

MALACAÑANG

Manila

PRESIDENTIAL DECREE No. 198 May 25, 1973

DECLARING A NATIONAL POLICY FAVORING LOCAL OPERATION AND CONTROL OF WATER SYSTEMS; AUTHORIZING THE FORMATION OF LOCAL WATER DISTRICTS AND PROVIDING FOR THE GOVERNMENT AND ADMINISTRATION OF SUCH DISTRICTS; CHARTERING A NATIONAL ADMINISTRATION TO FACILITATE IMPROVEMENT OF LOCAL WATER UTILITIES; GRANTING SAID ADMINISTRATION SUCH POWERS AS ARE NECESSARY TO OPTIMIZE PUBLIC SERVICE FROM WATER UTILITY OPERATIONS, AND FOR OTHER PURPOSES

WHEREAS, one of the pre-requisites to the orderly and well-balanced growth of urban areas is an effective system of local utilities, the absence of which is recognized as a deterrent to economic growth, a hazard to public health and an irritant to the spirit and well-being of the citizenry;

WHEREAS, domestic water systems and sanitary sewers are two of the most basic and essential elements of local utility system, which, with a few exceptions, do not exist in provincial areas in the Philippines;

WHEREAS, existing domestic water utilities are not meeting the needs of the communities they serve; water quality is unsatisfactory; pressure is inadequate; and reliability of service is poor; in fact, many persons receive no piped water service whatsoever;

WHEREAS, conditions of service continue to worsen for two apparent reasons, namely: (1) that key element of existing systems are deteriorating faster than they are being maintained or replaced, and (2) that they are not being expanded at a rate sufficient to match population growth; and

WHEREAS, local water utilities should be locally-controlled and managed, as well as have support on the national level in the area of technical advisory services and financing;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, as Commander-in-Chief of all the Armed Forces of the Philippines, and pursuant to Proclamation No. 1081 dated September 21, 1972 and General Order No. 1 dated September 22, 1972, as amended, do hereby decree, order and make as part of the law of the land the following measure:

TITLE I

PRELIMINARY PROVISIONS

Section 1. Title. - This Decree shall be known and referred to as the "Provincial Water Utilities Act of 1973."

Section 2. Declaration of Policy. - The creation, operation, maintenance and expansion of reliable and economically viable and sound water supply and wastewater disposal system for population centers of the Philippines is hereby declared to be an objective of national policy of high priority. For purpose of achieving said objective, the formulation and operation of independent, locally controlled public water districts is found and declared to be the most feasible and favored institutional structure. To this end, it is hereby declared to be in the national interest that said districts be formed and that local water supply and wastewater disposal systems be operated by and through such districts to the greatest extent practicable. To encourage the formulation of such local water districts and the transfer thereto to existing water supply and wastewater disposal facilities, this Decree provides the general act the authority for the formation thereof, on a local option basis. It is likewise declared appropriate, necessary and advisable that all funding requirements for such local water systems, other than those provided by local revenues, should be channeled through and administered by an institution on the national level, which institution shall be responsible for and have authority to promulgate and enforce certain rules and regulations to achieve national goals and the objective of providing public waterworks services to the greatest number at least cost, to effect system integration or joint investments and operations whenever economically warranted and to assure the maintenance of uniform standards, training of personnel and the adoption of sound operating and accounting procedures.

Section 3. Definitions. - As used in this Decree, the following words and terms shall have the meanings herein set forth, unless a different meaning clearly appears from the context. The definition of a word or term applies to any of its variants.

(a) Act. This Provincial Water Utilities Act of 1973.

- (b) Appointing authority. The person empowered to appoint the members of the board of Directors of a local water district, depending upon the geographic coverage and population make-up of the particular district. In the event that more than seventy-five percent of the total active water service connections of a local water district are within the boundary of any city or municipality, the appointing authority shall be the mayor of that city or municipality, as the case may be; otherwise, the appointing authority shall be the governor of the province within which the district is located. If portions of more than one province are included within the boundary of the district, and the appointing authority is to be the governors then the power to appoint shall rotate between the governors involved with the initial appointments made by the governor in whose province the greatest number of service connections exists.
- (c) Administration. The Local Waters Utilities Administration chartered in Title III of this Decree.
- (d) NEDA. The National Economic and Development Authority.
- (e) Board or Board of Directors. The Board of directors of a district.
- (f) Contracts. All agreements, including leases, conveyances and obligations.
- (g) District. A local water district formed pursuant to Title II of this Act.
- (h) Local Water Utility. Any district, city, municipality, province, investor-owned public utility or cooperative corporation which owns or operates a water system serving an urban center in the Philippines, except that said term shall not include the Metropolitan Waterworks and Sewerage System (MWSS) or any system operated by the Bureau of Public Work as successor to the Wells and Springs Department of the National Waterworks and Sewerage Authority.
- (i) Person. A natural person, corporation, cooperative, partnership, association, city, municipality or other juridical entity.
- (j) Property. All real and personal property, including but not limited to: water, water rights, works, easements, rights of way.
- (k) Street. Includes road, valley, avenue, highway or other public way.
- (l) Trustee or Board of Trustees. The Board of trustees of the Administration.

TITLE II LOCAL WATER DISTRICT LAW

Chapter I Title

Section 4. Title. - The provisions of this Title shall be known and referred to as the "Local Water District Law."

Chapter II Purpose and Formation

Section 5. Purpose. - Local water districts may be formed pursuant to this Title for the purposes of (a) acquiring, installing, improving, maintaining and operating water supply and distribution systems for domestic, industrial, municipal and agricultural uses for residents and lands within the boundaries of such districts, (b) providing, maintaining and operating water collection, treatment and disposal facilities, and (c) conducting such other functions and operations incidental to water resource development, utilization and disposal within such districts, as are necessary or incidental to said purpose.

Section 6. Formation of District. - This Act is the source of authorization and power to form and maintain a district. Once formed, a district is subject to the provisions of this Act and not under the jurisdiction of any political subdivision. To form a district, the legislative body of any city, municipality or province shall enact a resolution containing the following:

- (a) The name of the local water district, which shall include the name of the city, municipality, or province, or region thereof, served by said system, followed by the words "Water District".
- (b) A description of the boundary of the district. In the case of a city or municipality, such boundary may include all lands within the city or municipality. A district may include one or more municipalities, cities or provinces, or portions thereof.

(c) A statement of intent to transfer any and all waterworks and/or sewerage facilities owned by such city, municipality or province to such district pursuant to a contract authorized by Section 31 (b) of this Title.

(d) A statement identifying the purpose for which the district is formed, which shall include those purposes outlined in Section 5 above.

(e) The names of the initial directors of the district with the date of expiration of term of office for each.

(f) A statement that the district may only be dissolved on the grounds and under the conditions set forth in Section 44 of this Title.

(g) A statement acknowledging the powers, rights and obligations as set forth in Section 36 of this Title.

Nothing in the resolution of formation shall state or infer that the local legislative body has the power to dissolve, alter or affect the district beyond that specifically provided for in this Act.

If two or more cities, municipalities or provinces, or any combination thereof, desire to form a single district, a similar resolution shall be adopted in each city, municipality and province.

Section 7. *Filing of Resolution.* - A certified copy of the resolution or resolution forming a district shall be forwarded to the Office of the Secretary of the Administration. If found by the Administration to conform to the requirements of Section 6 and the policy objectives in Section 2, the resolution shall be duly filed. The district shall be deemed duly formed and existing upon the date of such filing. A certified copy of said resolution showing the filing stamp of the Administration, shall be maintained in the Office of the district.

Chapter III Directors

Section 8. *Number and Qualifications.* - The Board of Directors of a district shall be composed of five citizens of the Philippines who are of voting age and residents within the district. One member shall be a representative of civic-oriented service clubs, one member a representative of business, commercial, or financial organizations, one member a representative of educational or religious institutions and one member a representative of women's organizations. No director may be an elected official of the government.

Section 9. *Appointment.* - Board members shall be appointed by the appointing authority. Said appointments shall be made from a list of nominees, if any, submitted pursuant to Section 10. If no nominations are submitted, the appointing authority shall appoint any qualified person of the category to the vacant position.

Section 10. *Nominations.* - On or before October 1 of each even-numbered year, the secretary of the district shall conduct each known organization, association, or institution being represented by the director whose term will expire on December 31 and solicit nominations from these organizations to fill the position for the ensuing term. One nomination may be submitted in writing by each such organization to the secretary of the district on or before November 1 of such year: This list of nominees shall be transmitted by the Secretary of the district to the office of the appointing authority on or before November 15 of such year and he shall make his appointment from the list submitted on or before December 15. In the event the appointing authority fails to make his appointments on or before December 15, selection shall be made from said list of nominees by majority vote of the seated directors of the district constituting a quorum. Initial nominations for all five seats of the board shall be solicited by the legislative body or bodies at the time of adoption of the resolution forming the district. Thirty days thereafter, a list of nominees shall be submitted to the provincial governor in the event the resolution forming the district is by a provincial board, or the mayor of the city or municipality in the event the resolution forming the adoption of the district is by the city or municipal board of councilors, who shall select the initial directors therefrom within 15 days after receipt of such nominations.

Section 11. *Term of Office.* - Of the five initial directors of each newly-formed district, two shall be appointed for a maximum term of two years, two for a maximum term of four years, and one for a maximum term of six years. Terms of office of all directors in a given district shall be such that the term of at least one director, but not more than two directors, shall expire on December 31 of each even-numbered year. Regular terms of office after the initial terms shall be for six years commencing on January 1 of odd-numbered years. Directors may be removed for cause only.

Section 12. *Vacancies.* - In the event of a vacancy in the board of directors occurring more than six months before expiration of any director's term, the remaining directors shall, within 30 days, serve notice or request the

secretary of the district for nominations and within 30 days thereafter a list of nominees shall be submitted to the appointing authority for his appointment of a replacement director from the list of nominees. In the absence of any such nominations, the appointing authority shall make such appointment. Vacancies occurring within the last six months of an unexpired term may be filled by a vote of a majority of the remaining members of the board of directors constituting a quorum. The director thus appointed shall serve the unexpired term only.

Section 13. Compensation. - Each director shall receive compensation in an amount, for each meeting of the board actually attended by him, equivalent to one percent (1%) of the mayor's monthly salary for a first class city. No director shall receive other compensation for services to the district.

Section 14. Personal Liability. - No director may be held to be personally liable for any action of the district.

Chapter IV The Board

Section 15. Organizational Meeting. - The board shall held its first meeting as soon as practicable after appointment of the first directors, and not later than 45 days after formation of the district. At said first meeting of each odd-numbered year, the board shall elect a chairman, a vice-chairman, a secretary and a treasurer. Such secretary and treasurer may, but need not be members of the board, and the offices of secretary and treasurer may be held by the same person.

Section 16. QUORUM. - A majority of the board present in person shall constitute a quorum for the transaction of business; Provided, however, That no resolution or motion shall be adopted or become effective without the affirmative vote of a majority of the authorized number of members of the board.

Chapter V Powers and Duties of Board

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

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

Section 19. By-Laws. - At first meeting, the board shall adopt, and may thereafter from time to time amend by-laws for the operation of business and affairs of the board and the district. By-laws may not be amended without 30 days public notice to that effect, and a public hearing held.

Section 20. System of Business Administration. - The Board shall, as soon as practicable, prescribe and define by the resolution a system of business administration and accounting for the district, which shall be patterned upon and conform to the standard established by the Administration. Auditing shall be performed by a certified public accountant not in the government office.

Section 21. Depository. - The district's depository shall be the Philippine National Bank, unless use of such bank is impractical: Provided, however, That any and all reserves accumulated for capital improvements may be deposited with the Administration.

Section 22. Contracts. - All contracts of the district shall be entered into by or pursuant to authority of the board: Provided, however, That the board may by resolution delegate and redelegate to officers or agents of the district, under such conditions and restrictions as shall be affixed by the board, the power to bind the district by contract.

Chapter VI Officers and Employees

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

Section 24. Duties. - The duties of the officer shall be those customary to the office held and as determined and specified from time to time by the board. The general manager, who shall not be a director, shall, subject to approval of the board, have full supervision and control of the maintenance, operation and construction of water

supply and wastewater disposal and administrative facilities of the district, with full power and authority to exercise management prerogatives as set forth in the district's personnel rules and regulations.

Section 25. *Exemption from Civil Service.* - The district and its employees, being engaged in a proprietary function, are hereby exempt from the provisions of the Civil Service Law. Collective bargaining shall be available only to personnel below supervisory levels: Provided, however, That the total of all salaries, wages, emoluments, benefits or other compensation paid to all employees in any month shall not exceed fifty percent (50%) of average net monthly revenue, said net revenue representing income from water sales and sewerage service charges, less pro-rata share of debt service and expenses for fuel or energy for pumping during the preceding fiscal year.

Chapter VII Powers of District

Section 26. *Authorization.* - The district may exercise all the powers which are expressly granted by this Title or which are necessary implied from, or incidental to the powers and purposes herein stated.

Section 27. *Acquisition of Waterworks.* - A district may purchase, construct, or otherwise acquire works, water, water rights, land, rights and privileges useful or necessary to convey, supply, store, collect, treat, dispose of or make other use of water for any purpose authorized by this Title. In the acquisition of water or water or water rights the district shall cooperate with existing agencies of the government of the Philippines.

Section 28. *Sale of Water.* - The district shall have the power to sell water, pursuant to generally applicable rules and regulations, to any person for use within the district. As a condition of such sale, the district may require the filing of a written application for service, payment of established charges or deposits and execution of water service contract.

A district may provide service to public faucets or hydrants provided that it shall first have executed an application and service contract with the Government entity to established or maintain such faucets or hydrants within the district. The district will be paid for such service in the same manner as regular domestic service and pursuant to the adopted rules and regulations of the district.

Any district holding a valid Certificate of Conformance or a Conditional Certificate of Conformance from the Administration shall be exempt from regulation by the Public Service Commission or its successors.

Section 29. *Sewerage.* - A district may require, construct, operate and furnish facilities and services, within or without the district, for the collection, treatment and disposal of sewerage, waste, and storm water. The district may only furnish such services outside the district by means of facilities designed primarily to serve inside the district. Upon providing a sewer system in any area of the district, the district may require all buildings used by human beings to be connected to the sewer system within such reasonable time as may be prescribed by the district, provided that the property upon which such building to be connected stands is located within 35 meters of an existing main of the district's sewer system, the district may declare the further maintenance or use of cesspools, septic tanks, or other local means of sewerage disposal in such area to be a public nuisance and, after notice in writing of at least 10 days, deprive said property owner of any and all services provided by the district, which sanction may be co-extensive with the period during which the property owner persists in refusing to connect with the district's sewer system.

Section 30. *Rights of Way.* - The right is hereby granted to locate, construct and maintain works of the district on any land which is now, or hereafter may be, owned by the Government of the Philippines or by any of its political subdivisions, and/or instrumentalities. A district may construct any works along, under or across any street, watercourse, railway, or conduit in a manner which will afford security for life and property: Provided, That in planning any such works, the environmental aspects shall also be considered.

Section 31. *Contracts.* - A district shall have the power to enter into contracts with any person for the purpose of performing any functions of the district: Provided, That the Board of Directors may not by contract delegate any of the discretionary powers vested in the board by this Title. Specifically, but without limiting said general power, a district may enter into the following contracts:

- (a) Cooperation. Agreement with the Government of the Philippines or any of its agencies or political subdivisions for the cooperative or joint performance of any function of the district.

(b) In-Lieu Share. As an incident to the acquisition of the existing water system of a city, municipality, or province, a district may enter into a contract to pay in lieu of taxes on such utility plant, an annual amount not exceeding three percent (3%) of the districts's gross receipts from water sales in any year.

(c) MWSS Agreement. In the event the city, municipality or province has not reached agreement with the Metropolitan Waterworks and Sewerage System pursuant to Sections 15 and 17 of R.A. 6234, a district may, with the consent of the local government, act for and in behalf of the local interests in negotiating and executing such contract for final settlement of the consequences of MWSS involvement in the operation of the water system.

Section 32. *Protection of Waters of District.* - A district may commence, maintain, intervene in, defend and compromise actions, and proceedings to prevent interference with or deterioration of water quality or the natural flow of any surface, stream or ground water supply which may be used or useful for any purpose of the district or be a common benefit to the lands or its inhabitants. The ground water within a district is necessary to the performance of the district's powers and such district is hereby authorized to adopt rules and regulations governing the drilling, maintenance and operation of wells within its boundaries for purposes other than single family domestic use on overlying land. Any well operated in violation of such regulations shall be deemed an interference with the waters of the district.

Section 33. *Fire Protection Capacity.* - The district may install and maintain pipeline capacity and additional hydrants for fire protection purposes: Provided, That prior agreement has been executed with the public entity having principal fire protection responsibility within the district whereby the district will be reimbursed over the reasonable life of said facilities for the cost of installation and operation of such fire protection capacity and facilities.

Chapter VIII Financial Provisions

Section 34. *Receipt, Deposit and Payment of District Funds.* - The treasurer shall receive, to the credit of the district and in trust for its use and benefit, all monies belonging to the district. Any monies belonging to the district shall, where practicable, be deposited by the treasurer in the Philippines National Bank, except for the payment of bonds and interest thereon, district money shall be paid out only upon a warrant therefor drawn and executed by authorized officers of the district.

Section 35. *Negotiable Promissory Notes.* - A district may issue negotiable promissory notes with a maturity of not later than two years from the date thereof. The total aggregate amount of such notes outstanding at any one time shall not exceed 20% of the annual gross revenues of the district payable from all revenue sources thereof.

Section 36. *Revenue Bonds.* - A district may borrow money to raise funds to pay all costs of any public improvements authorized by this Title and may issue revenue bonds to evidence the indebtedness created by such borrowing. Such revenue bonds shall constitute special obligations and evidence of special indebtedness of the district and shall be a charge upon, and payable, as to the principal thereof, any part thereof, solely from such revenues and funds as are specified therein in the proceedings for their issuance. Said bonds may be issued pursuant to the following procedures:

(a) Estimate of Expenses. If a revenue bond issue is contemplated, the board of the district shall adopt by resolution a plan describing the works to be acquired or constructed together with an estimate of all costs thereof, including payment of interest on any bonds of the district, which will become payable before the expiration of one year from completion or acquisition of such works, for which the general funds of the district then in the treasury are inadequate.

(b) Issuance in the District Name: Limitation of Obligations. Revenue bonds shall be issued in the name of the district and shall be obligations of the district; limited, however, to the payment or redemption of the revenue bonds and the payment of interest thereon from the revenue of the district.

(c) Call, Price and Redemption. The Board, by resolution authorizing the issuance of revenue bonds, shall fix the method of giving notice of redemption. Such bonds shall be issued subject to call and redemption prior to maturity and a statement to that effect shall appear on the face of the face of the

revenue bonds. No such bond shall be subject to call or redemption prior to its fixed maturity date unless it contains such recital.

(d) **Form of Bonds.** The face of revenue bonds shall contain a statement that: (1) the payment or redemption of the bond and payment of interest therein is secured solely by a first and direct charge and lien upon all of the revenues received from the sale of water, (2) neither the payment of all or any part of the principal or interest thereon is a general debt, liability or obligation of the district, and (3) the bond is subject to call and redemption prior to maturity, if the board so provides. Each issue of revenue bonds shall be numbered consecutively from lower to higher as they mature and shall bear such date as may be prescribed by the board. The date appearing upon the face of a revenue bond shall be deemed the date of issuance irrespective of subsequent delivery of the bond. Each bond shall be signed by the chairman and attested by the secretary: Provided, That interest coupons appertaining thereto may be signed by the secretary only. The seal of the district shall be affixed to each revenue bond.

(e) **Payment of Maturity.** Revenue bonds shall be paid in cash and in full at such time and place as may be designated by the board and shown on the face of each bond, but in no case shall the maturity of any bond be more than 40 years from its date.

(f) **Default.** In the event of default by the district in the payment of principal or interest on its outstanding revenue bonds, any bondholder shall have the power to bring an action in any court of competent jurisdiction to compel the payment of said amount, and in connection therewith, to require the appointment of a receiver of the property and operations of the district and to assume full jurisdiction over its affairs including the power to increase rates, if necessary, until such time as the default is cured.

Chapter IX Revenues

Section 37. *Rates and Charges Water.* - A district may sell water under its control, without preference, under uniform schedules of rates and charges to any all water users within the district. Said schedule may provide for differential rates for different categories of use and different quantity blocks. The district, so far as practicable, shall fix such rates and charges for water as will result in revenues which will:

- (a) Provide for reimbursement from all new water customers for the cost of installing new services and meters;
- (b) Provide for revenue from all water deliveries and services performed by the district;
- (c) Pay the operating expenses of the district;
- (d) Provide for the maintenance and repairs of the works;
- (e) Provide a reasonable surplus for replacement extension and improvements; and
- (f) Pay the interest and provide a sinking or other fund for the payment of debts of the district as they become due.

Section 38. *Service and Stand-By Charges Sewer.* - A district may prescribe and collect rates and other charges for sewer services furnished. A district may also fix, levy and collect a sewerage and wates water service stand-by or availability charge in the event sewer service is available and no connection is made. Such rates and charges may be collected with the water charges of the district. In the event of failure to pay the whole or any part thereof, district may discontinue any and all services for which such bill is rendered, including water, shall not be construed to prohibit the district from collecting rates and other charges in any other lawful manner.

Section 39. *Production Assessment.* - In the event the board of a district finds, after notice and hearing, that production of ground water by other entities within the district for commercial or industrial uses in injuring or reducing the district's financial condition, the board may adopt and levy a ground water production assessment to compensate for such loss. In connection therewith, the district may require necessary reports by the operator of any commercial or industrial well. Failure to pay said assessment shall constitute an invasion of the waters of the district and shall entitle this district to an injunction and damages pursuant to Section 32 of this Title.

Section 40. *Assessment and Stand-By Charges.* - In order to obtain capital to finance installation of sanitary sewerage, a district shall have the power to establish by resolution of the board of directors the area to be

benefited from such facilities. After a hearing and upon notice to all parties affected, the district may levy and collect assessment, or stand-by charges based upon available capacities or upon selected characteristics of property benefited by said improvements, as determined by the board. Said characteristics may include, but not limited to, the effective length of property fronting upon the proposed improvement or in terms of the area contained within the boundary of said property. Said assessment, if unpaid, shall be and constitute a lien on the land assessed.

Chapter X Changes in Organization

Section 41. *Exclusion of a Territory.* - Any territory within the boundary of a district may be excluded by resolution of the board of directors after notice to land owners within the territory proposed to be excluded, and upon a finding that said lands do not and will not benefit by reason of their inclusion within the district. A certified copy of said resolution of exclusion shall be filed in the same manner and become effective in accordance with the provisions applicable to the resolution forming the district.

Section 42. *Annexations and Deannexations.* - The Administration may, after notice to property owners within the territory proposed for annexation or deannexation and following a hearing, make finding of benefit or potential benefit, and thereafter, require annexation or deannexation shall be accomplished by adoption and filing of an appropriate resolution in the same manner as the filing of the resolution forming a district or of exclusion, as the case may be.

Section 43. *Consolidation and Joint Operation.* - The Administration may require the merger or consolidation of the facilities or operations of two or more districts formed pursuant to the levy, in the event that the Administration shall have determined, following a hearing, that such merger or consolidation is in the best interest of the residents in the districts involved.

Section 44. *Dissolution.* - A district may be dissolved by resolution of its board of directors filed in the manner of filing the resolution forming the district: Provided, however, to the adoption of any such resolution: (1) another public entity has acquired the assets of the district and has assumed all obligations and liabilities attached thereto; (2) all bondholders have been notified and they consent to said transfer and dissolution; and (3) a court of competent jurisdiction has found that said transfer and dissolution are in the best interest of the public.

Chapter XI Protection to Districts

Section 45. *Exemption from Taxes.* - A district shall (1) be exempt from paying income taxes, and (2) shall be exempt from the payment of (a) all National Government, local government and municipal taxes and fees, including any franchise, filing, recordation, license or permit fees or taxes and fees, charges or costs involved in any court of administrative proceeding in which it may be a party and (b) all duties or imposts on imported machinery, equipment and materials required for its operations.

Section 46. *Exclusive Franchise.* - No franchise shall be granted to any other person or agency for domestic water service within the district or any portion thereof unless and except to the extent that the board of directors of said district consents thereto by resolution duly adopted.

TITLE III LOCAL WATER UTILITIES ADMINISTRATION LAW

Chapter 1 Title

Section 47. *Title.* - The Title of the Provincial Water Utilities Act of 1973 shall be known and referred to as the "Local Water Utilities Administration Law".

Chapter 2 Charter and Purpose

Section 48. *Charter.* - There is hereby chartered, created and formed a national agency to be known as the "Local Water Utilities Administration" which is hereby attached to the National Economic and Development Authority (NEDA). The provisions of this Title shall be and constitute the charter of the Administration.

Section 49. Purposes. - The purposes for which the Administration is created are: (1) to establish minimum standards and regulations in order to assure acceptable standards of construction materials and supplies, maintenance, operation, personnel, training, accounting and fiscal practices for local water utilities; (2) to furnish technical assistance and personnel training programs for local water utilities; (3) to monitor and evaluate local water standards; (4) to effect system integration, joint investment and operations district annexation and deannexation whenever economically warranted; and (5) to provide a specialized lending institution with peculiar expertise in the financing of local water utilities.

Chapter 3 Board of Trustees

Section 50. Number of Qualifications. - The Board of Trustees of the Administration shall be composed of five members all of whom shall be citizens of the Philippines. Two trustees at any time shall each have at least ten (10) years experience in banking or finance and employed by the National Government. Two trustees at any time shall be a manager, an engineer, an accountant or an attorney employed by a local water utility, each with at least four years experience related to water supply or wastewater operations. One trustee at any time shall be a civil or sanitary engineer employed by the National Government. Not more than one trustee may represent a private, investor-owned utility. No elected official shall be entitled to act as a trustee.

Section 51. Appointed and Term of Office. - The trustee shall be appointed by the President of the Philippines. They shall serve a term of five years each: Provided, That of the first five appointed, one shall serve a term of five years, another for four years, the third for three years, the fourth for two years, and the last for one year. Trustees may be removed for cause only.

Section 52. Vacancies. - Vacancies in the board of trustees for any reason whatsoever shall be filled by the President of the Philippines in like manner as in the case of new appointments, but the trustees so appointed shall serve only the unexpired portion of the term of the trustee substituted for.

Section 53. Powers. - All of the business and affairs of the Administration shall be carried on and its powers shall be exercised by and through the board of trustees. The function of the trustees, however, shall be to establish policy, not to engage in the detailed management of the Administration.

Section 54. Compensation. - The members of the board of trustees shall each receive a per diem equivalent to four percent (4%) of the mayor's monthly salary for a first class city for every day of actual attendance at board meetings which meetings shall not exceed twelve in one year.

Chapter 4 By-Laws

Section 55. Adoption. - The Board of Trustees shall adopt a code of by-laws for the conduct of the affairs of the Administration, subject to approval by the NEDA.

Section 56. Amendment. - The by-laws may be amended from time to time by affirmative vote of four trustees, subject to approval by the NEDA.

Chapter 5 Officers and Employees

Section 57. Officers. - The Board shall elect a chairman and a vice-chairman, each of whom shall be a trustee. In addition there shall be selected by the Board, a secretary, treasurer, an auditor and a general counsel.

Section 58. Employees. - The trustees shall select a general manager, who shall not be a trustee. The general manager shall employ all additional personnel, pursuant to guidelines established by and subject to review of trustees. There shall be established at least three basic divisions, to wit: (1) loan fund, (2) technical, and (3) regulatory, each of which shall be under the supervision of a director responsible to the general manager.

The regular professional and technical personnel of the Administration shall be exempt from WAPCO and Civil Service rules and regulations: Provided, That the personnel shall be entitled to the benefits and privileges normally accorded to government employees, such as retirement, GSIS insurance, leave and similar matters.

Chapter 6 Powers

Section 59. *General Corporate Powers.* - The Administration shall have all the powers which are expressly granted to it under this Title, or which are necessary, implied from or incidental to the powers and purposes herein stated.

Section 60. *Borrowing and Security Therefor.* - Administration may borrow funds as authorized in Section 71 of this Title, and issue as security therefor debentures constituting a lien on any and all securities, covenants and obligations of local water utilities held by Administration as security for loans made to such local water utilities.

Section 61. *Loans.* - Administration may make loans from its Revolving Loan Fund to qualified local water utilities, upon the following conditions and pursuant to the following procedures:

- (a) **Qualification of Borrower.** Before any loan may be granted, the local water utility shall (1) hold a valid certificate of Conformance or a Condition Certificate of Compliance from the Administration, and (2) meet such other and further loan qualification requirements as the trustees may establish;
- (b) **Feasibility Study.** A feasibility study of any proposed project for which loan funds are sought shall be made by a consultant prequalified by the Administration;
- (c) **Security.** The Administration may take as security for such loans the authorized revenue bonds or other evidence of debt by the local water utility;
- (d) **Loan Document and Procedures.** The trustees shall adopt uniform rules, loan documents and procedures to be used in the granting of loans. Such rules shall include provisions for security, payment and default, and shall authorize the Administration to act as receiver in the event of Court proceedings for enforcement.
- (e) **Funding of Loan.** When a loan is made to a local water utility, the entire amount of such loan shall be funded and set aside to assure completion of the subject for which such loan was granted.

Section 62. *Regulations.* - Administration shall have the power and duty to establish standards for local water utilities, and adopt rules and regulations for the enforcement thereof. The Administration shall vigorously consult and coordinate its actions with all governmental agencies active in the areas of public works and all other concerned agencies in the promulgation of these standards. Said standards and regulations shall include the following:

- (a) **Water Quality.** Minimum drinking water standards including a uniform testing and reporting system. Said Standards shall include bacteriological, chemical and physical parameters;
- (b) **Design and Construction.** Minimum criteria for the design and construction of new or additional facilities for water supply, treatment, transmission and distribution, and for wastewater collection, treatment and disposal;
- (c) **Equipment, Materials and Supplies.** Standards for the optimum selection and effective utilization of equipment, materials and supplies by local water and sewer utilities;
- (d) **Operations and Maintenance.** Standardized procedures for operating and maintaining equipment and facilities;
- (e) **Personnel.** The training of personnel who operate or manage local water utilities;
- (f) **Organization.** Organizational and institutional criteria to assure independent operation and funding of local water utilities;
- (g) **Accounting.** A uniform accounting system with uniform chart of accounts. Said standards and regulations also shall include stipulated levels of internal reporting to local water utility management.

Section 63. *Rate Review.* - Any publicly-owned local utility holding a Certificate of Conformance or a Conditional Certificate of Conformance from the Administration is hereby declared exempt from the jurisdiction of the Public Service Commission or its successor. Any rates or charges established by such a local water utility shall be adequate to provide for:

- (a) Reimbursement from all new water customers for the cost of installing new services and meters;
- (b) Revenue from all water deliveries and services performed by the district;
- (c) Annual operating expense of the district;
- (d) The maintenance and repairs of the works;
- (e) A reasonable surplus for replacement, extension and improvements; and

(f) Payment of the interest and provide a sinking or other fund for the payment of debts of the district as they become due. The rates or charges established by such a local water utility shall be subject to review by the Administration to establish compliance with the above-stated provisions. Said review of rates or any charges therein shall be by the Trustees, and in writing. Any party aggrieved by such review may within 30 days appeal in writing to the Public Service Commission or its successor which shall decide such appeal within 60 days thereafter. Failure of the Public Service Commission or its successor to promulgate its decision on such appeal within such period shall be deemed an affirmation of Administration's review.

Section 64. *Technical Assistance.* - Administration shall provide technical assistance to local water utilities; their boards, management and operating personnel, to aid in meeting the standards and criteria established by the Administration, and to encourage the upgrading of the operations and management of such local water utilities. Said technical assistance should consist of those matters which are practical to finance or develop on a national basis but are beyond the capability of the individual local water utility, as such.

Section 65. *Training Programs.* - Administration shall establish training programs and seminars for personnel of local water utilities. Programs shall include the areas of utility management, operations, maintenance and customer service. Administration shall have the power to issue Certificate of Completion for the satisfactory completion of a specified course of instruction. In the case of operational personnel, Administration may conduct appropriate examinations and issue corresponding Certificates of Competence to assist local water utilities to meet the personnel standards set pursuant to Section 63 (d) of this Title.

Section 66. *Certificate of Conformance.* - Administration may require report from all water utilities, conduct field investigations and review all available information to determine whether there has been conformance to its standards and procedures established pursuant to Section 63 of this Title. Upon a finding that said standards are met, the Administration shall issue a Certificate of Conformance to any such local water utility. Said Certificate may be revoked after due notice and hearing as to any local water utility which thereafter fails to continue conformance with such standards. A Conditional Certificate of Conformance may be issued where procedures and practices have been adopted to assure conformances and a reasonable time schedule has been adopted. Failure to reach conformance as contemplated shall be cause for revocation of such conditional certificate, without hearing or other cause.

Chapter 7

Financial Provisions

Section 67. *Operating Budget and Expenses.* - The annual general operating budget and all expenses of the Administration shall be provided for in the General Appropriations Act from year to year.

Section 68. *Charges.* - To the extent that the Administration performs services, gives technical assistance, or reviews feasibility studies for the benefit and at the request of any particular local water utility. Administration shall establish charges therefor designed (within the reasonable capability of such local water utility to pay) to recover the costs of such services.

Section 69. *Revolving Loan Fund.* - There is hereby created and established a Revolving Loan Fund, under the administration, control and supervision of the Board of Trustees, initially to consist of twenty million pesos; which is hereby appropriated out of any funds of the National Treasury, not otherwise appropriated, for such purpose. The sum of twenty million pesos is likewise authorized to be appropriated in the General Appropriations Act every fiscal year for the next nine years, beginning with the Fiscal Year 1973-1974, to augment and form part of said fund. All funds acquired by the Administration by grant, appropriation, borrowing or otherwise, for purposes of making loans to local water utilities shall be deposited in said Revolving Loan Fund, any may be used only for such purpose. As principal on said loans is repaid, the same including all earnings thereof shall insure to and become a part of the fund for use solely as part thereof and for no other purpose except for debt services of the Administration.

Section 70. *Appropriations.* - There is hereby appropriated for the organization of the Administration and its initial operations the sum of one million pesos from the general funds of the National Government, not otherwise appropriated. Thereafter, the annual general operating budget and all expenses of the Administration shall be included in the General Appropriations Act as provided for in Section 67 thereof.

Section 71. *Borrowing Authority.* - Subject to prior approval by the President of the Philippines, the Administration shall have the right and power to borrow additional sums: Provided, That the loans outstanding at any time shall not exceed the principal sum of five hundred million pesos to domestic sources both government and private and the principal sum of one hundred million dollars in United States currency or its equivalent in other currencies, to supplement said Revolving Loan Fund from:

(a) Agencies of the Government of the Philippines, including, but not limited, to the Social Security System, Government Service Insurance System and Development Bank of the Philippines.

(b) International Loan Sources, both public and private. The Secretary of Finance is authorized to assist with and underwrite such loans, with the approval of the President of the Philippines. Said underwriting shall include the increased obligation that may accrue to the Administration relative to foreign borrowing based upon unfavorable changes in the rate of currency exchange.

Any and all loan obligations incurred by the Administration in virtue of this section shall be fully and unconditionally guaranteed both as to principal and interest by the Government of the Republic of the Philippines which guaranty shall be expressed on the face of any document, note, bond, debenture, or other securities evidencing said loan obligations. Such guaranty shall be without compensation in any form whatsoever to the Government.

Section 72. *Depository for Reserves.* - Any local water utility which is accumulating reserves for capital improvements may make specified time deposits of the same to the Administration in the manner authorized for banks in handling trust funds. Such funds shall not become a part of the Revolving Loan Fund, nor shall they be used for operating purposes by the Administration.

GENERAL PROVISIONS

Section 73. *Separability of Provisions.* - If any provision of this Decree, or the application of such provision to any person or circumstances, is declared invalid, the remainder of the Decree or the application of such provision to other persons or circumstances shall not be affected by such declaration.

Section 74. *Effect on Other Acts.* - All Acts or parts of Acts, Decrees, General Orders, Executive Orders, Proclamations, or rules and regulations inconsistent herewith are repealed or modified accordingly.

Section 75. *Effectivity.* - This Decree shall take effect immediately.

Done in the City of Manila, this 25th day of May, in the year of Our Lord, nineteen hundred and seventy-three.