


16 OCT 19 P4:57

SENATE
S. B. No. **1217**

RECEIVED BY: 

Introduced by Senator Poe

**AN ACT
RATIONALIZING THE ECONOMIC REGULATION OF WATER UTILITIES,
CREATING THE WATER REGULATORY COMMISSION AND FOR OTHER
PURPOSES**

Explanatory Note

The Philippines is a water rich country. The Philippines has total annual renewable water resources of 479 billion cubic meters (m³).¹ This is equivalent to an annual per capacity availability of 6,100 m³, which is twice that of the rest of Asia and 6 times the global scarcity threshold of 1,000 m³.

However, many Filipinos experience deprivation from affordable, safe drinking water and a working sanitation system despite our abundant sources of freshwater. An article from the Department of Environment and Natural Resources states that the “government still scrambles to avert a water crisis during the summer season or when the country experiences the El Niño phenomenon.”² Furthermore, 8.03 million Filipinos still do not have access to improved water sources as of 2015.³

The Philippines also lacks a strong liquid in-liquid out system. This means that even if households are serviced with clean drinking water, a minute number receive adequate sanitation and sewerage services. This leads to severe cases of leptospirosis, dengue, typhoid, and related tropical and water-borne illnesses. 31% of illnesses in the country are water-related due to lack of clean drinking water supply and efficient sanitary facilities.⁴

¹ Asian Development Bank. *Philippines Water Supply and Sanitation Sector Assessment, Strategy and Road Map* (2013). Retrieved from <http://www.adb.org/sites/default/files/institutional-document/33810/files/philippines-water-supply-sector-assessment.pdf>

² Caparas, Y. “Freshwater: Precious and Precarious” retrieved from <http://www.denr.gov.ph/news-and-features/features/1773-freshwater-precious-and-precarious.html>

³ Extrapolated from the World Bank’s 2015 estimates for population and % of population with access to improved sources of water.

⁴ United Nations Economic and Social Commission for Asia and the Pacific. “Wastewater Treatment Facility in the Muntinlupa Public Market.” Retrieved from http://www.unescap.org/sites/default/files/Muntinlupa_ES.pdf

This perennial problem has seriously affected the lives of our citizens in terms of health, sanitation, food security, and livelihood, in addition to negatively impacting the environment. This particularly impacts the poor, who not only have the worst access to water but are also usually compelled to pay more for water.

The lack of sufficient, safe, acceptable, accessible, affordable drinking water and sanitation is not unique to the Philippines. However, as the World Water Council has repeatedly stated, it is incumbent on each country to push for strong standards within its government and to contribute to global governance on the issues of water and sanitation.

There are many water-related laws in the Philippines. However, enforcement is weak and the water sector is beset with problems such as poor database management and weak cooperation among water agencies, regulatory bodies, and LGUs. Currently, there are four (4) major economic regulatory agencies for water: the National Water Resources Board (NWRB), Local Water Utilities Administration (LWUA), Local Government Units (LGUs), and National Agencies which include Industrial Zones and the Metropolitan Waterworks and Sewerage System (MWSS). There are 580 Water Districts in the Philippines. However, according to a 2005 World Bank Survey, 125 of these were considered non-operational. In addition, there are over 1,000 LGU Utilities, 500 Rural Water Supply Associations, 200 Cooperatives, and 900 Private Firms.

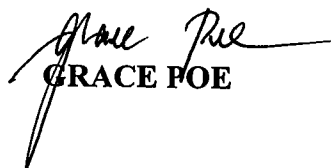
The regulatory framework for water has many overlaps, and economic regulations are provided under a number of different arrangements thereby resulting to an unstable and fragmented regulatory framework. This fragmentation has had significant implications in the effective and adequate delivery of water and sanitation services in the country. Because there is no lead agency in the water resource sector, the different coordination systems, functions and jurisdictions of the various agencies have made it impossibly hard for water and sanitation to be collectively managed. Thus, the establishment of a unified agency that would focus on water, sewerage and sanitation is certainly very important.

This bill seeks to rationalize the economic as well as administrative regulation of water utilities through an independent, quasi-judicial body called the Water Regulatory Commission. Among its functions are to set the policy for water supply, sewerage and septage management; issue and licenses; set, review and approve rates; review and suspend contracts; initiate investigations on erring officials through its quasi-judicial nature; review and revoke issuances, memoranda and the like that are not in accordance with the spirit of the Commission and ensure that the welfare of consumers are prioritized. To streamline organizational functions and responsibilities, the pertinent regulatory units of the MWSS, NWRB and LWUA will also be transferred to the commission. The bill takes cue from a number of prior legislative measures in prior Congresses, but includes a number of updated provisions.

To live in a community that is clean, free from human waste, and abundant with safe and affordable drinking water is an utmost human right, so much so that the United Nations General Assembly explicitly recognized the Right to Water and Sanitation through UN

Resolution 64/292 in 2010.⁵ In step with the international movement, through this bill the Philippines will be prioritizing, in terms of policy and political will, the universal access to water and sanitation and sustainable management of water resources, forming an indispensable basis for social and economic improvement, basic health, and prosperity.

The Philippines is committed to meeting and exceeding the Sustainable Development Goal on ensuring availability and sustainable management of water and sanitation for all. To ensure Filipinos the benefit of this most fundamental human right, the urgent approval of this bill is earnestly sought.


GRACE POE


⁵ United Nations Department of Economic and Social Affairs. "The Human Right to Water and Sanitation"
Retrieved from http://www.un.org/waterforlifedecade/human_right_to_water.shtml



SEVENTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES
First Regular Session

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SENATE
S. B. No. **1217**

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**AN ACT
RATIONALIZING THE ECONOMIC REGULATION OF WATER UTILITIES,
CREATING THE WATER REGULATORY COMMISSION AND FOR OTHER
PURPOSES**

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

CHAPTER 1 - GENERAL PROVISIONS

SECTION 1. *Short Title.* This Act shall be known as the “*Water Regulatory
Act of 2016*”.

SEC. 2. *Declaration of National Policy.* – It is hereby declared the policy of
the State to recognize, protect, realize and enhance the right of all Filipinos to safe and
clean drinking water and sanitation as essential to the full enjoyment of life and all human
rights.

In the pursuit of this Policy, this Act shall have the following objectives:

- a) To prioritize and seek the immediate attainment of universal access to safe, adequate, affordable and sustainable water supply and sanitation services for all Filipinos, and adopt all necessary measures directed towards the realization of the human right to water;

- 1 b) To accelerate the expansion, improvement and, ultimately, efficient
2 provision of Level III water supply systems and sanitation services for
3 the entire country, in a manner consistent with the protection,
4 preservation and revival of the quality of the country's water resources;
5
- 6 c) To encourage and enable private sector leadership in the continued
7 growth and development of water supply and septage management and
8 sewerage facilities and services;
9
- 10 d) To create a business and regulatory environment that is level, transparent
11 and conducive for public and private domestic and foreign investment in
12 water supply and sanitation services;
13
- 14 e) To provide incentives and/or support to encourage investments, and/or
15 take all steps necessary for the provision of affordable access to water
16 supply and sanitation services in unserved and underserved areas;
17
- 18 f) To ensure that water resources allocated to water service providers are
19 used efficiently to meet public demand;
20
- 21 g) To ensure fair, just and reasonable tariffs, rates and charges for water
22 supply and sanitation services;
23
- 24 h) To protect the legal and other interests of consumers of water supply and
25 sanitation services rendered by public and private sector licensees;
26
- 27 i) To establish an administrative process for economic regulation that is
28 stable, transparent and fair, giving due emphasis to technical, legal,
29 environmental, economic and financial considerations and with due
30 regard to the observance of due process at all times; and

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- j) To establish a strong and independent economic regulatory body to ensure consumer protection, promote good business practice and competition among Service Providers and full public accountability to achieve greater operational and economic efficiency.

SEC. 3. Definition of Terms. – As used under this Act, the following words or terms shall have the following meaning:

- a) “*Bulk water suppliers*” shall refer to any entity, natural or juridical, whether public or private, supplying or intending to supply large quantities of raw or treated water to buyers who will use it for own consumption, such as industrial companies, or for retail distribution to consumers, such as Water Districts or subdivisions managing their own distribution network.
- b) “*Commission*” shall mean the Water Regulatory Commission.
- c) “*Levels of water supply service*” – consistent with the definitions provided under NEDA Board Resolution No. 12 (Series of 1995) shall mean as follows:
 - 1. Level I (*point source*) - a protected well or a developed spring with an outlet but without a distribution system, generally adaptable for rural areas where the houses are thinly scattered. A Level I facility normally serves an average of 15 households.
 - 2. Level II (*communal faucet system or standposts*) - a system composed of a source, a reservoir, a piped distribution network, and communal faucets. Usually, one faucet serves 4 to 6 households. Generally

1 suitable for rural and urban fringe areas where houses are clustered
2 densely to justify a simple piped system.

3
4 3. Level III (*waterworks system or individual house connections*) - a
5 system with a source, a reservoir, a piped distribution network and
6 household taps. It is generally suited for densely populated urban areas.
7

8 d) "*License*" shall mean the Water Supply and/or Sanitation Services Operating
9 License that the Commission is authorized to grant and issue to Service
10 Providers.
11

12 e) "*Licensee*" shall mean the Service Provider to whom a License is granted or
13 issued by the Commission.
14

15 f) "*LWUA*" shall mean the Local Water Utilities Administration created under
16 Presidential Decree No. 198, as amended.
17

18 g) "*MWSS*" shall mean the Metropolitan Waterworks and Sewerage System,
19 created by Republic Act 6234.
20

21 h) "*NWRB*" shall mean the National Water Resources Board created by
22 Presidential Decree No. 424, as amended by Executive Order No. 124-A.
23

24 i) "*Regulatory Units*" shall refer to the regulatory offices established under
25 Section 5 of this Act to issue Licenses authorizing the operation of Water
26 Supply and Sanitation Services; provide, review, determine, fix, and approve
27 water and sewerage tariffs, rates and charges that Licensees may impose;
28 and exercise such other functions and powers as may be provided hereunder.
29

- 1 j) “*Sanitation*” as used under this Act, refers only to sewerage, sanitation and
2 septage management.
- 3
- 4 k) "*Service Area*" shall refer to the area covered by the water distribution
5 system, sewerage and septage management services.
- 6
- 7 l) “*Service Provider*” shall refer to any entity, natural or juridical, whether
8 private or public, providing or intending to provide levels II & III water
9 supply, including bulk water suppliers; sewerage; and/or septage treatment
10 and disposal services for domestic/residential, industrial or commercial
11 use.
- 12
- 13 m) "*Sewerage*" shall refer to any system or network of sanitary pipelines,
14 ditches, channels or conduits including pumping stations, lift stations and
15 force mains, service connections including other constructions, devices or
16 appliances appurtenant thereof, which includes the collection, sanitary
17 piping transport, pumping and treatment of water-borne human or animal
18 waste removed from residences, buildings, institutions, industrial and
19 commercial establishments to point of sewerage treatment plant disposal.
- 20
- 21 n) “*Septage*” shall refer to sludge produced on individual onsite wastewater
22 disposal systems, principally septic tanks and cesspools.
- 23
- 24 o) “*Septage Management*” shall refer to the provision of proper collection,
25 septage treatment and disposal of septage.
- 26
- 27 p) "*Tariffs*" shall refer to such amounts which may be charged by Licensees of
28 Water Supply and/or Sanitation Services for their services based on
29 principles, standards, and guidelines established by the Commission.
- 30

1 q) "*Water District*" shall refer to government-owned and controlled
2 corporations organized under Presidential Decree No. 198, as amended,
3 created primarily to acquire, install, operate, maintain and improve water
4 supply and distribution systems for domestic, industrial and municipal uses
5 of residents and to provide, maintain and operate waste water collection,
6 treatment and disposal facilities within the boundaries of the district.

7
8 r) "*Water Supply and/or Sanitation Service*" refers to any activity comprising
9 of Levels II and III water supply including suppliers to subdivisions and
10 other Service Providers; sewerage; and septage treatment and disposal
11 services.
12

13 CHAPTER 2 – ORGANIZATION

14

15 **SEC. 4. *The Water Regulatory Commission.*** – There is hereby created and
16 established an independent, quasi-judicial regulatory body to be named the Water
17 Regulatory Commission, hereinafter referred to as the "Commission", which shall be
18 organized within one hundred twenty (120) days after the effectivity of this Act.
19

20 The Commission shall be an attached agency to the Office of the President.
21

22 The Commission shall have a Board of Commissioners, and shall be vested
23 with powers and functions, as conferred and set forth hereunder.
24

25 **SEC. 5. *The Regulatory Units.*** – The Regulatory Units of the Commission shall
26 be composed of the Provincial Regulatory Units and the Central Regulatory Unit.
27

28 The Provincial Regulatory Units shall be established by the Commission in
29 accordance with such rules, regulations, guidelines and standards as the Commission
30 shall issue, and as provided hereunder.

1
2 Moreover, the pertinent regulatory divisions or units of MWSS, NWRB and
3 LWUA are hereby transferred to the Commission, and they shall collectively comprise
4 its Central Regulatory Unit for water supply and sanitation services that

- 5
6 a) Provide services to more than one province;
7
8 b) are owned, operated and/or maintained by special economic zones and Metro
9 Manila concessionaires.

10
11 **SEC. 6. Powers and Functions of the Commission.** – The overall authority
12 and powers of the Commission shall cover and apply to all Service Providers, whether
13 private or public, providing or intending to provide levels II & III water supply,
14 including suppliers to subdivisions and/or other Service Providers; sewerage; and/or
15 septage treatment and disposal services for domestic/residential, industrial or
16 commercial use.

17
18 The Commission shall have the following powers and functions:

- 19
20 a) Provide the overall policy directions, strategies and targets to meet the goals
21 and objectives for water supply, sewerage and septage management.
22
23 b) Issue and promulgate rules, regulations and guidelines as may be necessary
24 to implement and enforce its powers and functions under this Act;
25
26 c) Set and enforce just and reasonable technical standards, classifications and
27 measurements of service;
28
29 d) Appoint the central and provincial regulators;
30

- 1 e) Establish rules and regulations to monitor, avoid and provide remedies for any
2 market power abuse or anti-competitive or discriminatory act or behavior by
3 or against any participant in the water supply and sanitation sector. Upon
4 finding that a market participant has engaged in, or fell victim to such act or
5 behavior, the WRC shall act to stop and/or redress the same. Such remedies
6 may, without limitation, include the imposition of price controls, issuance of
7 injunctions, requirement of divestment or disgorgement of excess profits,
8 invalidation of contracts and imposition of fines and penalties pursuant to this
9 Act.
- 10
- 11 f) Adopt and require that books, records and accounts be kept and maintained in
12 accordance with the prescribed uniform accounting system;
- 13
- 14 g) Fix and determine proper and adequate rates of depreciation of properties and
15 equipment used in Water Supply and Sanitation Service/s;
- 16
- 17 h) Impose and collect annual levies determined as a percentage of gross revenue
18 accruing in relation to the licensed activities, and reasonable fees and
19 surcharges as may be necessary for achieving the purposes, powers and
20 functions of the Commission;
- 21
- 22 i) Require the submission reports of finances and operations, verified under oaths
23 by the owner or president and secretary of the Licensee;
- 24
- 25 j) Determine and require the monitoring and submission of such data, statistics
26 and other information from the Regulatory Units and any or all licensees as
27 may be necessary for the effective and efficient exercise of its duties, functions,
28 powers and responsibilities.
- 29

- 1 k) Investigate, *motu proprio* or upon complaint in writing, any matter concerning
2 the operation of the service and require that service be provided in proper and
3 suitable manner;
4
- 5 l) Impose penalties and fines against any Licensee or against its owners,
6 directors, officers, agents or representatives for any violation of this Act or of
7 the license, order, rule regulation or requirement issued by the Commission;
8
- 9 m) Require any Licensee to pay the actual expenses incurred by the Commission
10 in any investigation if it shall be found that a Licensee violated any provision
11 of this Act or of the license, order, rule regulation or requirement issued by the
12 Commission;
13
- 14 n) Advise, apprise and coordinate with other relevant agencies of the national
15 or local government on any matter relating to Water Supply and/or Sanitation
16 Services;
17
- 18 o) Deputize agents, whether from the public or private sector, to assist in the
19 performance of any of the powers and functions of the Commission;
20
- 21 p) Upon appeal and after due hearing, appoint an interim or temporary
22 management committee to ensure continuity of service in cases a Licensee fails
23 to meet conditions of the license and the concerned Regulatory Unit fails or
24 refuses to appoint an interim management committee as provided in the
25 following section.
26
- 27 q) Appoint, hire and maintain adequate staff and personnel, advisers, and/or
28 consultants, with suitable qualifications and experience, as necessary;
29

- 1 r) Original and exclusive jurisdiction over all cases contesting rates, fees, fines
2 and penalties imposed by the Regulatory Units in the exercise of their powers,
3 functions and responsibilities, as set forth herein, and over all cases involving
4 disputes between and among participants or stakeholders in the Water Supply
5 and Sanitation services; and
6
7 s) Such other incidental powers and functions as may be necessary to attain the
8 objectives of this Act.
9

10 **SEC. 7. Powers and Functions of the Regulatory Units.** – The Regulatory Units
11 of the Commission shall have the following powers and functions:
12

- 13 a) Subject to the review and approval of the Commission, issue and
14 promulgate rules, regulations and guidelines as may be necessary to
15 implement and enforce its powers and functions under this Section;
16
17 b) Issue Licenses authorizing the operation of Water Supply and Sanitation
18 Services in any specified area or areas within the Philippines.
19
20 c) Impose fines, charges and other penalties upon any Provider and/or its
21 officers and stockholders who shall fail or refuse to register and/or obtain
22 a License prior to operation or commencement of business, as provided
23 hereunder.
24
25 d) Consistent with rules, guidelines, procedures and methodologies which the
26 Commission shall provide, review, determine, fix, and approve proposed
27 water and sewerage tariffs, rates and charges that Licensees may impose
28 upon their customers/consumers;
29
30 e) Appraise and value property and equipment used by Licensees in

1 providing water supply and sanitation service/s.

- 2
- 3 f) Enforce technical, financial and other performance standards set by the
4 Commission for licensees/utilities;
- 5
- 6 g) Respond to consumer complaints and ensure the adequate promotion of
7 consumer interests;
- 8
- 9 h) Investigate accidents directly or indirectly arising from or connected with
10 the maintenance or operation of the service, and make such order or
11 recommendation as the public interest may warrant;
- 12
- 13 i) Upon petition or *motu proprio* where in its determination public interest so
14 dictates, require the review and/or approval of contracts or agreements that
15 may impact on the tariff and rates of service provision entered into by
16 Service Providers;
- 17
- 18 j) Require the submission of reports, plans and other documents that set out
19 the performance targets of the licensees/utilities, and regular
20 accomplishment reports;
- 21
- 22 k) Impose and collect annual levies determined as a percentage of gross
23 revenue accruing in relation to the licensed activities, and reasonable fees
24 and surcharges as may be necessary for achieving the purposes, powers
25 and functions of the regulator;
- 26
- 27 l) Conduct benchmarking and monitor the performance of licensees/utilities
28 under their jurisdiction, and publish reports detailing the results thereof, as
29 may be necessary or required by the Commission;
- 30

1 m) Amend, modify, suspend or revoke any License issued by them, after due
2 notice and hearing, on any of the following grounds:

3
4 1. When the facts and circumstances on the strength of which the license
5 was issued have been misrepresented or has materially changed;

6
7 2. Where the Licensee has failed to meet or comply with terms, conditions
8 and performance targets - including but not limited to service
9 expansion - that may have been set in the license;

10
11 3. Where the Licensee is found to be manifestly incompetent in the
12 operation of or provision of Water Supply and Sanitation services in
13 its area; or

14
15 4. When the holder thereof has violated or willfully refused to comply
16 with any order, rule or regulation of the Commission or any provision
17 of this Act;

18
19 n) Appoint an interim management committee to ensure continuity of service
20 in case a licensee fails to meet conditions of the license; and

21
22 o) Submit performance plans and reports as required by the Commission.
23
24

25 **SEC. 8. Composition.** – The Commission shall be a collegial body composed
26 of five (5) full-time members composed of a Chairperson and four (4) members. The
27 Chairperson and the Commissioners who shall have the rank equivalent of cabinet
28 secretary and undersecretary, respectively, shall be appointed by the President.
29

1 All members of the Commission must be citizens and residents of the
2 Philippines, of good moral character, recognized integrity and competence in the field
3 of law, business, commerce, finance, accounting or public administration, water or
4 utility economics, management, physical or engineering services, hydrology and other
5 related services, with at least ten (10) years actual and distinguished experience in their
6 respective fields of expertise; *Provided* that out of the four members of the
7 Commission, at least one (1) shall be a member of the Philippine Bar with at least ten
8 years experience in the active practice of law, and at least one (1) shall be a certified
9 public accountant with at least ten years experience in active practice.

10
11 The term of office of the Chairperson and the Commissioners shall be seven
12 (7) years without reappointment. Of the first set of appointees, the Chairperson shall
13 hold office for seven (7) years and of the first four (4) Commissioners, two (2) shall
14 hold office for a term of seven (7) years and two (2) for a term of five (5) years. In
15 case a vacancy occurs before the expiration of the term of office, the appointment to
16 such vacancy shall only be for the unexpired term of the predecessor. The Chairperson
17 and the Commissioners shall enjoy security of tenure and shall not be suspended or
18 removed from office except for just cause as provided by law.

19
20 The Commission shall meet as often as may be necessary on such day or days
21 as the Chairperson may fix. The presence of at least three (3) members of the
22 Commission shall constitute a quorum, which shall be necessary for the transaction of
23 any business. The affirmative vote of majority of the members of the Commission
24 where a quorum is present shall be necessary for the adoption of any order, resolution,
25 decisions, or other act of the Commission in the exercise of its quasi-judicial functions;
26 *Provided* that in promulgating rules, regulations, guidelines and in the exercise of its
27 quasi-legislative functions, an affirmative vote of three (3) members shall be required.

1 The Chairman of the Commission shall exercise general executive control and
2 supervision of the Commission and its members, staff and personnel, agents and
3 representatives.

4
5 The staff and personnel positions of the WRC shall be filled by regular
6 appointments in accordance with a staffing plan to be prepared by the Commission.
7 Within three (3) months from the creation of the WRC and the appointment of all
8 Members of the Commission, the Chairman shall submit for the approval by the
9 President of the Philippines the new organizational structure and plantilla positions
10 necessary to carry out the powers and functions of the Commission, including those of
11 the Central and Provincial Regulatory Units.

12
13 The Chairman and members of the Commission or any of their relatives within
14 the fourth civil degree of consanguinity or affinity, legitimate or common law, shall be
15 prohibited from holding any interest whatsoever, either as investor, stockholder, officer
16 or director, in any company or entity engaged in the business of transmitting, generating,
17 supplying or distributing any form of energy and must, therefore, divest through sale or
18 legal disposition of any and all interests in the water sector upon assumption of office.

19
20 **SEC. 9. Executive Director.** – The WRC shall appoint an Executive Director
21 who shall head the WRC Secretariat, keep and maintain the official record and report
22 of the proceedings of the Commission, and have the authority to administer oaths in all
23 matters falling within the jurisdiction of the Commission.

24
25 The Executive Director shall be responsible for the effective implementation of the
26 policies, plans, programs, rules, regulations and directives of the Commission;
27 coordinate and supervise the activities of the different operating units under the
28 Commission; and perform such functions as may be assigned by the Chairperson and/or
29 other members of the Commission.

30

1 **SEC. 10. *WRC Secretariat*** - The Commission shall also establish a Secretariat
2 which shall provide the Commission with technical and other support including, *among*
3 *others*:

- 4
- 5 a) Providing the necessary technical inputs and secretariat support to the
6 Commission to facilitate the conduct of its functions;
- 7
- 8 b) Coordinating with Regulatory Units to ensure proper implementation of the
9 rules, regulations and guidelines promulgated by the Commission;
- 10
- 11 c) Monitoring and assessing activities of the Regulatory Units vis-à-vis their
12 respective annual performance plans and targets;
- 13
- 14 d) Maintaining a database on the WSS sector; and
- 15
- 16 e) Coordinating with other relevant agencies of the national or local
17 government on any matter relating to WSS.
- 18

19 **SEC. 11. *Compensation and Other Emoluments.*** – The compensation and
20 other emoluments for the members and personnel of the Commission shall be exempted
21 from the coverage of Republic Act No. 6758, otherwise known as the “Salary
22 Standardization Act”. For this purpose, the salaries and other emoluments of the
23 Chairperson, the Commissioners, and personnel of the Commission shall be set based
24 on an objective classification system, taking into consideration the importance and
25 responsibilities attached to the respective positions, and shall be submitted to the
26 President of the Philippines for his approval.

27

28 **CHAPTER 3 - REGISTRATION AND LICENSING**

29

1 **SEC. 12. *Registration and Licensing of All Water Supply and/or Sanitation***
2 ***Services*** – All Water Supply and/or Sanitation Service Providers, including Bulk Water
3 Suppliers and those providing services to subdivisions and/or other Service Providers,
4 shall register with the Commission and, subject to such rules, guidelines, procedures
5 and other issuances as the Commission may issue, obtain a License to operate from the
6 appropriate Regulatory Units.

7 The Commission shall also ensure that the granting and revocation of licenses
8 are carried out fairly, transparently, and without discrimination. Its issuances shall
9 therefore specify, among others, the qualifications, requirements and procedure for the
10 granting and revocation of Licenses, as well as the standards and performance targets
11 that must continuously be complied with in order to keep such licenses valid.

12
13 Unless otherwise provided herein or by the Commission, no public Water
14 Supply and/or Sanitation Service provider shall commence or conduct the business of
15 providing water supply and sanitation services without first obtaining a license.

16
17 Concession agreements and other contracts for water supply provision currently
18 existing shall remain valid and in force, unless otherwise invalidated by the
19 Commission where public interest so dictates, after due notice and hearing.

20
21 **SEC 13. *Conditions of License.*** – The Commission and/or the concerned
22 Regulatory Unit, may impose such conditions in the issued License, as it may be deem
23 necessary, such as but not limited to:

24
25 a) Tariffs, rates and charges that may be imposed from its
26 customers/consumers.

27
28 b) Term fixing the duration of the privilege.

29
30 c) Grounds for modification, suspension or cancellation of the License.

- 1
- 2 d) Minimum technical performance and service level standards.
- 3
- 4 e) Expansion targets and service level improvements over time.
- 5
- 6 f) Restrictions or conditions for transferability of the business or controlling
- 7 interest in the business.
- 8
- 9 g) Reportorial requirements and obligations of the grantee.
- 10
- 11 h) Submission to annual performance audit by the Commission or its duly
- 12 authorized representative(s).
- 13

14 The Commission shall specify the requirements and procedure for existing

15 holders of Certificate of Public Convenience/Certificates of Public Convenience and

16 Necessity issued by NWRB, and/or Conformance issued by LWUA, to convert their

17 existing certificates into Licenses issued by the Commission.

18

19 All existing providers of Water Supply and/or Sanitation Services without a

20 legal and valid Certificate of Public Convenience/Certificate of Public Convenience

21 and Necessity or Certificate of Conformance shall register with the Commission and

22 apply for a License within six (6) months from the effectivity of this Act.

23

24 **SEC. 14. *Rights and Duties of Licensees.* –**

25

- 26 a) Any person granted a License under this Act shall have the obligation to
- 27 ensure that its licensed activities are conducted so as to further the public
- 28 interest and, in particular, that they:
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1. Foster the maintenance and development of efficient, coordinated, and viable operation of their licensed activities;
 2. Ensure that their Water Supply and/or Sanitation Services are provided in a diligent, conscientious and workmanlike manner, in accordance with applicable laws and the standards and practices set by the Commission and generally accepted in the Philippine and interWater supply and/or sanitation industry;
 3. Comply with drinking water quality requirements and other requirements and standards that may be set by the Commission; and
 4. Not abandon its service without notice to and approval by the Commission.
- b) Any person granted a License under this Act shall, to the extent allowed by law and specified in the License, have the right to acquire or lease land and lay or repair water or sanitation mains and other relevant facilities in public ways, when required to fulfill their obligations.
- c) Subject to any condition or limitation laid down in the License, a Licensee may disconnect the supply of Water Supply and/or Sanitation services to a customer if such customer defaults in the payment of amount(s) due to that Licensee in respect of water supplied or sanitation services provided, or for acts of pilferage pursuant to Sections 8, 9, 10, and 11 of Republic Act No. 8041, otherwise known as the "Water Crisis Act of 1995."
- d) Any License issued under this Act shall contain provisions designed to ensure that Licensees:

- 1 1. Publish the Tariff and other charges approved by the Commission,
2 and other terms and conditions imposed by the Commission for the
3 provision of Water Supply and/or Sanitation Services.
4
 - 5 2. Prepare, within three (3) months from the issuance of a License, in
6 consultation with its customers, a customer service code specifying
7 the manner and procedure for: (a) metering, billing, and collection
8 of the Licensee's approved tariff and other charges, (b)
9 disconnection or suspension of service in case of non-payment of
10 tariffs and/or other charges, or acts of pilferage, and (c)
11 recommendation and recovery of arrears in tariffs and other charges;
12 and
13
 - 14 3. Maintain financial accounts in accordance with the manner and
15 procedure specified in the License and as may be required by the
16 Commission.
17
- 18 e) Maintain and upon request by anyone during regular office hours, promptly
19 make available for scrutiny and inspection such data, statistics and other
20 information, as may be required by the Commission.
21

22 **SEC. 15. *Setting Tariffs, Rates and Other Charges.*** – Regulatory Units shall
23 establish tariffs, rates and other charges which are fair and reasonable and which provide
24 for the economic viability of the service and a fair return on their investments considering
25 the prevailing cost of capital in the domestic and international markets.
26

27 Such tariffs, rates and charges shall be based on and consistent with a rate-setting
28 methodology that the Commission shall, after due public consultation, define and publish
29 in consecutively for three weeks in newspapers of general circulation , taking into
30 account the following, *among others*:

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- a) reasonable and prudent capital and recurrent costs of providing the service including a reasonable rate of return on capital;
- b) efficiency of the service;
- c) incentives for enhancement of efficiency;
- d) willingness to pay of the customers/consumers;
- e) equity considerations; and
- f) administrative simplicity.

Tariffs, rates and charges set by the Regulatory Units shall be presumed valid and reasonable unless a protest or contest is filed with the Commission.

SEC. 16. *Promotion of Innovative Schemes to Improve Efficiency and Management of Systems.* – The Commission shall promote innovative schemes, including but not limited to the consolidation and/or integration of Water Supply and/or Sanitation Services and/or Providers in the same Service Area, where it will result in improved efficiency, services expansion and/or lowering of costs.

To this end, the Commission shall establish and issue such rules and guidelines as may be necessary to (a) create incentives to encourage efficiency and service expansion; (b) establish the standards and targets that service providers are required to meet; and (c) set the fines and penalties that would be imposed for failure to meet such standards and targets.

SEC. 17. *Twelve percent (12%) investment cap.*- Pursuant to Commonwealth Act No. 146, as amended, otherwise known as the “Public Service Act,” shall further

1 provide that any and all government agency/ies or such government agency/ies' private
2 sector concessionaires, agents, operators, contractors and the like delivering public
3 services to the people must be subjected to the Twelve (12%) cap financial formula on
4 Return of Investment.

5 Furthermore the Commission on Audit (COA) is hereto designated as the sole
6 and official Auditor to determine the Actual Physical Investments of such government
7 agency/ies or private sector concessionaires, operators, agents, contractors and the like
8 delivering public to the people for purposes of computing the Twelve (12%) Return on
9 Investment Cap.

11 **CHAPTER 4 - QUASI-JUDICIAL FUNCTIONS OF THE COMMISSION**

12
13 **SEC. 18. *Proceedings Before the Commission.*** – For the purpose of any
14 investigation, inquiry or proceeding, the Commission shall have the requisite power to:

- 15
16 a) Issue *subpoena duces tecum and subpoena duces tecum ad testificandum*;
17 b) Appoint a Commissioner to hear and receive evidence on behalf of the
18 Commission;
19 c) Cite any person or party for contempt for refusal to appear, testify or comply
20 with an order of the Commission on any matter that is the subject of
21 investigation, inquiry or proceeding before the Commission.

22 **SEC. 19. *Orders and Decisions of the Commission.*** –

23
24 The orders, resolutions and decisions of the Commission, which must be
25 reached as promptly and expeditiously as reasonably and fairly possible, shall be in
26 writing and shall state clearly and distinctly the facts and law on which it is based.

27
28 The Commission shall publish and make available for public inspection all
29 decisions and final orders in the adjudication of contested cases or applications.
30

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2 **SEC. 20. Appeals Procedure and Prohibition Against Injunction.** – The
3 orders, rulings, and decisions of the Commission are final and executory unless
4 appealed to the Court of Appeals within fifteen (15) days from receipt of notice of such
5 order, ruling or decision; *Provided* that orders, rulings, and decisions of the
6 Commission approving tariffs shall be immediately executory and may be suspended
7 only upon appeal and filing of a bond, in an amount to be fixed by the Commission, to
8 answer for damages occasioned by the suspension or stay of execution of such orders,
9 rulings, and decisions.

10
11 No injunction may be issued by any court or administrative agency to restrain
12 any proceeding before, or the implementation or execution of any order, ruling, or
13 decision of the Commission, except on the basis of a question of law brought before
14 the Supreme Court on certiorari.

15
16 Subject to Sec. 7, paragraph 3 of this Act, an act or decision of the Commission
17 shall not be invalid merely because of a defect or irregularity in, or in connection with,
18 the appointment or vacancy in the Office of the Chairperson or any other member of the
19 Commission.

20 21 **CHAPTER 5 - TRANSITORY PROVISIONS**

22
23 **SEC. 21. Interface with Other Sector Regulators.** –

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25 a) The Department of Environment and Natural Resources shall continue to
26 have the primary authority and responsibility for protecting the environment
27 and the quality water sources from waste and pollution and shall promulgate
28 rules, regulations, and standards in this regard.

1 b) The Department of Health shall have primary authority and responsibility for
2 determining and enforcing drinking water quality and sanitation standards.
3 The Commission shall coordinate with the DOH in this regard, and shall
4 ensure the consistency of the standards and targets that it will set for
5 compliance by licensees with the DOH's mandated standards.

6
7 c) The Commission shall coordinate with the NWRB for water allocation and
8 data collection, the local government units for development projects relating
9 to water supply and sanitation, and the Department of Public Works and
10 Highways for flood control and the harnessing and impounding of water.

11
12 **SEC. 22. *Transfer of Rights and Obligations.*** – The Commission shall, by
13 virtue of this Act, be subrogated to all the rights, and assume all the obligations, of the
14 Water Utilities Division of the NWRB, the Regulatory Offices of MWSS and LWUA,
15 the Regulatory Units of all special economic zones, and all other government agencies
16 and units whose powers and functions have been transferred to the Commission.

17
18 The transfer of powers and functions in the Department and agencies attached
19 thereto, as herein provided for, shall take effect within six (6) months after the effectivity
20 of this Act. The foregoing transfer of powers and functions shall include all applicable
21 funds, personnel, records, property and equipment, as may be necessary. The same shall
22 apply to agencies which have been attached to the Department by virtue of this Act.

23
24 As such, all offices under the Department and all attached agencies affected by
25 the provisions of this Act shall continue to function under their present mandates until
26 transition is effected as provided for under this Act.

27 The heads of the agencies shall continue to serve until replaced as provided for
28 under this Act.

29 All rights and obligations of the said government agencies are hereby transferred
30 to and assumed by the Commission and shall be acted upon in accordance with the rules

1 and regulations of the Commission on Audit and other pertinent laws, rules, and
2 regulations.

3
4 **SEC. 23. *Separation form Service.*** – Employees separated from government
5 service as a result of this Act shall be entitled to the benefits which they may receive
6 under existing laws, rules and regulations.

7
8 **SEC. 24. *Appropriations and Use of Fees, Charges and Penalties.*** – The initial
9 budgetary requirements of the Commission of three hundred million pesos
10 (P300,000,000.00) is hereby appropriated.

11
12 All fees, fines, penalties collected by the Commission and its Regulatory Units
13 shall not be retained by the Commission, but will be remitted to the National Treasury
14 and shall accrue to the general funds.

15
16 Such funds necessary for the continuous and effective operation of the
17 Commission shall be included in the annual General Appropriations Act.

18
19 **SEC. 25. *Transparency Clause.*** – Final decisions, orders and rulings of the
20 Commission shall be published on the official website. Records of public proceedings
21 shall be made available to the public.

22
23 **SEC. 26. *Effectivity.*** – This Act shall take effect immediately upon its approval.
24 The Chairman of the Commission shall, after due consultation with stakeholders,
25 promulgate such other rules and regulations as may be necessary and appropriate to
26 implement this Act.

27
28 **SEC. 27. *Separability Clause.*** – In the event that any provision of this Act is
29 declared unconstitutional, invalid, or illegal, the constitutionality, validity, or legality of
30 the remainder of the provisions of this Act shall not be affected thereby.

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2 **SEC. 28. Repealing Clause.** - The provision with respect to fixing of water
3 rates and sanitation service fees of Section 3 (h) and Section 12, and regulation of
4 waterworks and deep wells of Section 3 (n), regulation of waterworks and sanitation
5 systems in privately owned subdivisions of Section 3 (p) of Republic Act 6234, as
6 amended, is hereby repealed or modified accordingly.

7
8 Section 62 on regulation and Section 63 on rate review of Presidential Decree
9 198, as amended by LOI 700 (1978), LOI 744 (1978), EO 124 (1987), EO 123 (2002),
10 is hereby repealed or modified accordingly.

11
12 The provisions of the Local Government Code and its Implementing Rules and
13 Regulations of Republic Act No. 7160 which allow local government units to fix the
14 rates of water utilities owned, operated and maintained by them within their
15 jurisdiction is hereby repealed or modified accordingly.

16
17 Section 13 (b) on regulation of enterprises in ECOZONE of Republic Act No.
18 7916 as amended, also known as the Special Economic Zone Act of 1995, is hereby
19 repealed or modified accordingly.

20
21 "Provisions under Section 69 of Republic Act No. 9593 or the Tourism Act of
22 2009 and its Implementing Rules and Regulations which mandates the Tourism
23 Infrastructure and Enterprise Zone Authority to grant franchises, supervise the operation
24 of public utilities, and register, monitor and regulate enterprises within Tourism
25 Enterprise Zones, are hereby repealed or modified accordingly."

26
27 Commonwealth Act No. 146, as amended, otherwise known as the "Public
28 Service Act," and all laws, decrees, rules and regulations, or portion thereof,
29 inconsistent with this Act are hereby repealed or modified accordingly.

1 All other laws, decrees, rules and regulations and executive orders that are
2 contrary to or inconsistent with this Act are hereby repealed or modified accordingly.
3

4 **SEC. 29. *Effectivity Clause.*** – This Act shall take effect fifteen (15) days
5 following the completion of its publication in a national newspaper of general
6 circulation.
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8 *Approved,*
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