

REPUBLIC ACT No. 6234

AN ACT CREATING THE METROPOLITAN WATERWORKS AND SEWERAGE SYSTEM AND DISSOLVING THE NATIONAL WATERWORKS AND SEWERAGE AUTHORITY; AND FOR OTHER PURPOSES.

Section 1. Declaration of Policy. The proper operation and maintenance of waterworks system to insure an uninterrupted and adequate supply and distribution of potable water for domestic and other purposes and the proper operation and maintenance of sewerage systems are essential public services because they are vital to public health and safety. It is therefore declared a policy of the state that the establishment, operation and maintenance of such systems must be supervised and controlled by the state.

Section 2. Creation, Name, Domicile and Jurisdiction.

(a) There is hereby created a government corporation to be known as the Metropolitan Waterworks and Sewerage System, hereinafter referred to as the System, which shall be organized within thirty days after the approval of this Act.

(b) The domicile and principal place of business of the System shall be in the City of Manila. The System shall have such branches and agencies as may be necessary for the proper conduct of its affairs.

(c) The System shall own and/or have jurisdiction, supervision and control over all waterworks and sewerage system in the territory comprising the cities of Manila, Pasay, Quezon, Cavite and Caloocan, and the municipalities of Antipolo, Cainta, Las Piñas, Makati, Malabon, Mandaluyong, Marikina, Montalban, Navotas, Parañaque, Pasig, Pateros, San Juan, San Mateo, Taguig, Taytay, all of Rizal Province, the municipalities of Bacoor, Imus Kawit, Noveleta, Rosario, all of Cavite province and Valenzuela, Bulacan. All other waterworks and sewerage systems now under the supervision and control of National Waterworks and Sewerage Authority (NWSA), shall remain with the System unless the provinces, cities and municipalities concerned shall elect to separate from the System, in which case, they shall communicate their decision to the System and the separation shall take effect upon agreement of the System and the local government not later than thirty (30) days from the time the System receives the notice of the decision.

The Wells and Springs Department of the National Waterworks and Sewerage Authority shall be ceded, transferred and conveyed to the Bureau of Public Works.

(d) Any provision of law to the contrary notwithstanding, all existing waterworks systems or any system that may hereafter be established by cities and municipalities shall have exclusive control and supervision over all sources of water supply, such as rivers and streams for waterworks purposes in their respective jurisdictions, and any water right now enjoyed by the National Waterworks and Sewerage Authority in the different cities and municipalities concerned: *Provided, however,* That in case of provincial waterworks systems now existing, the said water rights shall be transferred to that provincial system.

Section 3. Attributes, Powers and Functions. The System shall have the following attributes, powers and functions:

(a) To exist and have continuous succession under its corporate name for a term of fifty (50) years from and after the date of the approval of this Act, notwithstanding any provision of law

to the contrary: *Provided, however,* That at the end of the said period, the System shall automatically continue to exist for another fifty (50) years, unless otherwise provided by law;

(b) To prescribe its by-law;

(c) To adopt and use a seal and alter it at its pleasure;

(d) To sue and be sued;

(e) To establish the basic and broad policies and goals of the System;

(f) To construct, maintain, and operate dams, reservoirs, conduits, aqueducts, tunnels, purification plants, water mains, pipes, fire hydrants, pumping stations, machineries and other waterworks for the purpose of supplying water to the inhabitants of its territory, for domestic and other purposes; and to purify, regulate and control the use, as well as prevent the wastage of water;

(g) To construct, maintain, and operate such sanitary sewerages as may be necessary for the proper sanitation and other uses of the cities and towns comprising the System;

(h) To fix periodically water rates and sewerage service fees as the System may deem just and equitable in accordance with the standards outlined in Section 12 of this Act;

(i) To construct, develop, maintain and operate such artesian wells and springs as may be needed in its operation within its territory;

(j) To acquire, purchase, hold, transfer, sell, lease, rent, mortgage, encumber, and otherwise dispose of real and personal property, including rights and franchises, consistent with the purpose for which the System is created and reasonably required for the transaction of the lawful business of the same;

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

(l) To exercise the right of eminent domain for the purpose for which the System is created;

(m) To contract indebtedness in any currency and issue bonds to finance projects now authorized for the National Waterworks and Sewerage Authority under existing laws and as

may hereafter be expressly authorized by law with the approval of the President of the Philippines upon the recommendation of the Secretary of the Finance;

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

(o) To assist in the establishment, operation and maintenance of waterworks and sewerage systems within its jurisdiction under cooperative basis;

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

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

(r) To render annual reports to the President of the Philippines and the Presiding Officers of the two Houses of Congress not later than January thirty-first of every year.

Section 4. *The Board of Trustees, composition; qualification; appointment; tenure.* The corporate powers and functions of the System shall be vested in and exercised by a Board of Trustees composed of a Chairman, the General Manager as ex-officio Vice-Chairman and three members, one of whom shall be nominated by the Labor Union representing the majority of the rank and file of the employees in the System. They shall possess any one or a combination of the following qualifications; duly licensed professional of recognized competence in civil engineering and/or sanitary engineering, business management and finance, and law, or recognized labor leader within the ranks with sufficient training, particularly in the field of labor-management relations or corporate practice, all of good moral character with at least five (5) years of actual and distinguished experience in their respective fields of expertise.

The Chairman and the three members of the Board shall be appointed by the President of the Philippines with the consent of the Commission on Appointments. The Chairman and the three members of the Board shall hold office for a period of three years, except that the members initially appointed shall serve, as designated in their appointments, one for one year, one for two years and one for three years: *Provided*, That, any person chosen to fill a vacancy shall serve only for the unexpired term of the member whom he succeeds: *Provided, further*, That the term of the member nominated by labor maybe terminated sooner than as above provided if so requested by the nominating union in which case the President of the Philippines shall appoint a replacement who shall similarly be nominated by said union.

Section 5. *The Suspension and Removal of Trustees.* Any member of the Board of Trustees may for cause be suspended or removed by the President of the Philippines upon the recommendation of the Secretary of Justice after due notice and hearing.

Section 6. *Meetings of the Board; quorum, required votes; per diems.* The Board of Trustees shall, immediately after its organization, adopt rules and procedures in the conduct of its meetings. A majority of the Board shall constitute a quorum for the transaction of business and the affirmative vote of three shall be required for the adoption of any action. For actual attendance at meetings, the Chairman and the three members, shall each receive a per diem of one hundred pesos but in no case shall any one receive more than four hundred pesos a month.

Section 7. *Other Officers and Employees; their appointment; qualifications; compensations and tenure.* The management of the System shall be vested in the General Manager. He shall be assisted by four Assistant General Managers one for Engineering, one for Operation, one for Finance and Administration, one for Commercial and Customers Service, and the heads of departments. Said officials shall perform managerial and/or confidential functions.

The General Manager shall be appointed by the President of the Philippines with the consent of the Commission on Appointments. He shall receive an annual compensation of Thirty-six thousand pesos (P36,000.00) and hold office for a period of six years unless sooner terminated for incapacity or other causes. The President may for cause, suspend or remove the General Manager after due notice and hearing. In case of temporary disability or absence of the General Manager, the Chairman of the Board shall designate any Assistant General Manager to act as General Manager.

The Assistant General Managers shall be appointed by the Board with the approval of the President. Each shall receive an annual compensation of Twenty-eight thousand pesos (P28,000.00) and shall hold office until retirement age as determined by law, unless sooner terminated for incapacity or other causes. In case of temporary disability or absence of any Assistant General Manager, the act as Assistant General Manager.

The Assistant General Managers shall be persons of integrity, competence and experience in the technical and executive fields related to the purposes of this Act. Their other qualifications as well as powers and duties shall be determined by the Board.

The Department Heads, Division and Section Chiefs, and other officers of equivalent rank shall be appointed or promoted by the General Manager upon recommendation of the Assistant General Manager concerned, with the approval of the Board.

The powers, duties, qualifications and compensation of said officers and of the other personnel shall be determined by the Board.

All other personnel shall be appointed or promoted by the General Manager upon recommendation of the Assistant General Manager concerned. The General Manager shall submit to the Board a monthly report on such appointments and non-disciplinary transfer made in the month immediately preceding.

Section 8. *Other powers and duties of the General Manager.*

(a) To direct and manage the System in accordance with and to carry out the policies of the Board;

(b) To control, direct and supervise all the officers and employees under him;

(c) To remove, suspend or otherwise discipline for cause, or terminate by reason of incapacity the term of office of, Department Heads, Division and Section Chiefs, and other officers of equivalent rank, subject to the approval of the Board. The decision of the Board may be appealed within thirty days from receipt thereof to the proper Court of First Instance, but shall be immediately enforceable notwithstanding said appeal;

(d) To remove, suspend or otherwise discipline for cause, or terminate by reason of incapacity the term of office of, all other personnel, without prejudice to an appeal within

thirty days from receipt of the decision to the Board, the decision of which Board shall be immediately final and enforceable;

(e) To detail any officer or employee when required by the exigencies of the service, for a period not exceeding six months, without reduction in salary, and his decision shall be final;

(f) To submit to the Board an annual budget and plantilla of personnel not later than sixty days prior to the beginning of a fiscal year, and thereafter such supplemental budgets as may be necessary;

(g) To submit to the Board, not later than the twentieth of every month, a financial and an operational report for the month preceding, and not later than ninety days after the close of each fiscal year an annual report, and from time to time such partial reports as he may see fit to render or as may be required by the Board; and

(h) To perform such other powers and duties as may be assigned by the Board or prescribed either by law or by the By-Laws of the System.

Section 9. *Appointment and Promotion; Terms and Conditions of Employment.* Officers and employees of the Metropolitan and Local Systems shall not be subject to the Civil Service Law, rules and regulations. The System is hereby empowered to conduct such appropriate examination it deems necessary as additional bases for appointment and promotion.

The terms and conditions of employment in the System are governed by law, except that the WAPCO rules and regulations shall not apply, without prejudice to the right of collective bargaining.

Section 10. *Administrative Jurisdiction for Disciplining Other Officers and Employees.* The General Manager may, for dishonesty, oppression, misconduct, neglect of duty, conviction of a crime involving moral turpitude, notoriously disgraceful or immoral conduct, improper or unauthorized solicitation of contributions from subordinate employees, lobbying for personal interest or gain in legislative halls and offices without authority from the Board, directly or indirectly obstructing, defeating or violating the civil rights and liberties of an individual, promoting the sale of tickets in behalf of private enterprises that are not intended for charitable or public welfare purposes and even in the latter cases if there is no prior authority willful violation of reasonable office regulations, or in the interest of the service, remove after due notice and hearing, any subordinate officer or employee from the service, demote him in rank, suspend him for not more than one year without pay or fine in an amount not exceeding six month's salary.

A transfer from one position to another without reduction in rank and salary shall not be considered disciplinary when made in the interest of public service and the action of the General Manager shall not be final until approved by the Board of Trustees.

Section 11. *Audit.* The Auditor General shall appoint a representative known as the Auditor and the necessary personnel to assist said Auditor in the performance of his duties. The Auditor General shall also fix the salaries and the number of personnel to assist said Auditor. Once fixed by the Auditor General, such salaries and number of auditing personnel shall not be thereafter increased, diminished or altered unless initiated by him. The auditing personnel under this section shall be subject to the provisions of the civil service law. The budget and plantilla for salaries, maintenance and operating expenses of the auditing office as fixed by the Auditor General shall be subject to confirmation by the governing board of the corporation.

The financial transactions of the System shall be audited in accordance with law, administrative regulations, and the generally accepted principles of accounting and standards of auditing. The Auditor General shall submit to the President of the Philippines, the Presiding Officers of the two Houses of Congress and the Board of Trustees an Audit Report for each fiscal year, within ninety days after the close thereof.

Section 12. *Review of Rates by the Public Service Commission.* The rates and fees fixed by the Board of Trustees for the System and by the local governments for the local systems shall be of such magnitude that the System's rate of net return shall not exceed twelve per centum (12%), on a rate base composed of the sum of its assets in operation as revalued from time to time plus two months' operating capital. Such rates and fees shall be effective and enforceable fifteen (15) days after publication in a newspaper of general circulation within the territory defined in Section 2 (c) of this Act. The Public Service Commission shall have exclusive original jurisdiction over all cases contesting said rates or fees. Any complaint against such rates or fees shall be filed with the Public Service Commission within thirty (30) days after the effectivity of such rates, but the filing of such complaint or action shall not stay the effectivity of said rates or fees. The Public Service Commission shall verify the rate base, and the rate of return computed therefrom, in accordance with the standards above outlined. The Public Service Commission shall finish, within sixty (60) calendar days, any and all proceedings necessary and/or incidental to the case, and shall render its findings or decisions thereon within thirty (30) calendar days after said case is submitted for decision.

In cases where the decision is against the fixed rates or fees, excess payments shall be reimbursed and/or credited to future payments, in the discretion of the Commission.

Section 13. *Disposition of Income.* The income of the System shall be disposed of according to the following priorities:

First, to pay its contractual and statutory obligations and to meet its essential current operating expenses;

Second, to serve at least fifty per cent (50%) of the balance exclusively for the expansion, development and improvement of the System; and

Third, to allocate the residue enhancing the efficient operation and maintenance of the System which include increases of administrative expenses or increases or adjustment of salaries and other benefits of the employees.

Section 14. *Assistance to local system.* The System may provide technical and management assistance to the various local waterworks and sewerage system upon their request; and for this service the System may charge actual expenses incurred plus ten per cent (10%) thereof as overhead expenses.

Section 15. *Abolition of NWSA; Transfer of Assets, Liabilities, and Personnel.* The Corporation known as the National Waterworks and Sewerage Authority shall be abolished upon the organization of the Metropolitan Waterworks and Sewerage System as provided for in Section 2 (a) of this Act. Its records, properties, equipment, assets, rights, choses in action, obligations and liabilities are hereby transferred to, vested in, and assumed by the System: *Provided*, That an inventory and valuation of the properties, equipment, assets, rights choses in action, obligations, liabilities of NWSA shall be made by the Auditor General, and the accountable officers of NWSA shall continue to be fully accountable therefor, until issued a certificate of clearance by the Auditor General.

Employees and laborers, including the personnel of the planning and coordinating office and the provincial, city and municipal departments in the places enumerated in Section 2(c) of this Act are hereby transferred to and absorbed by the System: *Provided*, That the Board of Trustees is hereby authorized to make personnel movement on the basis of merit and fitness in accordance with the comprehensive and progressive merit system to be established by the Metropolitan Waterworks and Sewerage System immediately upon its organization: *Provided, further*, That the salary of any employee shall in no case be reduced as a consequence of said personnel movement: *Provided, finally*, that in no case shall the expense in any fiscal year for salaries, wages, allowances, emoluments, and other fringe benefits exceed thirty five per cent (35%) of the gross income of the system in the immediately preceding fiscal year.

Section 16. Gravity. Any personnel of the National Waterworks and Sewerage Authority not so appointed or who refuses such appointment shall be paid the money value of his accumulated vacation and sick leave, and such retirement gratuity as may be due him under existing retirement laws. Any of the employees and laborers who does not qualify under any existing retirement law shall be paid one month salary for every year of service, payable in lump sum. For this purpose, there is hereby appropriated out of any funds in the national treasury not otherwise appropriated the sum of fifteen million pesos to provide for their separation gratuities, accumulated vacation and sick leaves and/or retirement, when and if, payable and due to them, subject to reimbursement by the system to the national treasury out of its earnings within three fiscal years from the date of availment of the appropriated amount.

The personnel of the Wells and Springs Department whose salaries are paid from Congressional Appropriations and who cannot be absorbed by the Bureau of Public Works, shall be paid their terminal pay and retirement gratuity from Congressional Appropriations. However, in case an officer or employee is subsequently reinstated in the government, its branches and instrumentalities, including government corporation, he shall refund to the paying agency the value of the gratuity which he would not have received had he been paid in monthly installments.

Section 17. Transfer of local systems. Whenever the local government exercises the right mentioned in Section 2(c) hereof, the local systems now under the control and supervision of the NWSA together with all the employees and laborers including the personnel of the district offices, records, properties, equipment, assets, choses in action, obligations and liabilities shall be ceded, transferred and conveyed to their respective provinces, cities and/or municipalities which owned and/or operated them before the NWSA operated the same: *Provided*, That in case of disagreement between the system and the local governments on liabilities or obligations being charged by the National Waterworks and Sewerage Authority to the local government, the same shall be passed upon and decided by an arbitration committee to be composed of a representative of the local government, a representative of the System, and a third member to be chosen by both.

Any of the employees and laborers not so appointed in the local system or who refuses such appointment shall be paid from the amount of fifteen million pesos appropriated under this Act, the money value of his accumulated vacation and sick leaves and such retirement gratuities as may be due him under existing retirement laws: *Provided*, That any of the employees and laborers who does not qualify under any existing retirement laws, shall be paid one month salary for every year of service payable in lump sum.

Similarly, all employees and laborers, records, property and equipment of the Wells and Springs Department shall be ceded, transferred and conveyed to the Bureau of Public Works. The accounts and liabilities corresponding to said Department shall be adjusted accordingly by the Auditor General.

Those systems initially constructed and operated by the NWSA, shall be ceded, transferred and conveyed to the provinces, cities or municipalities which they serve: *Provided, however*, That where the System serves two or more municipalities, the same shall be ceded, transferred and conveyed to the provincial government: *Provided, further*, That where the System serves a city, or a city and municipalities, the system shall be transferred, ceded or conveyed to the city: *Provided, furthermore*, That the outstanding obligations incurred by the NWSA, including interest, in the construction, operation and maintenance of such systems, shall be assumed by the local government concerned: *Provided, still further*, That in the case of outstanding bond indebtedness in the construction, operation and maintenance of such systems, the national government shall continue to guarantee the obligation until the same shall have been fully paid: *Provided, finally*, That the Auditor General shall determine the accounts and liabilities of the respective local governments. In case the liabilities exceed the value of the assets transferred to the local governments, the excess shall be assumed by the national government.

Conflicts between local governments served by one system shall be decided by a board to be composed of their respective mayors, and treasurers as members, and the representative of the Auditor General as Chairman.

Section 18. *Tax Exemption.* All articles imported by the Metropolitan Waterworks and Sewerage System or the local governments for the exclusive use of their waterworks and sewerage systems particularly machineries, equipment, pipes, fire hydrants, and those related to, or connected with, the construction, maintenance, and operation of dams, reservoirs, conduits, aqueducts, tunnels, purification plants, water mains, pumping stations; or of artesian wells and springs within their territorial jurisdictions, shall be exempt from the imposition of import duties and other taxes.

Section 19. *Repeal or Modification.* All Acts, executive orders, administrative orders, and proclamation or parts thereof inconsistent with any of the provisions of this Act, are hereby repealed or modified accordingly.

Section 20. *Separability Clause.* In the event that any provision of this Act or the application of such provisions to any person or circumstances is declared unconstitutional, the remainder of this Act or the application of said provision to other persons or circumstances shall not be affected thereby.

Section 21. *Effectivity.* This Act shall take effect upon its approval.

Approved: June 19, 1971