information. To this end, the Authority shall establish and issue such rules and guidelines, as may be necessary, to regulate disclosure of information, establish standards, and enforcement of fines and penalties that would be imposed for any violations as set forth in this Act.

**Section 50. *Fiscal Autonomy and Responsibility.*** - The Authority shall enjoy fiscal autonomy, subject to regular audits by the Commission on Audit. The amount of thirty million pesos (Php 30,000,000.00) is hereby allocated from the existing budget of the NWRB for the initial operation of the Authority. Any balance shall initially be sourced from the Office of the President of the Philippines. Thereafter, the annual budget certified by the Authority, through its chairperson, as necessary to defray its expenses, shall be provided for in the regular or special appropriations and shall be released automatically and regularly. To ensure the fiscal independence of the Authority, the Officer and concurrent head of the Finance Department, shall be primarily responsible for the preparation and disbursement of the budget of the Authority.

**Section 51. *Compensation and Other Emoluments.*** - The compensation of the Officers of the Authority and its staff shall be exempt from the coverage of Republic Act No. 6758, otherwise known as the "Salary Standardization Act"; *Provided*, that the salaries of the Authority and its staff shall conform, as closely as possible, to the principles of R.A. 6758.

For this purpose, the schedule of compensation of the Authority's officers and employees shall be submitted for approval of the President of the Philippines. The compensation schedule shall be implemented within six (6) months from the effectivity of this Act and maybe upgraded by the President of the Philippines, as the need arises; *Provided* further, that in no case shall the compensation of the Authority and its staff be upgraded more than once a year.

Pertinent civil service laws, rules and regulations of the Philippines shall be applicable to the Authority.

**Section 52. *Board Per Diems and Allowances.*** - The Officers of the Board shall receive per diem for each regular or special meeting of the Board actually attended by

them, and, such other allowances as the Board may prescribe, upon approval of the Secretary of Finance, and in conformity with existing and future legislation.

**Section 53. *Environmental and Consumer Protection.*** -- A qualified Officer of the Board, shall concurrently head a department that shall address environmental and consumer concerns in connection with applications, rights, licenses, concessions, programs, activities, investments and projects approved by or pending with the Authority.

**Section 54. *Technical Competence.*** - Pursuant to the recommendations of the NEDA, the Authority shall effectively undertake its vital and comprehensive functions by enhancing its technical competence through continuing education and rigorous training programs in the following areas: arbitration, dispute resolution, benchmarking, evaluation of technical performance and compliance monitoring, service and performance standards, performance-based rate-setting reform, environmental standards, fiscal responsibility, profitability and such other areas as will enable the Authority to adequately perform its duties and functions.

**Section 55. *Realignment and Supervision of Existing Water Services Related Agencies.*** - The Authority shall have primary jurisdiction in matters relating to the appropriation, utilization, exploitation, development, control and conservation, protection of all waters, as well as proper disposal and/or treatment of sewage, septage and wastewater in the country, including autonomous regions.

Pursuant to this mandate, all existing government agencies, bureaus or offices shall, as far as practicable, be realigned with and fall under the supervision and control of the Authority. Within ninety (90) days from the creation of the Authority's Board and assumption of a majority of its Officers, the latter shall closely coordinate with representatives from the Department of Environment and Natural Resources, Department of Interior and Local Government, Department of Health, Cooperative Development Authority, Laguna Lake Development Authority and other relevant government agencies or offices to implement an effective realignment of functions and transition of resources.

All government employees and personnel displaced or separated from the service as a result of the restructuring of realignment of or abolition of government offices, shall be entitled to separation pay and other benefits in accordance with existing laws, rules or regulations. Displaced or separated employees and personnel, if qualified, shall be given preference in the hiring of other government agencies or instrumentalities.

**Section 56. *Reportorial Requirements.*** -- The Authority shall submit an annual report to the the President of the Philippines, Congress and to such other agencies as may be required by law before the end of April of each year. An annual report containing but not limited to the following matters: licenses issued, investments obtained, incentives granted, disputes resolved, revenue generated, cost saved, and such matters relevant to the performance of its functions. The Authority shall make copies of such reports available to any interested party upon payment of a charge which reflects the printing costs.

The Authority shall adopt its internal rules of procedures; conduct hearings and receive testimonies, reports and technical advice; invite or summon by *subpoena ad testificandum* any public official, private citizen or any other person to testify before

it, or require any person by *subpoena duces tecum* to produce before it such records, reports, documents or other materials as it may require to attain the purposes for which it is created and to make an accurate and comprehensive report to the President and Congress. Any public official or private citizen or entity who willfully and deliberately refuses without just cause to extend the support and assistance required by the Authority to effectively attain its objectives shall be punished as set forth in this Act.

## CHAPTER VII WATER SUPPLY SYSTEM AND SEWERAGE SYSTEM

**Section 57. Construction of Sewerage System.** – The simultaneous construction of a sewerage system with the water supply system is encouraged. A water services provider licensed in a service area shall, subject to the approval of the Authority, be given an optional license to construct and maintain a sewerage system in the same service area.

**Section 58. Hand Over of Water Supply System and Sewerage System.** - (a) Subject to Subsections (a) and (e), a developer of a new development which is within a service licensee's water supply distribution area or sewerage services area, as the case may be, shall, upon the issuance of the certificate of compliance of the water supply system or sewerage system or part of the systems by the Authority, hand over the water supply system or sewerage system or part of the systems within the development to the water distribution licensee or the service licensee providing sewerage services, as the case may be, at no cost, for the purposes set out in Subsection (c):

(b) The service licensee shall accept the water supply system or sewerage system or part of the systems, as the case may be, after the service licensee is satisfied that the water supply system or the sewerage system or part of the systems meets the requirements set out in the approved plans and specifications and standards;

(c) Upon the water supply system or the sewerage system or part of the systems being handed over to the service licensee, the service licensee shall operate and maintain such system;

(d) The developer shall provide or cause the owner of the land to provide the service licensee access to the water supply system and sewerage system or part of the systems for the purposes of operating and maintaining such system; and

(e) The Authority may exempt any developer from the requirements of this section if the developer can establish that he has the sufficient financial, operational and technical capacity to construct, maintain and operate the water supply system or sewerage system. The Authority shall regularly assess the developer's water supply system or sewerage and may revoke any exemption upon notice and hearing.

**Section 59. Power to Require Premises to be Connected to Sewerage System.** - (a) The Authority may direct the owner in writing, or if the owner cannot, with reasonable diligence, be traced, the occupant, of any premises not connected to a public sewerage system, to construct or install for the premises, within the period specified in the notice, a private connection pipe of such material or size and at such

level as to enable the premises to be properly and effectively connected to any sewerage system located within thirty meters from the boundary of the premises; and

(b) If the owner or occupant to whom a direction under Subsection (a) has been issued fails to comply with the direction within the period specified in the notice, the Authority or any person authorized by the Authority may construct or install the private connection pipe or cause the pipe to be constructed or installed and recover the expenses incurred in the construction and installation of such pipes from the owner or occupant.

**Section 60. Power to Require Developer to Connect Development to Public Sewerage System -** (a) The Authority may direct the developer of any development not connected to a sewerage system, to construct or install for the development, within the period specified in the notice, a connection pipe of such material or size and at such level as to enable the development to be properly and effectively connected to the sewerage system; and

(b) If the developer to whom a direction under Subsection (a) has been issued fails to comply with the direction within the period specified in the notice, the Authority or any person authorized by the Commission may construct or install the connection pipe or cause the pipe to be constructed or installed and recover the expenses incurred in the construction and installation of such pipes from the developer.

**Section 61. Power to Install or Construct Private Sewerage System or Septic Tank -** (a) The Authority may direct in writing the owner of any premises, or if the owner cannot, with reasonable diligence, be traced, the occupant of the premises, to install or construct a private sewerage system or septic tank for the premises, as the Authority deems necessary in accordance with guidelines provided for in the Implementing Rules and Regulations; and

(b) The cost of the construction or installation of the private sewerage system or septic tank shall be borne by the owner of the premises, or if the owner cannot, with reasonable diligence, be traced, the occupant.

**Section 62. Power to Require Private Sewerage System to be Put in Proper Order. -** (a) If the Authority is satisfied that: (i) a private sewerage system, septic tank, individual internal sewerage piping or common internal sewerage piping on any premises or which serves any premises; or (b) a private connection pipe connecting any premises to a sewerage system, is defective or is not properly maintained or is in need of repair, the Authority may issue a notice to the owner, or occupant of such premises or the person responsible for the private sewerage system, septic tank, individual internal sewerage piping, common internal sewerage piping or private connection pipe to have such private sewerage system, septic tank, individual internal sewerage piping, common internal sewerage piping or private connection pipe repaired or put in proper order within the period specified in the notice;

(b) If the Authority is satisfied that, due to any obstruction, any premises on which a septic tank is situated does not have adequate access for the purpose of desludging the septic tank, the Authority may issue a notice to the owner or occupant of such premises to remove such obstruction within the period specified therein;

(c) If the person to whom a notice issued under Subsection (a) or (b) fails to comply therewith within the period specified, (i) the Authority or any person authorized by the Authority may, at the expiration of such period, do the work required in the notice and may recover the expenses incurred in doing so from the owner, or occupant; or (ii) the Authority may direct the service licensee in that sewerage services area to manage and operate the private sewerage system, septic tank, individual internal sewerage piping, common internal sewerage piping or private connection pipe, as the case may be, for such period, as the Authority may decide, and to charge the owner, or occupant for services rendered by that service licensee; and

(d) For the purposes of Subsection (c)(ii), the owner and occupant of the premises shall grant the service licensee access to the private sewerage system, septic tank, individual internal sewerage piping, common internal sewerage piping or private connection pipe, as the case may be, for the purposes of operating and maintaining the private sewerage system, septic tank, individual internal sewerage piping, common internal sewerage piping or private connection pipe, as the case may be.

**Section 63. *Duty to Operate and Maintain Private Sewerage System*** - (a) The owner or occupant of any premises having a private sewerage system or septic tank shall: (i) grant the service licensee or permit holder adequate access to the septic tank for the purpose of enabling the septic tank to be serviced and desludged; (ii) cause the private sewerage system, septic tank, the private connection pipe, individual internal sewerage piping, common internal sewerage piping and all accessories thereto to be so maintained and kept so as not to be a nuisance or so that it may not be harmful to health; (iii) cause the septic tank to be desludged and, in the case of a private sewerage system, to be serviced or maintained by a service licensee or permit holder at such intervals and in such manner as may be prescribed; and (iv) grant the service licensee or permit holder adequate access to the private sewerage system for the purposes of enabling the private sewerage system to be inspected, serviced or maintained. (b) The owner or occupant of any premises, as the case may be, shall be solely responsible for the maintenance, refurbishment or replacement of the individual internal sewerage piping or the common internal sewerage piping.

**Section 64. *Contract for Provision of Sewerage Services***. - The owner or occupant of any premises to whom sewerage services is provided shall be deemed, upon the provision of sewerage services to that premises, to have contracted with the service licensee providing sewerage services for the provision of sewerage services.

## **CHAPTER VIII**

### **DEVELOPMENT OF EFFICIENT, ECOLOGICAL AND SUSTAINABLE TECHNOLOGIES AND ENVIRONMENTAL PROTECTION**

**Section 65. *Incentives for Integration of Wastewater Treatment Collection Facilities in Water Supply and Sewerage Systems***. - An incentive scheme is hereby provided for the purpose of encouraging WSPs to integrate wastewater treatment/collection and treatment facilities in their water supply and sewerage systems.

**Section 66. *Tax and Duty Exemption of Donations, Legacies and Gifts***. - All legacies, gifts and donations to providers of water supply and sanitation services for the support and maintenance of the program for effective water quality management shall be

exempt from donor's tax and shall be deductible from the gross income of the donor for income tax purposes.

Imported articles donated to, or for the account of any provider of water supply and sanitation services specifically for the exclusive use of the provider in its water quality management programs shall be exempted from the payment of customs duties and applicable internal revenue taxes.

Wastewater treatment and/or installation of water pollution control devices shall be classified as pioneer and preferred areas of investment under the Board of Investment's annual priority plan and shall enjoy the applicable fiscal and non-fiscal incentives, as may be provided for under the Omnibus Investment Code, as amended.

**Section 67. *Financial Assistance Program.*** - Government financial institutions such as the Development Bank of the Philippines, Land Bank of the Philippines, Government Service Insurance System, and such other government institutions providing financial services shall, in accordance with and to the extent allowed by the enabling provisions of their respective charters or applicable laws, accord high priority to extend financial services to providers of water supply and sanitation services engaged in sewage collection and treatment facilities.

**Section 68. *Availability of Technologies Developed Under the Incentive Schemes of the Clean Water Act.*** - To the extent that they do not duplicate the incentives provided under this Act, technologies, projects, processes and techniques in water quality management developed under the incentive schemes of Republic Act No. 9275, or the Philippine Clean Water Act of 2004, shall be made available to providers of water supply and sanitation services that will integrate the said technologies, projects, processes and techniques in their water supply and sewerage systems free of applicable taxes.

**Section 69. *Environmental Protection.*** - Participants in the provision of water supply and sanitation services shall comply with all environmental laws, rules, regulations and standards promulgated by the Department of Environment and Natural Resources including, in appropriate cases, the establishment of an environmental guarantee fund.

## **CHAPTER IX FINES AND PENALTIES**

**Section 70. *Prohibited Acts.*** - The following acts shall be penalized by suspension or revocation of the violator's license or other right to the use of water and/or a fine of not exceeding One Million Pesos (Php 1,000,000.00), in the discretion of the Authority:

- (a) Non-compliance with reportorial rules and requirements;
- (b) Refusal to submit reports and/or permit examination;
- (c) Falsification or tampering of documents and/or official records to avail of the fiscal and non-fiscal incentives provided under this Act;

- (d) Non-compliance with the established guidelines and standards promulgated by the Authority;
- (e) Appropriation of subterranean or ground water for domestic use by an overlying landowner without registration required by the Authority;
- (f) Failure to comply with any of the terms or conditions in a water permit or a water rights grant;
- (g) Unauthorized use of water for a purpose other than that for which a license, right or permit or concession was granted;
- (h) Construction or repair of any hydraulic work or structure without duly approved plans and specifications, when required;
- (i) Failure to install a regulating and measuring device for the control of the volume of water appropriated, when required;
- (j) Unauthorized sale, lease, or transfer of water and/or water rights;
- (k) Failure to provide adequate facilities to prevent or control diseases when required by the Authority in the construction of any work for the storage, diversion, distribution and utilization of water; and
- (l) Violation of or non-compliance with any order, rule or regulation of the Authority.

**Section 71. *Fines and Penalties.*** - Any violation of the mandatory provisions of this Act shall be punishable by imprisonment of six (6) years and/or fine not exceeding one million pesos (Php 1,000,000.00). In the case of juridical persons, the President, the Chief Executive Officer and other responsible corporate officers shall be held liable for any violation of this Act committed by the juridical person, through its employees, agents and representatives.

## CHAPTER X TRANSITORY AND FINAL PROVISIONS

**Section 72. *Statutory Construction.*** - This Act shall, unless the context indicates otherwise, be construed in favor of the establishment, promotion, preservation of competition and people empowerment so that the widest participation of the people, whether direct or indirect, is ensured.

**Section 73. *Implementing Rules and Regulations.*** - The Board shall, in consultation with relevant public and private stakeholders within the water services industry, promulgate the Implementing Rules and Regulations (IRR) of this Act within six (6) months from the effectivity of this Act.

**Section 74. *Injunction and Restraining Order.*** - The implementation of the provisions of this Act shall not be restrained or enjoined except by an order issued by the Supreme Court of the Philippines.

**Section 75. Separability Clause.** - If for any reason, any provision of this Act is declared unconstitutional or invalid, the other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

**Section 76. Applicability and Repealing Clause.**- The applicable provisions of Presidential Decree No. 1067, otherwise known as the "Water Code of the Philippines", Republic Act No. 8041, otherwise known as the "National Water Crisis Act of 1995", Act No. 4062, otherwise known as the "Water Power Act", Republic Act No. 6234, as amended, creating the MWSS, Presidential Decree No 198, as amended, creating the LWUA, Republic Act No. 7160, otherwise known as the "Local Government Code", and Republic Act No. 10149 otherwise known as the "GOCC Governance Act of 2011" shall continue to have full force and effect except in so far as inconsistent with this Act.

All laws, orders, rules and regulations, or portions thereof, inconsistent with this Act are hereby repealed or modified accordingly.

**Section 77. Effectivity Clause.** - This Act shall take effect on the fifteenth day following its publication in at least two (2) national papers of general circulation.

Approved,