

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
Third Regular Session

HOUSE BILL NO. 6676



Introduced by **Hon. ANGELO B. PALMONES**

EXPLANATORY NOTE

Presidential Decree No. 1067 otherwise known as the Water Code of the Philippines was promulgated back in 1976 or more than 30 years ago. In the Philippine context the 1970s saw the awakening of environmental consciousness, although in a nascent stage. Since then concern for the environment has become fully developed. Policies on the environment likewise started to be enunciated promoting clean air and clean water. We also have a law on solid waste management.

The laws on the environment deal more on quality and quality standards such as of water and air. However, the Water Code deals with the management of water resources such as ownership, development, appropriation/distribution and conservation.

The proposed National Water Security Act promotes an integrated water resources management using appropriate physiographic units such as watersheds or river basins. It also requires all local government units to include in their land use plans a water management and development plan. It also requires Water Districts to submit water resources management plan to Local Government Units for consideration in the land use plan of the LGUs.

The supervision and regulation of sewerage systems is not covered in the existing Water Code. The proposed Act corrects this situation and rationalizes economic regulation with respect to tariff, safety, reliability and quality of water supply and sewerage services to balance the interest of service providers and consumers.

For the above reasons, it is requested that this bill be enacted soon.


ANGELO B. PALMONES
Representative, AGHAM Party-list

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AN ACT RENAMING THE WATER CODE OF THE PHILIPPINES INTO NATIONAL WATER SECURITY ACT OF 2012 THEREBY REVISING AND CONSOLIDATING THE LAWS GOVERNING THE OWNERSHIP, APPROPRIATION, UTILIZATION, EXPLOITATION, DEVELOPMENT, CONSERVATION AND PROTECTION OF WATER RESOURCES AND REGULATION OF WATER SUPPLY AND SEWERAGE SYSTEM

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

**CHAPTER I
DECLARATION OF OBJECTIVES AND PRINCIPLES**

Section 1. This Act shall be known as The National Water Security Act of 2012.

Section 2. The objectives of this Act are:

- a. To establish the basic principles and framework relating to the appropriation, control and conservation of water resources to achieve the optimum development and national utilization of these resources;
- b. To define the extent of the rights and obligations of water users and owners including the protection and regulation of such rights;
- c. To adopt a basic law governing the ownership, appropriation, utilization, exploitation, development, conservation and protection of water resources and rights to land related thereto;
- a. To adopt Integrated Water Resources Management (IWRM) as a general strategy for water resources management to ensure sustainability and environmental integrity;
- d. To regulate the management and operation of water supply and sewerage service providers; and
- f. To identify the administrative agencies that will enforce this Act.

Section 3. The underlying principles of this Act are:

- a. All waters belong to the State.
- b. All waters that belong to the State cannot be the subject of acquisitive prescription.
- c. The State may allow the use or development of waters by administrative concession.
- d. The utilization, exploitation, development, conservation and protection of water resources shall be subject to the control and regulation of the government through the National Water Resources Board, hereinafter referred to as the Board.
- e. Preference in the use and development of waters shall consider adoption of the principles of IWRM, climate change adaptation strategies and current usages to be responsive to the changing needs of the country.
- f. All water supply and sewerage service providers shall be effectively and economically regulated to balance the interest of the water supply and sewerage service providers as well as the consumers.

Section 4. Waters, as used in this Act, refers to water under the ground, water above the ground, water in the atmosphere and the waters of the sea within the territorial jurisdiction of the Philippines.

CHAPTER II OWNERSHIP OF WATERS

Section 5. The following belong to the State;

- a. Rivers and their natural beds;
- b. Continuous or intermittent waters of springs and brooks running in their natural beds and the beds themselves;
- c. Natural lakes and lagoons;
- d. All other categories of surface waters such as water flowing over lands, water from rainfall whether natural or artificial, and water from agricultural runoff, seepage and drainage;
- e. Atmospheric water;
- f. Subterranean or ground waters; and
- g. Seawater

Section 6. The following waters found on private lands also belong to the State;

- a. Continuous or intermittent waters rising on such lands;
- b. Lakes and lagoons naturally occurring on such lands;
- c. Rain water falling on such lands;
- d. Subterranean or ground waters; and
- e. Waters in swamps and marshes.

The owner of the land where the water is found may use the same for domestic purposes without securing a permit, provided that such use shall be registered with the Board. The Board, however, may regulate such use when there is wastage, or in times of emergency.

Section 7. Subject to the provisions of this Act, any person who captures or collects water by means of cisterns, tanks, or pools shall have exclusive control over such water and the right to dispose the same.

Section 8. Water legally appropriated shall be subject to the control of the appropriator from the moment it reaches the appropriator's canal or aqueduct leading to the place where the water will be used or stored and, thereafter, so long as it is being beneficially used for the purposes for which it was appropriated.

CHAPTER III APPROPRIATION OF WATERS

Section 9. Waters may be appropriated and diverted in accordance with the provisions of this Act.

Appropriation of waters, as used in this Act, is the acquisition of rights over the use of waters or the taking or diverting of waters from a natural source in the manner and for any purpose allowed by law.

Section 10. Water may be appropriated for the following purposes:

- a. Domestic
- b. Municipal
- c. Irrigation
- d. Power generation
- e. Fisheries
- f. Livestock raising
- g. Industrial
- h. Commercial
- i. Recreational, and
- j. Other purposes

Use of water for domestic purposes is the utilization of water for drinking, washing, bathing, cooking or other household needs, home gardens, and watering of lawns or domestic animals.

Use of water for municipal purposes is the utilization of water for supplying the water requirements of the community.

Use of water for irrigation is the utilization of water for producing agricultural crops.

Use of water for power generation is the utilization of water for producing electrical or mechanical power.

Use of water for fisheries is the utilization of water for the propagation and culture of fish as a commercial enterprise.

Use of water for livestock raising is the utilization of water for large herds or flocks of animals raised as a commercial enterprise.

Use of water for industrial purposes is the utilization of water in factories, industrial plants and mines, including the use of water as an ingredient of a finished product.

Use of water for commercial purposes is the utilization of water used by business establishments and/or any other related firms or companies which include but not limited to restaurants, shopping malls, commercial laboratories, hospitals, markets, hotels, dormitories, gas stations, abattoirs and other establishments.

Use of water for recreational purposes is the utilization of water for swimming pools, bath houses, boating, water skiing, golf courses and other similar facilities in resorts and other places of recreation.

Section 11. The State, for reasons of public policy, may declare waters not previously appropriated, in whole or in part, exempt from appropriation for any or all purposes and, thereupon, such waters may not be appropriated for those purposes.

Section 12. Waters appropriated for a particular purpose may be applied for another purpose only upon prior approval of the Board and on condition that the new use does not unduly prejudice the rights of other permittees, or require an increase in the volume of water.

Section 13. Except as otherwise herein provided, no person, including government agencies and instrumentalities, local government units and government-owned or controlled corporations, shall appropriate water without a water right, which shall be evidenced by a document known as a *water permit*.

Water right is the privilege granted by the government to appropriate and use water.

Section 14. Subject to the provisions of this Act concerning the control, protection, conservation, and regulation of the appropriation and use of waters, any person may appropriate or use natural bodies of water without securing a water permit for any of the following:

- a. Appropriation of water by means of hand carried receptacles; and,
- b. Bathing or washing, watering or dipping of domestic or farm animals, and navigation of watercrafts or transportation of logs and other objects by flotation.

Section 15. Only citizens of the Philippines, of legal age, as well as juridical persons, who are duly qualified by law to exploit and develop water resources, may apply for water permits.

Section 16. Any person who desires to obtain a water permit shall file an application with the Board who shall make known said application to the public for any protests

In determining whether to grant or deny an application, the Board shall consider the following: protests filed, if any; prior permits granted; the availability of water; the water

supply needed for beneficial use; possible adverse effects; land -use economics; and other relevant factors such as but not limited to the following: efficiency in water use, environmental reserve and water pollution risks.

Upon approval of an application, a water permit shall be issued and recorded.

Section 17. In areas declared as ancestral domain, no water permit shall be granted without first securing a free and prior informed consent from the National Commission for Indigenous People.

Section 18. The right to the use of water is acquired as of the date of approval of the application for a water permit, or as of the date of actual use in a case where no permit is required.

Section 19. All water permits granted shall be subject to conditions of beneficial use, adequate standards of design and construction, and such other terms and conditions as may be imposed by the Board.

Such permits shall specify the maximum amount of water which may be diverted or withdrawn, the maximum rate of diversion or withdrawal, the time or times during the year when water may be diverted or withdrawn, the point or points of diversion or location of wells, the place of use, the purposes for which water may be used, and such other requirements the Board deems desirable.

Section 20. Water rights may be leased or transferred in whole or in part to another person with prior approval of the Board, after due notice and hearing.

Section 21. The measure and limit of appropriation of waters shall be for beneficial use.

Beneficial Use of water is the utilization of water in the right amount during the period that the water is needed conducive to public welfare, safety and health for which the water is appropriated.

Section 22. Standards of measure and limit of appropriation shall be prescribed by the Board for the appropriator of water for different purposes and conditions, and the use of waters which are appropriated shall be measured and controlled in accordance therewith.

Except those for domestic use, every appropriator of water shall maintain water control and measuring devices, and submit records of water withdrawal to the Board.

Section 23. Between two or more appropriators of water from the same source of supply, priority in time of appropriation shall give the better right, except that in times of emergency the use of water for domestic and municipal purposes shall have a better right over all other uses subject to compensation in proper cases to be determined by the Board; **Provided,** That where water shortage is recurrent and the appropriator for municipal use has a lower priority in time of appropriation, then it shall be his duty to find an alternative source of supply in accordance with conditions prescribed by the Board.

Section 24. Priorities may be altered on grounds of greater beneficial use, multi-purpose use, and other similar grounds after due notice and hearing, subject to payment of compensation in proper cases to be determined by the Board.

Claims for compensation payment should be filed with the Board to determine the validity of the claims upon proof of damages incurred with notice to the benefited party.

The Board shall have jurisdiction over payment of claims and damages as a result of alteration of priorities in time of appropriation. Prior to the filing of claims/payments, the parties may however, enter into an amicable settlement.

Section 25. A water right shall be exercised in such a manner that the rights of third persons or of other appropriators are not prejudiced thereby.

Section 26. A holder of a water permit may demand the establishment of easements necessary for the construction and maintenance of the works and facilities needed for the beneficial use of the waters to be appropriated, subject to the requirements of just compensation and to the following conditions:

- a. That he is the owner, lessee, mortgagee or one having real right over the land upon which he proposes to use water; and
- b. That the proposed easement is the most convenient and the least onerous to the servient estate.

Easements relating to the appropriation and use of waters may be modified by the agreement of the contracting parties provided the same is not contrary to law or prejudicial to third persons.

Section 27. Where water shortage is recurrent, the use of the water pursuant to a permit may, in the interest of equitable distribution of benefits among legal appropriators, be reduced after due notice and hearing.

Section 28 Water users shall bear the diminution of any water supply due to natural causes of *force majeure*.

Section 29. Water permits shall continue to be valid as long as water is beneficially used; however, it may be suspended on the grounds of non-compliance with approved plans and specifications or schedules of water appropriation; use of water for a purpose other than that for which it was granted; non-payment of water charges; wastage; failure to submit records of water diversion; and violation of any term or condition of any permit or of rules and regulations promulgated by the Board.

Temporary permits may be issued for the appropriation and use of water for short periods under special circumstances.

Section 30. Water permit may be revoked after due notice and hearing on grounds of non-use; gross violation of the conditions imposed in the permit; unauthorized sale of water; willful failure or refusal to comply with rules and regulations or any lawful order; pollution, public nuisance or acts detrimental to public health and safety; when the appropriator is found to be disqualified under the law to exploit and develop natural resources of the Philippines;

when, in the case of irrigation, the land is converted to non-agricultural purposes; and other similar grounds.

Section 31. All water permits are subject to modification or cancellation by the Board, after due notice and hearing, in favor of a project of greater beneficial use or for multi-purpose development, and a water permittee who suffers thereby shall be duly compensated by the entity or person in whose favor the cancellation was made.

CHAPTER IV UTILIZATION OF WATERS

Section 32. Preference in the development of water resources shall consider security of the State, multiple use, beneficial effects, adverse effects and costs development.

Section 33. The utilization of subterranean or groundwater shall be coordinated with that of surface waters such as rivers, streams, springs and lakes, so that a superior right in one is not adversely affected by an inferior right in the other.

For this purpose the Board shall promulgate rules and regulations and declare the existence of control areas for the coordinated development, protection and utilization of subterranean or groundwater and surface waters.

Control area is an area of land where subterranean or groundwater and surface water are so interrelated that withdrawal and use in one similarly affects the other. The boundary of a control area may be altered from time to time, as circumstances warrant.

Section 34. Water contained in open canals, aqueducts or reservoirs of private persons may be used by any person for domestic purpose or for watering plants as long as the water is withdrawn by manual methods without checking the stream or damaging the canal, aqueduct or reservoir; **Provided,** That this right may be restricted by the owner should it result in loss or injury to him.

Section 35. A water permittee or appropriator may use any water course to convey water to another point in the watercourse for the purpose stated in a permit and such water may be diverted or recaptured at the point by said permittee in the same amount less allowance for normal losses in transit, provided, it will not cause flooding along the adjoining areas.

Section 36. Works for the storage, diversion, distribution and utilization of water resources shall contain adequate provision for the prevention and control of diseases that may be induced or spread by such works.

Section 37. When the reuse of waste water is feasible, it shall be limited as much as possible, to such other than direct human consumption. No person or agency shall distribute such water for public consumption until it is demonstrated that such consumption will not adversely affect the health and safety of the public.

Section 38. In the construction and operation of hydraulic works, due consideration shall be given to the preservation of scenic places and historical relics and, in addition to the provisions of existing laws, no works that would require the destruction or removal of such

places or relics shall be undertaken without showing that the destruction or removal is necessary and unavoidable.

Section 39. Authority for the construction of dams, bridges and other structures across or that which may interfere with the flow of navigable or floatable waterways shall first be secured from the Department of Public Works and Highways or concerned government agency.

Section 40. Except in cases of emergency to save life or property, the construction or repair of the following works shall be undertaken only after the plans and specifications therefore, as may be required by the Board, are approved by the proper government agency: dams for the diversion or storage of water, structures for the use of water power; installations for the utilization of subterranean or groundwater and other structures for utilization of water resources.

Section 41. No excavation for the purpose of emission of a hot spring or for the enlargement of the existing opening thereof shall be made without prior permit.

Any person or agency who intends to develop a hot spring for human consumption must first obtain a permit from the Department of Health.

Section 42. No person shall develop a stream, lake or spring for recreational purposes without first securing a permit from the Board.

Section 43. Unless otherwise ordered by the President of the Philippines and only in times of national calamity or emergency, no person shall induce or restrain rainfall by any method such as cloud seeding without a permit from the proper government agency.

Section 44. No person shall raise or lower the water level of a river, stream, lake, lagoon or marsh nor drain the same without a permit.

Section 45. Drainage systems shall be so constructed that its outlets are rivers, lakes, sea, natural bodies of water, or such other water courses as may be approved by the proper government agency.

Drainage system shall be classified as to whether it is for storm/rainwater drain or from sewerage/septage. Drainage for storm/rainwater shall be constructed such that their outlets are rivers and other water bodies.

On the other hand, there should be a separate drainage for sewerage system such that it will first go to a treatment facility before it goes to a river for disposal.

In case a separate drainage is not possible, a combined sewerage and storm water drainage should be considered, provided, that its disposal is the same as in the preceding paragraph.

Section 46. When a drainage channel is constructed by a number of persons for their common benefit, the cost of construction and maintenance of the channel, including damage to the environment shall be borne by each in proportion to the benefits derived.

Section 47. When artificial means are employed to drain water from higher to lower land, the owner of the higher land shall select the routes and methods of drainage that will cause the minimum damage to the lower lands, subject to the requirements of just compensation.

Section 48. When the use, conveyance or storage of waters results in damage to another, the person responsible for the damage shall pay compensation.

Section 49. When a water resources project interferes with the access of a landowner to a portion of his property or with the conveyance of irrigation or drainage water, the person or agency constructing the project shall bear the cost of construction and maintenance of the bridges, flumes and other structures necessary for maintaining access, irrigation or drainage, in addition to paying compensation for land and incidental damages.

Section 50. Any person having an easement for an aqueduct may enter upon the servient land for the purpose of cleaning, repairing or replacing the aqueduct or the removal of obstructions therefrom.

Section 51. Lower estates are obliged to receive the waters which naturally and without the intervention of man flow from the higher estates, as well as the stone or earth which they carry with them.

The owner of the lower estate cannot construct works which will impede this natural flow, unless he provides an alternative method of drainage; neither can the owner of the higher estate make works which will increase this natural flow.

Section 52. The banks of rivers and streams and the shores of the seas and lakes throughout their entire length and within a zone of three (3) meters in urban areas, twenty (20) meters in agricultural areas and forty (40) meters in forest areas, along their margins are subject to the easement of public use in the interest of recreation, navigation, floatage, fishing and salvage. No person shall be allowed to stay in this zone longer than what is necessary for recreation, navigation, floatage, fishing or salvage or to build structures of any kind without proper clearance from appropriate government agency.

Section 53. The establishment, extent, forms and conditions of easements of water not expressly determined by the provisions of this Act shall be governed by the provisions of the Civil Code.

CHAPTER V CONTROL OF WATERS

Section 54. To promote the best interest and the coordinated protection of flood plain lands, the Secretary of Public Works and Highways in coordination with other concerned national and local government agencies may declare flood control areas and promulgate guidelines for governing flood plain management to be included in the Integrated Water Resources Management plan in every river basin.

Section 55. In declared flood control areas rules and regulations may be promulgated to prohibit or control activities that may damage or cause deterioration of lakes and dikes, obstruct the flow of water, change the natural flow of river, increase flood losses or aggravate flood problems.

Section 56. The government may construct necessary flood control structures in declared flood control areas, and for this purpose it shall have a legal easement as wide as may be needed along the adjacent to the river bank and outside the bed or channel of the river.

Section 57. River beds, sandbars and tidal flats may not be cultivated except upon prior permission from the Secretary of the Department of Public Works and Highways and such permission shall not be granted where such cultivation obstructs the flow of water or increase flood levels so as to cause damage to other areas.

Section 58. Any person may erect levees or revetments to protect his property from flood, encroachment by the river or change in the course of the river, provided that such construction does not cause damage to the property of another.

Section 59. When a river or stream suddenly changes its course to traverse private lands, the owners of the affected lands may not compel the government to restore the river to its former bed; nor can they restrain the government from taking steps to revert the river or stream to its former course. The owners of the land thus affected are not entitled to compensation for any damage sustained thereby. However, the former owners of the new bed shall be the owners of the abandoned bed in proportion to the area lost by each.

The owners of the affected lands may undertake to return the river or stream to its old bed at their own expense; **Provided,** That a permit therefore is secured from the Secretary of Public Works and Highways and work pertaining thereto are commenced within two years from the change in the course of the river or stream.

Section 60. Rivers, lakes and lagoons may, upon the recommendation of the Department of Transportation and Communications, be declared navigable either in whole or in part.

Section 61. The rafting of logs and other objects on rivers and lakes which are floatable may be controlled or prohibited during designated seasons of the year with due regard to the needs of irrigation and domestic water supply and other uses of water.

Section 62. The impounding of water in ponds or reservoirs may be prohibited by the Board upon consultation with the Department of Health if it is dangerous to public health, or it may order that such pond or reservoir be drained if such is necessary for the protection of public health.

Section 63. Waters of a stream may be stored in a reservoir by a permittee in such amounts as will not prejudice the right of any permittee downstream. Whatsoever operates the reservoir shall release water for minimum stream flow.

The Board shall formulate criteria/guidelines in consultation with the stakeholders for the operation of the dam/reservoir which may be the basis for prioritizing water allocation.

All dam owners/operators are required to submit their reservoir operation rule curve for normal operation to the Board for review and approval.

The owners/operators of dams shall be liable for the negligence about safety measures related to dam's protection.

Section 64. The operator of a dam for the storage of water shall be required to employ a licensed engineer possessing qualifications prescribed for the proper operation, maintenance and administration of the dam.

Section 65. The Board shall approve the manner, location, depth and spacing in which borings for subterranean or groundwater may be made, determine the requirements for the registration of every boring or alteration to existing borings as well as other control measures for the exploitation of subterranean or groundwater resources and prescribe the qualifications of those who would drill such borings.

No person shall drill a well without permission from the Board.

Section 66. Water from one river basin may be transferred to another river basin only with approval of the Board and upon consultation with concerned local government units and other stakeholders. In considering any request of such transfer, the Board shall take into account the full costs of the transfer; the benefits that would accrue to the basin of origin without the transfer, the benefits would accrue to the receiving basin on account of the transfer, alternative schemes for supplying water to the receiving basin, and other relevant factors.

CHAPTER VI CONSERVATION AND PROTECTION OF WATER RESOURCES

Section 67. After due notice and hearing when warranted by circumstances, minimum stream flows for rivers and streams and minimum water levels for lakes *are to* be established by the Board under such conditions necessary for the protection of the environment, control of pollution, navigation, prevention of salt drainage and general public use.

Section 68. The Board shall establish a minimum environmental flow to sustain the biodiversity demand in a river system.

Any proponent developing a project shall consider the environmental flow in the river system.

Section 69. Any watershed or any area of land adjacent to any surface water or overlying any groundwater may be as a protected area. Rules and regulations may be promulgated by the Department of Environment and Natural Resources to prohibit or control such activities by the owners or occupants thereof within the protected area which may damage or cause the deterioration of the surface area or groundwater or interfere with the investigation, use, control, protection, management or administration of such waters.

Section 70. It shall be the duty of any person in control of a well to prevent the water from flowing on the surface of the land, or into any surface water, or any porous stratum underneath the surface without being beneficially used.

Section 71. It shall be the duty of any person in control of well containing water with minerals or other substances injurious to man, animals, agriculture, and vegetation to prevent such waters from flowing on the surface of the land or any surface water or into any aquifer or porous stratum.

Section 72. No person shall utilize an existing well or pond or spread waters for recharging subterranean or groundwater supplies without prior permission of the Board.

Section 73. To promote better water conservation and usage for irrigation purposes, the merger of irrigators' associations and the appropriation of waters by associations instead of by individuals shall be encouraged.

No water permit shall be granted to an individual when his water requirement can be supplied through an irrigators' association.

Section 74. In the consideration of a proposed water resource project, due regard shall be given to ecological changes resulting from the construction of the project in order to balance the needs of development and the protection of the environment.

Section 75. The conservation of fish and wildlife shall receive proper consideration and shall be coordinated with other features of water resources development programs to ensure that aquatic resources and wildlife values receive equal attention with other project purposes.

Section 76. Swamps and marshes which are owned by the State and which have primary value for waterfowl propagation or other wildlife purposes may be reserved and protected from drainage operation and development by the Department of Environment and Natural Resources (DENR) through the Protected Areas and Wildlife Bureau (PAWB).

Section 77. No person shall, without prior permission from the Department of Environment and Natural Resources through the Environmental Management Bureau, build any works that may produce dangerous or noxious substances or perform any act which may result in the introduction of sewage, industrial waste, or any pollutant into any source of water supply.

Water pollution is the impairment of the quality of water beyond a certain standard. This standard may vary according to the use of water and shall be set by the Department of Environment and Natural Resources through the Environmental Management Bureau.

Section 78. The establishment of cemeteries and waste disposal areas that may affect the source of a water supply or a reservoir for domestic or municipal use shall be subject to the rules and regulations promulgated by the Department of Health and Department of Environment and Natural Resources.

Section 79. Tailings from mining operations and sediments from placer mining shall not be dumped into rivers and waterways without prior permission from the Board upon recommendation by the Department of Environment and Natural Resources through the Environmental Management Bureau.

CHAPTER VII

MANAGEMENT OF WATERS AND WATERSHED AND RELATED LAND RESOURCES

Section 80. The Integrated Water Resources Management (IWRM) shall be adopted as the general strategy for water resources management using appropriate physiographic units such as watershed, river basins or water resources regions.

Section 81. The Board shall initiate and support the establishment of River Basin Organizations (RBO) within the watershed in coordination with key stakeholders composed of multi-sectoral members.

Section 82. The River Basin Organization (RBO) shall be responsible in the planning, coordinating and monitoring of all activities within the entire basin including but not limited to the following:

1. To formulate Integrated Water Resources Management (IWRM) policies and plans and, recommend for Board's approval.
2. To oversee and coordinate the implementation of the IWRM Plan;
 - a. To arbitrate issues/conflicts and monitor water rights;
 - b. To regularly review and update IWRM plan;
 - c. To promote IWRM
 - d. To maintain river basin database information
3. To secure funding sources to support the identified projects and programs for the river basin.

Section 83. RBO may create Technical Working Groups to oversee and coordinate the implementation of the Integrated Water Resources Management Plan for the river basin.

Section 84. The Department of Environment and Natural Resources in coordination with the National Water Resources Board shall designate certain area as water quality management area (WQMA) using appropriate physiographic units such as watershed, river basins or water resources regions.

Section 85. The government shall encourage the adoption of water demand management and eco-efficient water infrastructures strategies and develop incentives/rewards mechanism to promote such strategies.

Section 86. The DENR in coordination with NWRB and other concerned agencies involved in watershed management shall undertake watershed conservation, protection and rehabilitation and shall adopt appropriate soil and water conservation, and protection measures to safeguard the hydrological integrity of watersheds and help sustain the protection of water for various purposes and uses.

Section 87. All Local Government Units are required to include in their land use plan a water resources management plan in close coordination with the Board.

Water districts are required to submit water resources management plan to Local Government Units for consideration in the land use plan.

CHAPTER VIII

MANAGEMENT, OPERATION AND MAINTENANCE OF WATER SUPPLY AND SEWERAGE SYSTEMS

Section 88. To rationalize economic regulation with respect to tariff, safety, reliability and quality of water supply, the Board shall regulate all water supply and sewerage services to balance the interest of water service providers and consumers.

Section 89. To ensure an uninterrupted and adequate supply and distribution of potable water for domestic and municipal purposes, the operation and maintenance of waterworks and sewerage systems must be supervised and regulated by the Board.

Section 90. No Water Service Provider and/or Sewerage Operator including but not limited to national and local government owned and operated water supply and sewerage system, Metropolitan Waterworks and Sewerage System, Subic Bay Metropolitan Authority-Subic Water, Clark Development Corporation-Clark Water, Philippine Economic Zone Authority, Water Districts and other types of management model such as Rural Waterworks Services Association, Barangay Waterworks Services Association, Cooperatives, all Bulk Water Suppliers, Chandlers, Peddlers, Homeowners Association, etc. shall operate without having first secured from the Board a Certificate of Public Convenience (CPC) or Certificate of Public Convenience and Necessity (CPCN), as the case may be, to the effect that the operation of said service and the authorization to do business will promote the public interest in a proper and suitable manner.

Any existing contract pertaining to the operation, supply and distribution of water existing upon the effectivity of this Act is considered valid and subsisting. Any extension or renewal of contract referred to above shall be subject to the approval of the Board.

Section 91. Non-exclusivity of franchise. Certificate of Public Convenience grantees do not have the exclusive right to provide water supply and/or sewerage services within a service area, and consequently, the Board may issue, two or more Certificate of Public Convenience for operators within any existing or proposed service areas.

In granting additional Certificate of Public Convenience, the Board shall consider necessity of service and its economic impact to the viability of other service providers in the area.

Section 92. The Board shall have the power, upon proper notice and hearing in accordance with the rules and provisions of this Act, subject to the limitations and exceptions mentioned and saving provisions to the contrary:

- a. Adjudicate and grant CPC/CPCN to operators of waterworks system and services;
- b. Impose penalties for administrative violations and promulgate rules and regulations relative thereto;
- c. Supervise and control waterworks utilities and their franchises and other assets/properties related to the operation of their systems;
- d. Regulate and fix water and sewerage tariff to be charged by waterworks operators;
- e. Exercise original jurisdiction over all disputes relating to water rates of utilities and decide the appeals on water rates involving water districts;
- f. Impose and collect annual supervision regulation fees or charges from waterworks systems and public utility operators;
- g. Establish reasonable rules, regulation instructions, specification and standards, to secure the accuracy of the meters and devices for measurement;
- h. Require any water service provider to establish, construct, maintain and operate any reasonable extension facilities; testing and sealing of water meters and
- i. The power to issue provisional authority.

Section 93. Sale, lease, transfer, donation, management and/or operation contracts, and any other contracts or agreements involving water utility and sewerage operations shall not be valid without prior approval of the Board after due notice and hearing.

Section 94. The Board may amend, modify or revoke at any time any certificate issued under the provisions of this Act, whenever the facts and circumstances on the strength of which said certificate was issued have been misrepresented or materially changed.

Section 95. The Board may suspend or revoke any certificate issued under the provisions of this Act whenever the holder thereof has violated or wilfully and contumaciously refused to comply with any order, rule or regulation of the Board or any provision of this Act; Provided, That the Board, for good cause, may prior to the hearing suspend for a period not to exceed thirty days unless otherwise extended by the Board when public safety and health so requires, any certificate or the exercise of any right or authority issued or granted under this Act by order of the Board, whenever such step shall in the judgment of the Board be necessary to avoid serious and irreparable damage or inconvenience to the public or to private interests.

Section 96. When the interest of the public so requires, the Board shall have the power to take-over temporarily the operation and management of the water supply and sewerage utilities.

Section 97. The Board may promulgate from time to time, such rules and regulations and prescribe such restrictions and conditions, consistent with law, as public convenience, interest or necessity may require; and exercise such other functions as may be prescribed by law.

Section 98. Fees - The Board shall have the power to impose and collect the Supervision and Regulation Fees for all types of water utilities and sewerage operation. The fees shall be paid on or before August thirty-first of each year with a penalty of 50% in case of delinquency. Provided, that if the fees or any balance thereof are not paid within sixty days from the said date, the penalty shall be increased by one percent for every month thereafter of delinquency.

Section 99. Rulings and decisions of the Board on CPC/CPCN applications and controversies shall be appealable to the Court of Appeals in the same manner as the rulings and decisions of the Board on water rights controversies are appealed.

Section 100. Other Protective Measures - The water supply and sewerage operators may construct, operate and provide an appropriate facility for the collection, treatment and disposal of sewerage and storm water within or outside their area of jurisdictions.

Section 101. The water supply and sewerage operators may only construct, operate and provide such services outside their area of jurisdictions by means of facilities designed primarily to service inside their area.

Section 102. The water supply and sewerage operators shall require all establishments, buildings and households to be connected to the sewer system within such reasonable times as may be prescribed by the operators, provided that the property upon which such establishments, buildings and households to be connected are located within 35 meters of an existing main sewer system of the operator.

Section 103. The water supply and sewerage operators may declare the further maintenance of use of cesspools, septic tanks, or other local means of sewerage disposal in such area to be a public nuisance and, after notice in writing of at least ten (10) days, deprive said property owner of any and all services provided by the operator, which sanction may be co-extensive with the period during which the property owner persists in refusing to connect with the operator's sewer system.

Section 104. Any Certificate of Public Convenience grantee on water supply may opt to operate sewerage system upon petition to the Board for the regulation of sewerage tariff without securing a separate Certificate of Public Convenience.

Section 105. The Board shall have the power to take sanctions against non-compliance with the rules and regulations of the Board such as tampering of water meters, water supply and sewerage lines and malicious destructions of water lines except those as may be provided by laws.

CHAPTER IX ADMINISTRATION OF WATERS AND ENFORCEMENT OF THE PROVISIONS OF THE CODE

Section 106. The Administration and enforcement of the provisions of this Act, including the granting of permits, Certificate of Public Convenience and Certificate of Public Convenience and Necessity for water supply and sewerage and the imposition of penalties for administrative violations hereof, are hereby vested in the National Water Resources Board which shall be an independent apex body for all water related activities. Except in regard to those functions which under this Act are specifically conferred upon other agencies of the government, the Board is hereby empowered to make all decisions and determinations provided in this Act.

Section 107. The Board may deputize any official or agency of the government to perform any of its specific functions or activities.

Section 108. The Board shall provide a continuing program and maintain a database system for data collection, research and manpower development needed for the appropriation, utilization, exploitation, conservation and protection of the water resources of the country.

All data generating water related agencies shall provide the Board with relevant technical data for its planning, assessment and regulation function without cost.

Section 109. In the implementation of the provisions of this Act, the Board shall promulgate the necessary rules and regulations which may provide penalties consisting of a fine as may be determined by the Board and/or suspension or revocation of the water permit or Certificate of Public Convenience. Violations of such rules and regulations may be administratively dealt with by the Board.

Such rules and regulations shall take effect fifteen (15) days after publication in newspapers of general circulation.

Section 110. Rules and regulations by any government agency as well as ordinances, resolutions prescribed by Local Government Units that pertains to the utilization,

exploitation, development, control, conservation or protection of water resources shall be subject to Board's approval.

Section 111. The Board is hereby authorized to impose and collect reasonable fees for supervision and regulation of water service providers and annual water charges.

Annual water charge shall be based on volumetric pricing, which amount shall be determined by the Board.

The Board shall retain a certain portion of the collected fees and charges in an amount not exceeding 50% of the total collection which shall be deposited in a special account of the Board for the implementation of water resources protection and management and other water related programs and activities within the river basin.

Section 112. The Board and other agencies authorized to enforce this Act are empowered to enter upon private lands, with previous notice to the owner, for the purpose of conducting surveys and hydrologic investigations and to perform such other acts as are necessary in carrying out their functions including the power to exercise the right of eminent domain.

Section 113. No program or project involving the appropriation, utilization, exploitation, development, control, conservation, or protection of water resources may be undertaken without prior approval of the Board, except those which the Board may, in its discretion, exempt.

The Board may require consultation with the public prior to the implementation of certain water resources development projects.

Section 114. When plans and specifications of a hydraulic structure are submitted for approval, the government agency whose functions embrace the type of project for which the structure is intended, shall review the plans and specifications and recommend to the Board proper action thereon and the latter shall approve the same only when they are in conformity with the requirements of this Code and the rules and regulations promulgated by the Board. Notwithstanding such approval, neither the engineer who drew up the plans and specifications of the hydraulic structure, nor the constructor who built it, shall be relieved of his liability for damages in case of failure therefore by reason of defect in plans and specifications, or failure due to defect in construction, within ten (10) years from the completion of the structure.

Any action to recover such damages must be brought to proper court within five (5) years following such failure.

Section 115. The Board or its duly authorized representatives, in the exercise of its power to investigate and decide cases brought to its cognizance shall have the power to administer oaths, compel the attendance of witnesses by *subpoena* and the production of relevant documents by *subpoena duces tecum*.

Non-compliance or violation of such orders or *subpoena* and *subpoena duces tecum* shall be punished in the same manner as direct contempt of an inferior court.

Section 116. The Board shall have original jurisdiction over all disputes relating to appropriation, utilization, exploitation, development, control, conservation and protection of waters within the meaning and context of the provisions of this Act.

The decisions of the Board on water rights controversies shall be immediately executory and enforcement thereof may be suspended only when a bond in an amount fixed by the Board to answer for damages occasioned by the suspension or stay of execution shall have been filed by the appealing party, unless the suspension is by virtue of an order of a competent court.

All disputes shall be decided within sixty (60) days after the parties submit the same for decision or resolution.

The Board shall have the power to issue writs of execution and enforce its decisions. In the exercise of such powers, the Board may utilize the services of national or local police and other concerned agencies.

Section 117. The decisions of the Board on water right controversies may be appealed to the Court of Appeals within fifteen (15) days from receipt by the Appealing party of the copy of the decision on any of the following grounds: (1) grave abuse of discretion; (2) question of law; and (3) question of fact and law.

CHAPTER X PENAL PROVISIONS

Section 118. The following acts shall be penalized by suspension or revocation of the violator's water permit and Certificate of Public Convenience or other right to the use of water and/or a fine in the amount not exceeding One Thousand Pesos (P1,000.00) per day in the discretion of the Board.

1. For water resource violations:

- a. Appropriation of water without a water permit, unless such person is expressly exempted from securing a permit by the provisions of this Act.
- b. Appropriation of subterranean or groundwater for domestic use by an overlying landowner without registration required by the Board.
- c. Non-observance of any standard of beneficial use of water.
- d. Failure of the appropriator to keep and submit a record of water withdrawal.
- e. Failure to comply with any of the terms or conditions in a water permit or a water rights grant.
- f. Unauthorized use of water for a purpose other than that for which a right or permit was granted.
- g. Construction or repair of any hydraulic work or structure without duly approved plans and specifications, when required.
- h. Failure to install a regulating and measuring device for the control of the volume of water appropriated.
- i. Unauthorized sale, lease, or transfer of water and/or water rights.
- j. Failure to provide adequate facilities to prevent or control diseases when required by the Board in the construction of any work for the storage, diversion, distribution and utilization of water.
- k. Drilling of a well without permission of the Board.

- l. Utilization of an existing well or pond or spreading of water for recharging subterranean or groundwater supplies without permission of the Board.
- m. Violation of or non-compliance with any order, rule, or regulation of the Board.
- n. Illegal taking or diversion of water in an open canal, aqueduct or reservoir.
- o. Malicious destruction of hydraulic works or structures valued at not exceeding Fifty Thousand Pesos (P50, 000.00).

2. For water supply and sewerage violations:

- a. Operation of water supply and sewerage system without Certificate of Public Convenience.
- b. Unauthorized sale, lease, or transfer of Certificate of Public Convenience and/or management and operation of water supply and/or sewerage system.
- c. Violation of any rules and regulations prescribed by the Board in the operation of waterworks and sewerage system.

The fines herein prescribed shall be increased by 10% for every five years to compensate for inflation and to maintain deterrent effect of such fine.

Section 119. A. A fine not exceeding Thirty Thousand Pesos (P30,000.00) or imprisonment for not more than three (3) years, or both such fine and imprisonment, in the discretion of the Court, shall be imposed upon any person who commits any of the following acts:

1. Appropriation of water without a water permit, unless such person is expressly exempted from securing a permit by the provisions of this Act.
2. Unauthorized obstruction of an irrigation canal.
3. Cultivation of a river bed, sand bar or tidal flat without permission.
4. Malicious destruction of hydraulic works or structure valued at not exceeding Two Hundred Fifty Thousand Pesos (P250, 000.00).

B. A fine exceeding Thirty Thousand Pesos (P30,000.00) but not more than Sixty Thousand Pesos (P 60,000.00) or imprisonment exceeding three (3) years but not more than six (6) years, or both such fine and imprisonment in the discretion of the Court, shall be imposed on any person who commits any of the following acts:

1. Unauthorized operation of waterworks and sewerage system
2. Distribution for public consumption of waste water which adversely affects the health and safety of the public.
3. Excavation or enlargement of the opening of a hot spring without permission.
4. Unauthorized obstruction of a river or waterway, or occupancy of a river bank or seashore without permission.
5. Establishment of a cemetery or a waste disposal area near a source of water supply or reservoir for domestic or municipal use without permission.
6. Constructing, without prior permission of the government agency concerned, works that produce dangerous or noxious substance, or performing acts that result in the introduction of sewage, industrial waste, or any substance that pollutes a source of water supply.
7. Dumping mine tailings and sediments into rivers or waterways without permission.

8. Malicious destruction of hydraulic works or structure valued more than Two Hundred Fifty Thousand Pesos (P250,000.00) but not exceeding One Million Pesos (P1,000,000.00)

C. A fine exceeding Sixty Thousand Pesos (P60,000.00) but not more than One Hundred Thousand Pesos (P100,000.00) or imprisonment exceeding six (6) years but not more than twelve (12) years, or both such fine and imprisonment, in the discretion of the Court shall be imposed upon any person who commits any of the following acts:

1. Misrepresentation of citizenship in order to qualify for water permit *or* Certificate of Public Convenience.
2. Malicious destruction of a hydraulic works or structure, valued at more than One Million Pesos (P 1,000,000.00).

Section 120. If the offense is committed by a corporation, trust, firm, partnership, association or any other juridical person, the penalty shall be imposed upon the President, General Manager, and other guilty officer or officers of such corporation, trust firm, partnership association or entity, without prejudice to the filing of a civil action against said juridical person. If the offender is an alien, he shall be deported after serving his sentence, without further proceedings.

After final judgment of conviction, the Court upon petition of the prosecuting attorney in the same proceedings, and after due hearing, may, when the public interest so requires, order the suspension or dissolution of such corporation, trust, firm, partnership, association or juridical person.

Section 121. All actions for offenses punishable under Section 119 of this Act shall be brought before the proper court.

Section 122. Actions for offenses punishable under this Act by a fine of not more than Thirty Thousand Pesos (P30,000.00) or by an imprisonment of not more than three (3) years, or both such fine and imprisonment, shall prescribe in five (5) years; those punishable by a fine exceeding Thirty Thousand Pesos (P30,000.00) but not more than Sixty Thousand Pesos (P60,000.00) or an imprisonment exceeding three (3) years but not more than six (6) years, or both such fine and imprisonment, shall prescribed in seven (7) years; and those punishable by a fine exceeding Sixty Thousand Pesos (P60,000.00) but not more than One Hundred Thousand Pesos (P100,000.00) or an imprisonment exceeding six (6) years but not more than twelve (12) years, or both such fine and imprisonment, shall prescribed in ten (10) years.

CHAPTER XI FINAL PROVISIONS

Section 123. When priority in time of appropriation from a certain source of supply cannot be determined, the order of preference in the use of the waters shall be as follows:

- a. Domestic
- b. Municipal
- c. Irrigation

- d. Power generation
- e. Fisheries
- f. Livestock raising
- g. Industrial use
- h. Commercial
- i. Recreation, and
- j. Other uses

In case conflict may arise in the determination of the priority as mentioned above, determination of priority may be taken from the date of the approval thereof.

When two or more permittees with the same source and purpose have the same date of approval, priority in the utilization of water shall be reckoned from the date of filing of the application without prejudice to whatever arrangement that may be agreed upon by the permittees.

Section 124. No vested or acquired right to the use of the water can arise from acts or omissions which are against the law or which infringe upon the rights of others.

Section 125. Existing contracts under the regime of old laws, if they are valid in accordance therewith, shall be respected, subject to the limitations established in this Act. Any modification or extension of existing contracts after the promulgation of this Act, shall be subject to the provisions hereof.

Section 126. Arbitration provision. All conflicts, controversies and issues related to water rights and Certificate of Public Convenience applications shall be subject to arbitration in accordance with the provisions of RA 9285 otherwise known as "Alternative Dispute Resolution Act of 2004".

Section 127. Implementing rules and regulations shall be promulgated by the Department of Environment and Natural Resources within 90 days from the approval of this Act.

Section 128. General and Transitory Provisions. A substantial compliance with the requirements of this Act shall be sufficient to give effect to all the rules, orders and regulations of the Board and they shall not be declared inoperative, illegal or void for any omission of a technical nature in respect thereto.

Section 129. If any provision or part of this Act, or the application thereof to any person or circumstance, is declared unconstitutional or invalid for any reason, the other provisions or parts therein shall not be affected.

Section 130. The following laws, parts and/or provisions of laws are hereby repealed:

The provisions of the Spanish Law on Waters of August 3, 1866, the Civil Code of Spain in 1889 and the Civil Code of the Philippines (R.A. 386) on ownership of waters, easements relating to waters, use of public waters and acquisitive prescription on the use of waters, which are inconsistent with the provisions of this Code;

The provisions of R.A. 6395, otherwise known as the Revised Charter of the National Power Corporation, particularly section 3, paragraph (f), and section 12, insofar as they relate to the appropriation of waters and the grant thereof;

The provisions of Act No. 2152, as amended, otherwise known as the Irrigation Act, section 3, paragraph (k) and (m) of P.D. No. 813, R.A. 2056; Section 90, C.A. 137;

The Provisions of PD 198, Local Government Code, IPRA and NIPAS Act relating to ownership, appropriation, utilization, exploitation, development, conservation and protection of water resources;

The provisions of Public Service Law relating to operation & management of water utilities and sewerage system; and

All Decrees, Laws, Acts, parts of Acts, rules of Court, Executive Orders, and administrative regulations which are contrary to or inconsistent with the provisions of this Act.

Section 131. This Act shall take effect immediately after its publication in two (2) Newspapers of general circulation.

Approved