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SENATE

S. No. 933

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Introduced by Senator Manuel "Lito" M. Lapid

EXPLANATORY NOTE

Water shortage is becoming a perennial problem in our country with the growing scarcity of potable water in urban centers as well as rural areas. As our population increases, the difficulties of providing an adequate supply of clean water will become even more acute. With the El Niño Phenomenon, pollution of water sources and illegal connections further aggravate the problem.

This proposed measure seeks to create the Water Resources Authority of the Philippines (WRAP) to address the various problems encountered by the water sector in the country. This measure seeks to rationalize the activities of numerous national and local government agencies that are concerned with water extraction and water distribution. This measure seeks to adapt an integrated approach to water resources development for a more efficient and sustainable policy-making and implementation.

As proposed in this measure, the WRAP shall absorb the functions of the National Water Resources Board (NWRB) and assume its policy making duties. Furthermore, the Local Water Utilities Administration (LWUA) shall handle the licensing of local water districts subject to regulation by the WRAP. The Water Resources Adjudication Board shall act as a quasi judicial body to settle disputes between WRAP and anybody it regulates such as the Metropolitan Water Works and Sewerage Systems (MWSS).

The Philippines needs to adopt a long-term policy vis-à-vis the management of water resource. The creation of the Water Resources Authority of the Philippines is a long-term solution to a problem that requires our immediate attention.


In view of the foregoing, approval of this bill is earnestly requested.


MANUEL "LITO" M. LAPID
Senator 

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S. No. 933

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AN ACT
TO ADDRESS THE NATIONAL WATER CRISIS PROVIDING FOR A
COMPREHENSIVE WATER RESOURCES MANAGEMENT, AND FOR
OTHER PURPOSES

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

SECTION 1. Short Title. -- This Act shall be known as "**Water Resources Management Act of 2010.**"

SEC. 2. Declaration of Policy. -- The State shall adopt urgent and effective measures to address the national water crisis as well as measures for the long-term sustainable management of scarce water resources. To achieve this purpose, the utilization and development of water resources must be rationalized and optimized through an integrated water management system. All agencies involved in water resources management shall be streamlined, rationalized and strengthened.

SEC. 3. Basic Principles. -- Sustainable management of water resources shall take into consideration the following principles:

- a) Water is a limited resource and is indispensable for life and to all socio-economic sectors.
- b) Water has an economic value in all its competing uses and shall be treated as a social and economic product.
- c) Water resources management shall be decentralized, participatory and community-based and conducted at the lowest appropriate level.
- d) Women play a central role in water resources management and shall be represented in decision-making processes.
- e) Private sector and civil society participation shall be encouraged in all levels of water resources management, utilization and development.

f) Licensing shall be the mechanism to ensure that public interest is protected in the provision of drinking water, sanitation, irrigation or other water services by monopoly suppliers.

SEC. 4. *The Water Resources Authority of the Philippines.* – To carry out the above-declared policy, there is hereby created the Water Resources Authority of the Philippines, hereinafter referred to as the Authority.

The Authority shall be an attached agency to the Office of the President. The Authority shall, in addition to the powers and functions herein provided, exercise the powers and functions of the National Water Resources Board provided under Presidential Decree No. 424 and Presidential Decree No. 1067.

SEC. 5. *Powers and Functions.* -- The Authority shall have the following powers and functions:

a) Formulate, within one (1) year from the effectivity of this Act, a national framework for integrated and sustainable water resources development, management and planning taking into consideration the following:

1) provisions of supply of water of appropriate quantity and quality to all users in a manner which reflects national, regional and community priorities;

2) efficient use of water through demand-side management and other programs;

3) expansion and improvement of water and sewerage systems especially in low-income areas by providing an environment conducive to the adequate financing of public and private water services;

4) provision of an environment conducive to private sector participation in the water sector through economic incentives, efficient and effective regulatory mechanisms, and promotion of competition in the supply of water and sewerage services; and efficient delivery of water and sewerage services.

b) Formulate, within one (1) year from the effectivity of this Act, in coordination with concerned agencies, a framework for a water data and information system, promulgate basic criteria, methods and standards for data collection, and rationalize existing data collection activities undertaken by various public and private entities;

c) Formulate, within one (1) year from the effectivity of this Act, a national water resources development and management plan, which shall be intergovernmental, multi-sectoral, decentralized, community-based and participatory. The plan shall include, among others:

- 1) the integration of all plans of the water sector in accordance with the principle of sustainable and integrated management of the water resources;
 - 2) formulation and adoption of measures to ensure the upgrading of the classification of inland waters based on their potential uses; and
 - 3) adoption of other measures in pursuant of the integrated water resources management and development.
- d) Delineate catchment areas, within one (1) year from the effectivity of this Act, and, whenever appropriate, establish sub-regional offices at the catchment level for the management of the local water resources within the national framework formulated pursuant to this Act;
- e) Issue, upon consultation with the public and private entities affected, water permits for abstractions, diversions or appropriations of inland water;
- f) Impose fees on raw water from all kinds of abstractions, diversions, or appropriations of inland water, in accordance with the following principles and factors;
- 1) environmental and social costs of water utilization;
 - 2) charge per volume used;
 - 3) opportunity cost to other users;
 - 4) affordability; and
 - 5) water conservation and sustainable use.
- g) Establish rules and procedure for the trade, lease, sale, and transfer of water rights;
- h) Issue licenses to monopoly suppliers of water and/or sewerage services and irrigation services;
- i) Monitor private sector participation plans of the water sector and act as adviser to the national government agencies on private sector participation in the water sector;
- j) Promulgate rules and regulations on the licensing of well-drillers for the purpose of monitoring ground water abstraction;
- k) Exercise all powers of the National Water Resources Board under Presidential Decree No. 1067 and Presidential Decree No. 424 and other laws granting powers to the National Water Resources Board;
- l) Deputize agents, whether public or private entities, to perform any of the duties enumerated in this Chapter.

SEC. 6. *Protected Areas and Ancestral Domains.* -- Where there are protected areas and ancestral domains within the river basin or watershed, the Protected Areas Management Board (PAMB) and the indigenous people, respectively, shall continue to manage the water resources in their areas, in coordination with the

Authority. For purposes of this Act, watershed shall mean land area drained by stream or a fixed body of water and its tributaries having a common outlet for surface run off.

SEC. 7. Prohibited Acts. -- The following developmental undertakings on watersheds shall be prohibited:

- a) road construction, except access roads necessary for the efficient surveillance of the watershed area, and farm to market roads which provide lifeline support to the people in the community;
- b) establishment of residential, commercial, industrial subdivisions and golf courses;
- c) logging;
- d) farming utilizing inorganic fertilizers; and
- e) all other land and resources uses/infrastructure projects which are found to be incompatible with uses of the area as a watershed.

SEC. 8. Organizational Structure. -- The Authority shall consist of the Office of the Director-General, the staff offices, and the field offices. Subject to the power of the Director-General to reorganize, restructure, and redefine the functions of the offices and services for the effective discharge of the powers and functions of the Authority under this Act, the Authority shall have the following Offices: Field Offices in each of the water resources zones of the country; sub-regional offices; the Water Regulatory Services; the Statistics and Information System, Administration and Finance Office; and the Office for Legal Services.

SEC. 9. The Director-General. -- The Authority shall be headed by the Director-General who shall be appointed by the President. The Director-General shall carry the rank and have the powers of a Secretary and shall be a member of the Cabinet.

No person shall be appointed Director-General, Deputy Director-General or Assistant Director General unless he or she is a citizen and resident of the Philippines, of good moral character, and of proven competence in any of the following fields: (a) water or utility economics; (b) public administration; (c) physical or engineering services; (d) management; (e) hydrology and other related sciences; or (f) law.

The Director-General shall have the following powers and functions:

- a) establish policies and standards for the effective and efficient operation of the Authority;
- b) create sub-regional offices at the catchment level and such other service units as may be necessary;

c) recommend to Congress the creation of catchment authorities for the optimal management of the water resources in the area;

d) coordinate programs and initiatives of public and private entities and communities relating to water resources data collection, research and planning, as well as implementation of water development projects within the National Water Resources Management and Development Plan;

e) reorganize the Authority as necessary for the efficient and effective implementation of this Act; and

f) perform such other functions as may be necessary and proper to attain the objectives of this Act.

SEC. 10. Deputy Director-General and Assistant Director-General. --

The Deputy Director-General and the Assistant Director-General shall comply with the requirements for Career Executive Service Officers under the Civil Service Law and other related laws, rules and regulations.

SEC. 11. Water Resources Adjudication Board. -- There is hereby created a Water Resources Adjudication Board, hereinafter referred to as the Board, under the Office of the Director-General. The Board shall be composed of the Director-General as Chairperson, and two other permanent and independent members to be appointed by the Director-General. The Director of the Office for Legal Services shall serve as counsel to the Board.

The Water Resources Adjudication Board shall have the following powers:

a. exercise appellate jurisdiction over decisions of the water adjudicatory officers in cases involving the exercise of the Authority's regulatory function, including but not limited to the following:

- 1) disputes on raw water fees;
- 2) disputes on tariffs collected by monopoly suppliers of water and/or sewerage services and irrigation services;
- 3) disputes involving water permits, administrative allocation of water resources and transfer of water rights;
- 4) enforcement of contracts for privatized monopoly suppliers of water and/or sewerage services including contracts with the concessionaires of the Metropolitan Water Works and Sewerage Systems;
- 5) disputes over hydropower projects;
- 6) disputes involving monopoly suppliers of water and/or sewerage services and irrigation services;

- 7) complaints regarding the quality of service of suppliers of water and/or sewerage services and of irrigation services, and
- 8) such other cases specified under Presidential Decree No. 424 and Presidential Decree No. 1067.

All decisions of the Board shall be final and executory fifteen (15) days after notice of the decision unless appealed to the Supreme Court. The decision of the Board with regard to tariffs and irrigation fees shall be immediately executory and enforcement thereof may be suspended only upon filing of a bond, in an amount fixed by the Board to answer for damages occasioned by the suspension or stay of execution. No injunction may be issued by any court to restrain any proceeding before the Water Resources Adjudication Board except on the basis of question of law by the Supreme Court on certiorari.

- b. promulgate rules of procedure;
- c. administer oaths and compel the attendance of witnesses and presentation of documents by *subpoena* and *subpoena duces tecum*;
- d. declare a person in contempt for non-compliance or violation of its Orders and in the same manner as indirect contempt of a regional trial court upon application by the Board or the aggrieved party herein; and
- e. exercise such other powers as may be necessary to carry out its duties and responsibilities under this law.

SEC. 12. Water Resources Consultative Council. -- Every field office, and each catchment office, shall have a Water Resources Consultative Council which shall serve as its permanent advisory council. It shall be intergovernmental and multi-sectoral. Pursuant to Section 5 of this Act, the Council may submit water resources management plans to the Authority for approval. The Council shall also provide a venue for alternative dispute management for conflicts within their jurisdiction.

SEC. 13. Monopoly Suppliers of Water and/or Sewerage Services and Irrigation Services. -- All public and private monopoly suppliers of water and/or sewerage services including, but not limited to local government units and local water districts, shall be required to procure a Water and/or Sewerage Services Operating License from the Authority as a pre-requisite to its operation. All public and private monopoly suppliers of irrigation services, shall likewise be required to procure an Irrigation License from the Authority: *Provided*, That all local government units involved in the supply of irrigation services shall register with the Authority; *Provided, further*,

That when any such irrigation activity or project(s) of the local government units are privatized, they shall be required to procure license under this provision.

The license shall include, but shall not be limited to provisions on: (a) exclusive right to supply water and/or sewerage services in the franchise area subject to the right of other legal service providers already operating in the area; (b) standards on the quality of drinking water, sewage discharge, and service efficiency; (c) the nature of services to be provided; (d) duration of the license; (e) tariffs to be charged; (f) the basis for variance of the tariffs, if any; (g) reporting requirements; and (h) sanctions for failure to comply with the standards set. Water supply shall as much as possible be integrated with sewerage services.

The Authority shall promote and approve the consolidation of drinking water, sewerage, irrigation and other water utility services to improve efficiency and cost of service, as well as to promote investments. Licensees must have technical, financial, and managerial capability to provide the services. All holders of the Operating License shall be subject to a periodic performance audit by the Authority or its designated agents.

All existing holders of Certificates of Conformance issued by the Local Water Utilities Administration (LWUA) shall be automatically granted an operating license. Water districts shall continue to have their franchise areas granted under Presidential Decree 198 subject to the guidelines set by the Authority on the rights and obligations of an operating license holder. LWUA shall continue to issue Certificates of Conformance to water districts to ensure compliance with its standards and procedures established. The Authority shall regulate the rates set by local water districts as approved by the LWUA.

For the purpose of this section, monopoly supply of water, sewerage and/or irrigation services refer to the situation where an entity operating a piped water network and/or piped sewerage services from any water source can influence or dictate the price of water and exclude competition. The term monopoly shall include, but shall not be limited to piped water network of service coming from surface water, ground water, and desalinated water.

SEC. 14. *Non-Monopoly Water Supply and/or Sewerage and Irrigation Service Provider.* -- All wells for domestic use and all Rural Waterworks and Sanitation Associations and Barangay Waterworks and Sanitation Associations shall be registered with the Authority. All local government units, associations; and other entities engaged in water supply and sanitation services, and irrigation services not amounting to a monopoly shall register their operations with the Authority.

SEC. 15. *Incentives for the Use of Clean and Water Saving Technology.*

-- In order to encourage the sustainable utilization of water resources, the Authority shall recommend to the Board of Investments the grant to public and private entities of incentives such as:

- a) exemption from custom and tariff duties for the importation of "clean and water-saving technology" as defined by the Authority; and
- b) tax rebate of up to fifty percent of the actual cost of the "clean" equipment or technology to be imported or purchased.

SEC. 16. *Environmental Impact Assessment for Large Scale Abstraction or Diversion of Water.* -- All large-scale water abstraction, diversion, and appropriation activities shall be considered as environmentally critical projects and shall be covered by Presidential Decree No. 1586, its implementing rules and other related laws, rules and regulations.

SEC. 17. *Integration of Water Resource Management Plan to Zoning and Land Use Plans.* -- All national and local zoning or land use plans shall integrate water resource management plans.

SEC. 18. *Visitorial Power and Access to Records.* -- The Authority may authorize its representatives or any deputized agent to enter any public or private property, buildings or enclaves, whether inhabited or not, for the purpose of conducting hydrologic surveys, and investigations on conditions of installed water facilities and compliance with water laws and standards and the Authority's rules and regulations. The Authority or its authorized agents may at any time have access to any record and photocopy the same for the above declared purposes.

SEC. 19. *Contingency Powers.* -- In times of critically low water levels and when there is immediate danger to the major sources of water supply, as determined by the Authority, the Authority shall have the power to convene an intergovernmental emergency committee to protect water resources through: (a) designation of critical watersheds; (b) imposition of land use controls; (c) promulgation of measures to recover costs from responsible parties; and (d) undertaking of such other emergency actions as it deems necessary to protect the water sources.

Where there is *prima facie* evidence that the water level is critically low or where there is immediate danger to the major sources of water supply, the Authority may issue *ex-parte* temporary cease and desist orders provided that such case is subsequently

endorsed to the appropriate government agency for proper action. The agency concerned shall act within fifteen (15) days from such endorsement.

SEC. 20. *Transfer of Powers and Functions and Assets.* -- The powers and functions of the National Water Resources Board (NWRB) under Presidential Decree Nos. 424 and 1067 and other laws, are hereby transferred to the Authority. The transfer of powers and functions shall include the transfer of all funds and appropriations including records, equipment, property, personnel and unexpended appropriations and/or allocations of the NWRB to the Authority. The same shall apply to government agencies which have not been abolished but whose functions have been effectively transferred to the Authority. Officers and employees of said offices, agencies and government units shall continue in a hold-over capacity until such time as the new officers and employees of the Authority shall have been duly appointed pursuant to the provisions of this Act.

SEC. 21. *Transfer of Rights and Liabilities.* -- The Authority shall be subrogated to all the rights and assume the liabilities of the NWRB, and other government agencies and units whose functions and powers have been transferred to the Authority and shall be acted upon in accordance with the rules and regulations of the Commission on Audit and other pertinent laws, rules and regulations.

SEC. 22. *Staffing.* -- The positions herein created shall be filled by regular appointments in accordance with a staffing plan prepared by the Director-General. The personnel of the NWRB shall be given preference in the positions herein created; *Provided*, however, that such personnel shall comply anew with the qualification standards set by the Authority for the positions for which may apply.

There shall be an early retirement incentive for employees who shall be separated from the service.

SEC. 23. *Transitory Management Plan.* -- The Authority shall formulate a transitory management plan for the phase-in of its operations. The Authority shall be fully operational within one year from the effectivity of this Act.

The Authority shall phase-in the effectivity of the new schedule of fees for the appropriation of raw water within three years from the approval of this act. The new raw water fee shall be implemented in the irrigation sector within a period of five (5) years from the approval of this Act.

SEC. 24. *Penalties* --

a) Any person, natural or juridical, found violating the provisions of this Act and its Implementing Rules and Regulations shall be liable to pay a fine not exceeding Five Million Pesos (Php 5,000,000.00) or imprisonment from six months to six years, or both. If the offense is committed by a corporation, partnership, association or any other juridical person, the penalty shall be imposed against the officer/s member/s and/or employee/s who took part in the commission of the offense, who consented thereto or who is/are otherwise responsible. This is without prejudice to the filing of civil and administrative action against said corporation, partnership, association or other juridical person;

b) Any person or entity who shall refuse, obstruct or hamper the entry of the duly authorized representatives of the Authority into any property of the public domain or private property pursuant to its visitorial powers, shall be liable to pay a fine not exceeding ten thousand pesos (Php 10,000.00) or imprisonment not exceeding one (1) month, or both.

SEC. 25. Fees, Administrative Fines and Sanctions. --

a) The Authority may suspend or revoke any water permit or license issued to any person or entity who shall violate any of the terms and conditions therein set forth and/or any rules and regulations promulgated by the Authority.

b) The Authority may issue a cease and desist order against any person or entity found to be violating any of the provisions of this Act, the Water Code, its implementing rules and regulations or any order or decision of the Authority.

c) The Authority shall declare a person in contempt for non-compliance with or violation of its orders. The person so declared in contempt shall be punished in the same manner as indirect contempt of a Regional Trial Court, *motu proprio* or upon application by any aggrieved party herein.

d) The Authority shall promulgate rules and regulations for the imposition of administrative fines and sanctions for failure to comply with any order, decision, rule and regulation of the authority.

e) Fees and revenues collected shall be retained by the Authority forming a trust fund which shall be allocated among the (1) share of the local government unit in the exploration of natural resources within its territory in accordance with the Local Government Code; (2) administrative costs of operation of the authority and its deputized agents; (3) awareness building for sustainable water resources utilization, development and management; (4) community-based water resources planning efforts; (5) financial grants for data collection, water impoundment and development projects, water source protection projects such as reforestation and watershed protection, research activities for the development of technology which advances the sustainable

utilization of water resources; (6) subsidies for water supply and sewerage projects to low-income communities; (7) subsidies from the Water Resources Development Fund for the import or purchase of "clean" equipment or technology; (8) compensation for payment of water rights; (9) capability building for community-based water resources management; (10) other areas priority as determined by the director-general.

SEC. 26. *Compensation for Damages.* -- Compensation for damages to water sources, due to pollution from identified sources, salt water intrusion of aquifers by reason of unauthorized abstraction of underground water, and other damages resulting from violations of the Water Code, its rules and regulations, and wrongful acts punishable by law, which result in the deterioration of the quality of water supply sources, shall be collected by the authority.

SEC. 27. *Appropriations* -- Such sums necessary for the implementation of this Act shall be taken from the current fiscal year appropriation of the National Water Resources Board and such amounts as the President of the Philippines may allocate from other sources in accordance with law. Thereafter, the amount needed for the operation and maintenance of the Authority shall be included in the annual General Appropriations Act. The funds collected or which otherwise come into the possession of the Authority and its Offices from fees, surcharges, fines and penalties which the Authority may impose and collect under its Act shall be disbursed for expenses necessary for the effective discharge of the powers and functions of the Authority.

SEC. 28. *Rules and Regulations.* -- The Authority in coordination with the DENR, shall, promulgate such rules and regulations for the proper implementation of this Act.

SEC. 29. *Repealing Clause.* -- Section 4(b) of Presidential Decree No. 66, as amended, Presidential Decree No. 424, Section 45 (a) and 62(A) of Presidential Decree No. 198, as amended and NWRB Resolution No. 1444, Series of 1980, as amended, are hereby repealed. Republic Acts Nos. 3601, 4850, 6234, 7227, 7916 and 7922; Presidential Decrees Nos. 66, 198, 926, 1556, 1067 and 1586, and Executive Orders No. 124, 192 and 230 are hereby modified accordingly. All laws, decrees, executive orders, memorandum orders, memorandum circulars, administrative orders, ordinances or any part thereof, inconsistent herewith are hereby deemed repealed or modified accordingly.

SEC. 30. Separability Clause. -- In the event that any provision of this Act is declared unconstitutional, the validity of the remainder shall not be affected thereby.

SEC. 31. Effectivity Clause. -- This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,