

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

Sixteenth Congress
First Regular Session

HOUSE BILL NO. 2857



Introduced by Rep. Reynaldo V. Umali

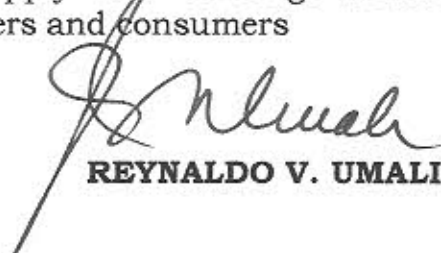
EXPLANATORY NOTE

Presidential Decree No. 1067 otherwise known as the Water Code of the Philippines was promulgated in 1976 or more than 30 years ago. In the Philippine context the 1970's 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, clean water and solid waste management.

The laws on 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 Acts promotes an integrated water resources management using appropriate physiographic units such as water sheds 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 LGU's.

The supervision and regulation of sewage 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


REYNALDO V. UMALI

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Introduced by **Honorable REYNALDO V. UMALI**

AN ACT RENAMING THE WATER CODE OF THE PHILIPPINES INTO NATIONAL WATER SECURITY ACT OF 2013 THEREBY REVISING AND CONSOLIDATING THE LAWS GOVERNING THE OWNERSHIP, APPROPRIATION, UTILIZATION, EXPLOITATION, DEVELOPMENT, CONSERVATION AND PROTECTION OF WATER RESOURCES AND REGULATION OF WATERWORKS/WATER SUPPLY AND SEWERAGE SYSTEMS AND SERVICES

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

CHAPTER I
DECLARATION OF OBJECTIVES AND PRINCIPLES

Art. 1. This Act shall be known as *The National Water Security Act of 2013*.

Art. 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;
- d. To adopt and practice the principles embodied in the *Integrated Water Resources Management (IWRM)* process as a general strategy for water resources management to ensure sustainability and environmental integrity;

- e. *To regulate the management and operation of waterworks systems, water supply, and sewerage system and services; and*

To identify the administrative agencies that will enforce this Act.

Art.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 current usages and *strategies*, to be responsive to the changing needs of the country.

All waterworks system, water supply, sewerage system and septage service providers shall be effectively and economically regulated to balance the interest of said providers as well as the right of the concessionaires.

Art. 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

Art. 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

Art. 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.
- f. 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.

Art. 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.

Art. 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**

Art. 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.

Art. 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 exclusively for 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, water refilling stations, and other similar 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.

Art. 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.

Water Permits previously issued for specific purposes may, upon recommendation of proper government agency, be recalled or cancelled by the Board, for reasons of public health, public safety, or national security, or to prevent environmental degradation.

Art. 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.

Art. 13. Except as otherwise herein provided, no person, including government *agencies* and instrumentalities, *local government units*, government-owned or controlled corporations and *quasi-public 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 *National Water Resources Board* to appropriate and use water.

Art. 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,

Bathing or washing, watering or dipping of domestic or farm animals, and navigation of watercrafts or transportation of logs and other objects by flotation.

Art. 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.

Art. 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 needed for beneficial use; possible adverse effects; land-use economics; *environmental reserve*; *water pollution risks*; and other relevant factors.

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

Art. 17. In areas declared as ancestral domain, water permits may be issued upon proof that the applicant has secured free, prior and informed consent (FPIC) from the *National Commission for Indigenous People*.

Art. 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 case no *water permit* is required.

Art. 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 *appropriate and desirable*.

Art. 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.

Art. 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 for producing the benefits for which the water is appropriated.

Art. 22. Standards of beneficial use 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.

Every appropriator of water shall maintain water control and measuring devices, and *submit records of water withdrawal to the Board*.

Art. 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 *and/or water shortage*, the use of water for domestic and municipal purposes shall have a better right over all other uses. 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*.

Art. 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 *as may be determined by the Board*.

Claims for compensation of damages arising from the alteration of priority by reason of greater beneficial use, shall be filed with the Board.

Art. 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.

Art. 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.

Art. 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.

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

Art. 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.

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

Art. 30. Water permit may be revoked after due notice and hearing on grounds of non-use; 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; continuous non-payment of

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

Art. 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.

In cases where only a portion of the agricultural land were converted to non-agricultural purposes, the volume of water granted under the water permit shall be reduced accordingly.

CHAPTER IV UTILIZATION OF WATERS

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

Art. 33. The utilization of subterranean or groundwater shall be coordinated with that of surface waters such as rivers, streams 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.

Art. 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.

Art. 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, the same will not cause flooding or any other damage such as erosion that may alter the natural watercourse in the area.

Art. 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.

Art. 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.

Art. 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.

Art. 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 appropriate government agency.

Art. 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.

Art. 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.

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

Art. 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.

Art. 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.

Art. 45. *Drainage systems shall be classified into storm or rainwater and sewerage or septage.*

Drainage for storm or rainwater shall be constructed such that its outlets are rivers and other water bodies. A storm catchment or water impoundment facility may be utilized subject to approval by the concerned government agency.

There shall be a separate drainage system for sewerage or septage, which shall pass through a treatment facility before disposal.

In case a separate drainage is not possible, a combined sewerage and storm water drainage may be used, provided, that water passes through a treatment facility, similar to what is required for drainage of sewerage or septage before disposal.

Art. 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.

Art. 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.

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

Art. 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.

Art. 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.

Art. 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.

Art. 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.

Art. 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

Art. 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.

Art. 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.

Art. 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.

Art. 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.

Art. 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.

Art. 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.

Art. 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.

Art. 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.

Art. 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.

Art. 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 negligence on safety measures related to dam protection.

Art. 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.

Art. 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*.

Art. 66. Water from one river basin may be transferred to another river basin only with the 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 that 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 WATERS AND RELATED LAND RESOURCES

Art. 67. Upon determination of the *Board*, when warranted by circumstances, minimum stream flows for rivers and streams and minimum water levels for lakes shall be established under such conditions necessary for the protection of the environment; control of pollution, navigation, prevention of salt drainage and general public use.

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

The minimum environmental flow thus established shall not be subject to appropriation.

Art. 69. Any watershed or any area of land adjacent to any surface water or overlying any groundwater may be declared 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.

Art. 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.

Art. 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.

Art. 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*.

Art. 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.

Art. 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.

Art. 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.

Art. 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)*.

Art. 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*.

Art. 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.

Art. 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.

Art. 80. The application of agricultural fertilizers and pesticides may be prohibited or regulated by the Department of Agriculture through the Fertilizers and Pesticides Authority in areas where such application may cause pollution to a source of water supply.

CHAPTER VII **RIVER BASINS AND RIVER BASIN ORGANIZATION**

Art. 81. River basins shall be identified and declared based on hydrological boundaries, which shall include the coastal zones of influence.

A river basin is a land area that is drained by a river and its tributaries.

Art. 82. The Board shall create a River Basin Organization (RBO), for every river basin previously or hereinafter identified and declared.

The formulation of plans and policies shall be the main responsibility of the RBO. It shall also coordinate the implementation of water and land use related plans, programs and activities within a river basin.

In the performance of said function, it shall take into consideration the social, economic, environmental factors, and such other conditions and needs peculiar to a river basin.

Art. 83. The RBO shall be composed of a chairperson, which shall be the Executive Director of the NWRB or his duly authorized representative, and members consisting of the Governors of the provinces and the City Mayors of the Chartered/Highly Urbanized Cities within the identified and declared river basin; the Regional Directors of the Department of Environment and Natural Resources, Department of Public Works and Highways, Department of Agriculture and the National Economic and Development Authority.

The RBO shall appoint one sector representative from the following: 1) water service providers in the area; 2) private sector who is a major stakeholder in the river basin; and 3) academe.

Art. 84. The operation of the RBO shall be under the supervision of the Board.

The Board shall monitor, integrate and evaluate the plans and programs of all river basins of the country for the development of national water management policies and strategic directions.

Art. 85. Watershed conservation, protection and rehabilitation activities and such measures which shall hereinafter be adopted by the Department of Environment and Natural Resources for the safeguard of the hydrological integrity of the water shed, shall be performed in coordination with the RBO in the said watershed

Art. 86. The river basins or watersheds previously declared and identified under other statutory enactments or administrative issuances shall still be recognized, and RBOs previously formed and existing shall remain, provided that they are consistent with the provision of Article 81 and 82 and provided further that administrative control and supervision thereof shall be transferred to the National Water Resources Board upon effectivity of this Act.

Art 87. Local government units shall formulate and submit a water use plan to the RBO for review prior to its implementation.

Art. 88. The Board in collaboration with NEDA shall adopt water demand management and eco-efficient water infrastructures strategies and develop incentives/rewards mechanism.

Art. 89. In coordination with the proper government agencies, the Board shall adopt measures to mitigate the impacts of extreme climate variability and other natural disasters.

CHAPTER VIII

REGULATION OF WATER SUPPLY, WATERWORKS SYSTEM AND SEWERAGE SYSTEMS AND SERVICES

Art. 90. To ensure access to an uninterrupted and adequate supply and distribution of potable water for domestic, municipal, industrial and commercial purposes, and to rationalize economic regulation with respect to its tariff, safety, reliability and quality, the Board shall regulate the operation and maintenance of all water supply, waterworks system.

Sewerage systems and services shall be regulated in accordance with approved methodologies, criteria and standards formulated by the Board.

Art. 91. No water supply, waterworks system and sewerage systems and services 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 and other similar 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) to the effect that such operation will promote the public interest in a proper and suitable manner.

A Certificate of Public Convenience (CPC) issued under this Act, is a written authorization, issued after hearing, which grants the water service provider and/or sewerage system and service operator the right to engage in such service, within the area specified therein, under such terms and conditions imposed by the National Water Resources Board.

The term "water service provider and/or sewerage system and service operator" shall include all persons who own, operate, manage or control, for hire or compensation, with general or limited clientele, single or multiple supply, whether permanent, occasional or accidental, any enterprise engaged in water supply either by bulk or otherwise and/or sewerage facilities.

Art. 92. Certificate of Public Convenience grantees do not have the exclusive right to provide water supply and/or sewerage system and services within a service area. The Board may issue, two or more Certificate of Public Convenience for operators within any existing or proposed service areas.

In granting new Certificates of Public Convenience, the Board shall consider the necessity, viability and economic impact to existing CPC holders in the area.

Art. 93. Certificates of Public Convenience shall be granted only to citizens of the Philippines or to corporation, association, partnership or other juridical person duly formed and existing under Philippine laws, provided that at least sixty per centum (60%) of the paid up capital of such corporation, association or juridical entity belongs to citizens of the Philippines, including local government units, government instrumentalities and government owned and controlled corporations.

Any sale, transfer or alienation of shares of stock that will in itself, or in connection with another previous transaction, result in the reduction of the shares of Filipino citizens to less than sixty per centum (60%) of the capital stock, shall be void and shall have no effect. The Board may order the cancellation of the certificate issued in violation of this Act.

Art. 94. The Board shall fix and determine the water supply and sewerage rates or schedules thereof, which shall be imposed, observed and followed thereafter by water service providers and/or sewerage system and service operator upon notice and hearing. No increase or modification of said rates may be imposed by the water service provider and/or sewerage system and service operator without prior approval of the Board.

The Board, pending determination of the final rates of applications for CPC may approve provisional rates for water supply, waterworks and sewerage systems and services without notice and hearing.

Art. 95. The Board shall fix just and reasonable standards, classifications, regulations, practices and measures of service to be furnished, imposed, observed and followed by all water service providers and/or sewerage system and service operators.

The Board shall establish reasonable rules and regulations, instructions, specifications and standards to secure the accuracy of all water meters and other equipment for measurements.

Art. 96. The Board shall establish means of determining the appropriate appraisal and valuation of properties used in the operation and maintenance of the water supply, waterworks and sewerage systems and services.

Art. 97. The Board shall fix and determine proper and adequate rates of depreciation of the property used by water service provider and/or sewerage system and service operator, which will be observed as a proper and adequate depreciation account to be carried for the protection of stockholders, bondholders, or creditors in accordance with the Implementing Rules and Regulations.

Said rates shall be sufficient to provide the amounts required over and above the maintenance to keep such property in a state of efficiency corresponding to the progress in the industry. Each public service shall conform its depreciation accounts to the rates so determined and fixed, and shall set aside the moneys so provided for out of its earnings and carry the same in a depreciation fund. The income from investments of money in such fund shall likewise be carried in such fund. This fund shall not be expended otherwise than for depreciation, improvements and new construction, extension or

conditions to the property of water service provider and/or sewerage system and service operator.

Art. 98. Certificates of Public Convenience (CPC) issued under this act shall be valid and effective for such number of year as may be determined by the Board, but it shall not exceed fifty (50) years. It may however be renewed for such number of years upon instance of the grantee, subject to compliance to rules and regulations that will be adopted upon promulgation of this Act.

Art. 99. Water service providers and/or sewerage system and service operators shall be required to furnish the Board annual reports of finances and accounts, so as to afford an intelligent understanding of the conduct of its business.

The annual report shall be submitted to the Board on or before May 30 following the year of approval of the CPC, and every year thereafter. It shall be audited by an independent external auditor and its truthfulness, accuracy and completeness sworn to by the water service provider and/or sewerage system and service operator through its duly authorized officer, before a notary public.

The Board shall likewise appraise and evaluate the property of any water service provider and/or sewerage system and service operator whenever it finds necessary, for the purpose of carrying out the conditions of the CPC.

Art. 100. 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.

All other applications and/or petitions pertaining to water utilities and sewerage operation shall be resolved in accordance with the provisions of the IRR of this Act.

Art. 101. 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.

Art. 102. The Board may suspend or revoke any certificate issued under the provisions of this Act after due notice and hearing, 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;

Provided further, that the suspension may be extended by the Board to avoid serious and irreparable damage or inconvenience to the public or to private interest.

Art. 103. The Board shall have the power to investigate, upon its own initiative or upon complaint in writing, the rates, service or any matter concerning the water service provider and/or sewerage system and service operator, including those operating and maintaining said services without the required CPC in violation of this Act.

The Board shall likewise have the power to enter the premises of water service provider and/or sewerage system and service operator, upon notice, to conduct investigation, and examine books, to determine compliance of said water service provider and/or sewerage system and service operator to the provisions of this Act and the conditions imposed in the CPC or violations of this Act.

Art. 105. For reasons of public safety, security or public health, 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.

Art. 106. The Board may promulgate from time to time, rules and regulations and prescribe restrictions and conditions, consistent with law, as public convenience, interest or necessity may require; and exercise other functions as may be prescribed by law.

Art. 107. The water supply and sewerage system and service operators may construct, operate and provide an appropriate facility for the collection, treatment and disposal of sewerage and storm water within or outside their service area.

Art. 108. The water supply and sewerage system and service operators shall require all establishments, buildings and households to be connected to the sewer system within such reasonable time 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.

Art. 109. The Board, upon its own initiative or upon recommendation of the duly authorized water service provider and/or sewerage system and service operator, may declare the maintenance or use of cesspools, septic tanks, or other local means of sewerage disposal in such area, a public nuisance.

Art. 110. Any Certificate of Public Convenience grantee on water supply may opt to operate sewerage system upon petition to the Board.

Art. 111. The Board shall have the power to take sanctions against non-compliance with the rules and regulations of the Board.

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

Art. 112. The administration and enforcement of the provisions of this Act, including the granting of permits, Certificate of Public Convenience for water supply and sewerage system and services and the imposition of penalties for administrative violations hereof, are hereby vested in the National Water Resources Board as the sole regulatory agency of the government. 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.

Art. 113. The Board may deputize any official or agency of the government to perform any of its specific functions or activities.

Art. 114. 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.

Art. 115. 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.

Art. 116. Rules and regulations by any government agency as well as ordinances and 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.

Art. 117. The Board is hereby authorized to impose and collect reasonable fees for annual water charges from all holders of water permit.

Annual water charge shall be based on volumetric pricing, which amount shall be determined in accordance with the parameters to be set by the Board.

All fines and penalties including income of the Board from Annual Water Charges shall be remitted to the National Treasury under a special account for utilization of the Board in the implementation of water resources management programs and projects including but not limited to the purposes envisioned under Article 114 as may be recommended by the Board.

Art. 118. The Board shall impose and collect supervision and regulation fees (SRF) from all water service providers and/or sewerage system and service operators which shall be one percent (1.0%) of the total paid-up capital, or the total net book value of properties and equipment, whichever is higher.

Said supervision and regulation fees shall be paid to the Board on or before August 31st following the year of approval of the CPC and every year thereafter.

Provided, a penalty or fine shall be imposed for failure to pay supervision and regulation fee. It shall be computed at 50% of the principal amount due. Payment shall be made within sixty (60) days after notice of delinquency to CPC holder, otherwise, the penalty shall be increased by 1% for every month thereafter.

Art. 119. 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.

Art. 120. 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.

Art. 121. 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 ten (10) years following such failure.

Art. 122. *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.*

It shall likewise have original jurisdiction over all disputes regarding the rates, service or any matters involving the operation of waterworks systems, water supply and sewerage systems and services, including those operating and maintaining said services without the required CPC in violation of this Act.

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

Art. 123. *The Board shall have original jurisdiction over payment of claims for 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.*

Art. 124. *The decisions of the Board mentioned in Article 122 par.1 and 2 shall be immediately executory. Enforcement thereof may only be suspended upon payment of a bond in an amount to be fixed by the Board to answer for damages occasioned by the suspension or stay of execution shall have been filed by the appealing party or upon a writ of injunction issued by a competent court.*

Art. 125. *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.*

Art. 126. 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.

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.

Art. 127. The decisions of the Board in the exercise of its original jurisdiction may be appealed to the Court of Appeals in accordance with Rule 43 of the Revised Rules of Court.

CHAPTER X PENAL PROVISIONS

Art. 128. The following acts shall be penalized by suspension or revocation of the violator's water permit and/or Certificate of Public Convenience or other right to the use of water and/or a fine in an amount not exceeding Five Thousand Pesos (P5,000.00) per day, in the discretion of the Board.

1. For water resource violations:

- a. Appropriation of water without a water permit.*
- 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. *Sale, lease, or transfer of Certificate of Public Convenience and/or management and operation of waterworks system, water supply and sewerage systems and services without prior authority/ approval from the Board.*
- c. *Violation of any rules and regulations prescribed by the Board in the operation of waterworks and sewerage system.*
- d. *Providing unsafe, improper, or inadequate service or withholding or refusing of such service which can be reasonably demanded or furnished.*
- e. *Tampering of water meters, water supply and sewerage lines and malicious destructions of water lines.*
- f. *Charging of water rates without authority from the Board.*
- g. *Charging of water rates not in accordance with the amount approved by the Board.*

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.

Art. 129. A fine not exceeding Fifty Thousand Pesos (P50,000.00) 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 (P60,000.00)* 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 system and sewerage system and service.*
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)*.

Art. 130. 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.

Art. 131. All actions for offenses punishable under *Article 128* of this Act shall be brought before the proper court.

Art. 132. 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

Art. 133. 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

Art. 134. 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.

Art. 135. 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 approval of the Board.

Art. 136. Implementing rules and regulations promulgated by the Board shall continue to have binding force and effect, when not in conflict with the provisions of this Act.

Art. 137. 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.

Art. 138. 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".

Art. 139. 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.

Art. 140. 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 (operation of waterworks system) (fixing or determination of rates), Local Government Code (general welfare clause), IPRA, NIPAS Act, Public Service Law and all laws creating Economic Zone Authorities, relating to ownership, appropriation, utilization, exploitation, development, conservation and protection of water resources and management of water utilities and sewerage system and services; 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.

Art. 141. This Act shall take effect upon its promulgation.

Approved.