

## AMENDING CERTAIN SECTIONS OF REPUBLIC ACT NUMBERED SIXTY-TWO HUNDRED THIRTY-FOUR, ENTITLED "AN ACT CREATING THE METROPOLITAN WATERWORKS AND SEWERAGE SYSTEM AND DISSOLVING THE NA...

*PRESIDENTIAL DECREE NO. 425, March 29, 1974*

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WHEREAS, under Republic Act No. 6234, it is a declared national policy of the State that the establishment, operation and maintenance of waterworks system must be supervised and controlled by the State, because the proper operation and maintenance of waterworks systems to insure an uninterrupted and adequate supply and distribution of potable water for domestic and other purposes and the proper operation and maintenance of sewerage systems are essential public services which are vital to public health and safety;

WHEREAS, in the attainment of the aforementioned objectives, the Metropolitan Waterworks and Sewerage System has implemented an interim program of construction and improvement in order to provide stopgap measures in the interim to insure continuous and adequate supply of potable water to the inhabitants of the Manila metropolitan area up to 1973;

WHEREAS, in view of the increasing water demand of a growing and expanding population in the service area, including the industries, factories, commercial establishments, etc., all of which will require uninterrupted and adequate supply of potable water, the Metropolitan Waterworks and Sewerage System is now ready to undertake the first phase of a long range program of construction, development and improvement of the water system to be able to meet the increased water demand beginning the year 1974;

WHEREAS, equally vital, if not more critical, is the maintenance of an adequate sewage disposal system in the serviced areas which should allow the management of the System a wider latitude of fiscal projections than it is allowed in its present Charter; and

WHEREAS, to achieve the foregoing objectives the System needs reliable and definite capitalization of its programs and projects through the conversion of the System into a stock corporation with a definite equity base;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers in me vested 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 amend Republic Act Numbered Sixty-two Hundred Thirty-four, otherwise known as the Charter of the Metropolitan Waterworks and Sewerage System, to wit:

SECTION 1. A new section to be known as Section 2-A thereof is hereby provided to read as follows:

"SEC. 2-A. Capital Stock of the System. — The System is hereby authorized a capital stock of one billion pesos divided into ten million shares at a par value of one hundred pesos each, which shares shall not be transferred, negotiated, pledged, mortgaged, or otherwise given as security for the payment of any obligation. The shares shall be subscribed and paid for by the Government of the Philippines as follows:

"(a) The sum of four hundred thirty-eight million nine hundred eighty-six thousand seven hundred pesos, more or less, representing bonded indebtedness on local bonds, including arrearages on amortization, net of sinking fund investment and interest payable, and eleven million six hundred seventy thousand pesos as organizational loan under Republic Act Numbered Sixty-two Hundred Thirty-four shall be converted into subscribed and paid-in capital stocks by the Government of the Philippines equivalent to approximately four million five hundred six thousand five hundred sixty-seven shares of stock at a par value of one hundred pesos;

"(b) The sum of six million two hundred thirty-five thousand four hundred pesos, more or less, representing outstanding cost and interest of reparations goods procured by the System and its predecessor in interest pursuant to the provisions of Republic Act Numbered Seventeen Hundred Eighty-nine shall be additional paid-in subscription of the Government of the Philippines equivalent to approximately sixty-two thousand three hundred fifty-four shares of stock with the same par value of one hundred pesos each; and

"(c) The balance of said subscription shall be paid by the conversion into equity capital of outstanding interest payments on bonded indebtedness, cost of reparations funds that may be allocated to the System in the future and surplus of the System, bond issues upon request of the System or through any capital contribution from any source as may be duly approved from time to time by the President of the Philippines."

SEC. 2. Section 3(k) thereof is hereby amended to read as follows:

"(k) To construct works across, over, through, and/or alongside any stream, watercourse, canal, ditch, flume, street, avenue, highway or railway, whether public or private, as the location of said works may require: Provided, That such works be constructed in such manner as to afford security to life and property: And provided, further, That the stream, watercourse, canal, ditch, flume, street, avenue, highway, railway so crossed or intersected be restored as near as possible to their former state, or in a manner not to impair unnecessarily their usefulness. Every person or entity whose right-of-way or property is lawfully crossed or intersected by said works shall not obstruct any such crossing or intersection and shall grant the System or its representatives the proper authority to execute such work. The System is hereby given the right-of-way to locate, construct and maintain such works over and throughout the lands, including any street, avenue, or highway owned by the Republic of the Philippines or any of its branches and political subdivisions, and is given right of immediate entry and to prosecute any undertaking thereon without any further requirement or restriction other than due notice to the office or entity concerned. The System, or its representatives, may also enter upon private property in the lawful performance or prosecution of its business or purposes, including the construction of water mains and distribution pipes thereon, provided that the owner of such private property shall be compensated as follows:

"(1) In case the land shall be acquired by purchase, the fair market value thereof, which shall be the value of the land based on the tax declaration that is valid and effective at the time of the filing of the complaint for eminent domain or of the taking of said land by the System, whichever is earlier; and

"(2) in addition, the owner shall be compensated for the improvements such as houses, buildings, structures, or agricultural crops and the like, if any, actually damaged during the construction, operation, and maintenance of such works on the land, in amounts based on the value of such improvements appearing on the tax declaration that is valid and effective and/or the prevailing valuation of such agricultural crops and the like made by the appropriate appraisal body authorized by law at the time of the filing of the said complaint for eminent domain or of the taking of said improvements by the System, whichever is earlier: Provided, further, That any action for compensation and/or damages under (1) and (2) above, shall be filed within five years from the date the right-of-way, pipelines, structures or other facilities shall have been established: Provided, finally, That after the said period of five years, no suit shall be brought to question said right-of-way, pipelines, structures or other facilities nor the amounts of compensation and/or damages involved."

SEC. 3. A new paragraph, to be known as paragraph (s) in Section 3 thereof, is hereby provided to read as follows:

"(s) In the prosecution and maintenance of its projects and plants, the System shall adopt measures to prevent

environmental pollution and shall enhance the conservation, development and maximum utilization of national resources, including the improvement and beautification of its reservoirs, filter plants, and other areas to promote tourism and related purposes, and shall provide for the necessary corporate funds therefor."

**SEC. 4. Section 4 thereof is hereby amended to read as follows:**

"SEC. 4. The Board of Trustees; Composition, Qualifications; Tenure; Powers and Duties. — The Corporate powers and functions of the System shall be vested in and exercised by a Board of Trustees composed of five members consisting of a Chairman and three Trustees all of whom shall be appointed by the President of the Philippines and the General Manager of the System who shall be the ex officio Vice-Chairman of the Board.

"The Chairman and the three members of the Board shall serve for terms of three years, except that any person appointed to fill a vacancy shall serve only for the unexpired term of the member whom he succeeds.

"Every member of the Board shall possess any one or a combination of the following qualifications; A duly licensed professional of recognized competence in engineering, in business management and finance, or in law with at least ten years of actual and distinguished experience in their respective fields of expertise, and of good moral character.

"The Board, moreover, shall have the following specific powers and duties:

"(a) To formulate and adopt policies and measures for the management and operation of the System;

"(b) To adopt an annual and supplemental budget of receipts and expenditures of the System according to its requirements;

"(c) Subject to the provisions of existing laws and regulations, and upon the recommendations of the General Manager, or motu proprio, to organize, reorganize in a manner other than what is provided for under this Act and Section 3 of Republic Act No. 4177, and determine the System's staffing pattern and the number of personnel, to fix their salaries including other emoluments, and to define their power and duties, WAPCO rules and regulations shall not apply to the System; however, for the above purpose, the Board shall take into consideration similar staffing patterns and salary ranges obtaining in other government corporations of the same category as the System;

"(d) To recommend to the President of the Philippines the appointment of the General Manager of the System and to fix his compensation which shall be not less than sixty thousand pesos per annum;

"(e) Subject to the approval of the President of the Philippines, to appoint and fix the compensation of each Assistant General Manager which shall be not less than forty-eight thousand pesos per annum;

"(f) By a majority vote of all its members, to suspend or remove for cause, with the approval of the President of the Philippines, any Assistant General Manager subject to the provisions of Article VII of the Civil Service Act, as amended;

"(g) To adopt and establish guidelines for the employment of personnel on the basis of merit, technical competence and moral character;

"(h) To issue such rules and regulations as may be necessary for the sanitary protection of watersheds, reservoirs, conduits, springs and other water sources; for the proper operation of water supply lines and sanitary sewers; for the preservation and protection of water and sewer service as soon as established; and for proper procedures in applying for approval of, and connection to, water and/or sewer services which rules shall take effect after publication at least once a week for three consecutive weeks in a newspaper of general circulation in the territory served by the System."

**SEC. 5. Section 6 thereof is hereby amended to read as follows:**

"SEC. 6. Meeting of the Board, Quorum, Required Votes, Per Diems. - The Board of Directors shall immediately, after its organization, adopt rules and procedures in the conduct of its meetings. A majority of at least three of the members of the Board, to include the Chairman and/or the Vice-Chairman shall constitute a quorum to transact business, and the affirmative vote of three shall be required for the adoption of any action.

The members of the Board shall each receive a per diem not to exceed three hundred pesos for every regular Board meeting and one hundred pesos for every special meeting actually attended by them: Provided, That such per diem shall not exceed one thousand five hundred pesos during any calendar month for any member."

SEC. 6. Section 7 thereof is hereby amended to read as follows:

"SEC. 7. Other Officers and Employees: Their Appointment and Qualifications. — The management of the System shall be vested in the General Manager who shall be appointed by the President of the Philippines and shall hold office at the pleasure of the President. He shall receive a compensation of sixty thousand pesos per annum unless the Board shall fix a higher amount therefor. He shall be assisted by four Assistant General Managers — one for Engineering, one for Operation, one for Finance and Administration, one for Commercial and Customers Service — and heads of departments all of whom shall perform managerial, highly technical and/or primarily confidential functions and such additional officers and employees as the Board may provide. The Assistant General Managers shall be appointed by the Board and each shall receive a compensation of forty-eight thousand pesos per annum unless the Board shall fix a higher amount therefor.

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

"In case of temporary disability or absence of the General Manager, the Chairman of the Board shall designate any Assistant General Manager to act as General Manager; in case of temporary disability or absence of any Assistant General Manager, the General Manager may designate any department head in the group to act as Assistant General Manager."

SEC. 7. Paragraphs (a), (b), (c) and (d) thereof of Section 8 are hereby amended to read as follows:

"SEC. 8. Other Powers and Duties of the General Manager.

"(a) To execute and administer the policies and measures approved by the Board, and be responsible for the efficient discharge of management functions;

"(b) To submit for the consideration of the Board such policies and measures which he deems are necessary to carry out the purposes and provisions of this Act;

"(c) To direct and supervise the operation and internal administration of the System and, for the purpose, he may delegate some or any of his administrative responsibilities and duties to other officers of the System; and

"(d) Subject to the guidelines and policies set up by the Board:

"(1) To appoint or promote upon recommendation of the proper Assistant General Manager with the approval of the Board, the department heads, division and section chiefs and other officers of equivalent rank;

"(2) To appoint or promote all other personnel, upon recommendation of the proper Assistant General Manager and to submit to the Board a monthly report on such appointments and non-disciplinary transfers made on the month immediately preceding;

"(3) To remove, suspend or otherwise discipline for cause, or terminate by reason of incapacity, department heads, division and section chiefs, and other officers of equal rank, subject to the approval of the Board, and in accordance with the provisions of Article VII of the Civil Service Act, as amended;

"(4) To remove, suspend or otherwise discipline for cause or terminate by reason of incapacity all other personnel in accordance with the provisions of Article VII of the Civil Service Act, as amended."

SEC. 8. Section 9 thereof is hereby amended by substitution to read as follows:

"SEC. 9. Authority to Incur Indebtedness and Issue Bonds; Their Conditions, Privileges, Exceptions; Sinking Funds: Guarantee. —

"(a) Domestic Indebtedness. — Whenever the Board deems it necessary for the System to incur indebtedness or

to issue bonds to carry out the purpose for which the System has been organized, it shall, by resolution, so declare and state the purpose for which the proposed debt is to be incurred. In order that such resolution be valid, it shall be passed by the affirmative vote of at least three members of the Board and approved by the President of the Philippines upon recommendation of the Secretary of Finance.

"The Board shall determine the amount, terms, and conditions of domestic indebtedness, subject to approval by the Secretary of Finance.

"The bonds issued under the authority of this Act shall be exempt from the payment of all taxes by the Republic of the Philippines, or by any authority, branch, division or political subdivision thereof, which facts shall be stated upon the face of said bonds. Said bonds shall be receivable as security on any transaction with the Government for which such security is required.

"A sinking fund shall be created, the total thereof at each annual due date of the bonds to be equal to an amount of annuity earning an annual interest of nine-tenth of the rate of interest of the bonds as fixed by the Secretary of Finance. The sinking fund shall be under the custody of the Treasurer of the Philippines, who shall invest the same subject to the approval of the Board and the Secretary of Finance.

"The Republic of the Philippines hereby guarantees the payment by the System of both the principal and the interest of the bonds issued by said System by virtue of this Act, and shall pay such principal and interest in case the System fails to do so. There is hereby appropriated, out of the general funds in the National Treasury not otherwise appropriated, the sums necessary to make the payments guaranteed by the Act: Provided, That the sums paid by the Republic of the Philippines shall be refunded by the System: Provided, further, That the System shall set aside five per centum of its annual net operating revenues before interests as a reserve or sinking fund to answer for amounts advanced by the National Government for any loan, credit and indebtedness contracted by the former for which the latter shall be held answerable as primary obligor or guarantor under the provisions of this Act: Provided, furthermore, That the setting aside of the amounts mentioned herein shall automatically cease the moment the accumulated sinking fund or reserve exceeds the amounts advanced to the System by the National Government under this Act: Provided, finally, That the System may periodically make partial payments to the National Government out of the said reserve.

"The total principal indebtedness of the System under this subsection, exclusive of interest, shall not exceed one billion pesos, at any given time.

"(b) Foreign Loans. — The System is hereby authorized to contract loans and credits, in any convertible foreign currency or capital goods, and to incur indebtedness from time to time from foreign governments, or any international financial institutions or fund sources or to issue bonds, the total outstanding amount of which, exclusive of interest, shall not exceed two hundred million United States dollars or the equivalent thereof in other currencies at any given time on such terms as it shall deem appropriate for the accomplishment of its purposes and to enter into and execute agreements and other documents specifying such terms and conditions.

"The President of the Philippines, by himself, or through his duly authorized representative, is hereby authorized to negotiate and contract with foreign governments or any international financial institution or fund sources in the name and on behalf of the System, one or several loans, for the purpose of assisting in the reconstruction, or promoting the development of the country.

"The President of the Philippines by himself, or through his duly authorized representative, is hereby further authorized to guarantee, absolutely and unconditionally, as primary obligor and not as surety merely, in the name and on behalf of the Republic of the Philippines, the payments of the loans, credits, indebtedness and bonds issued up to the amount herein authorized, which shall be over and above the amount which the President of the Philippines is authorized to guarantee under Republic Act No. 4860, as amended, as well as the performance of all or any of the obligations undertaken by the System in the territorial jurisdiction of the Republic of the Philippines pursuant to loan agreements entered into with foreign governments or any

international financial institutions or fund sources.

"The loans, credits and indebtedness contracted under this subsection and the payments of the principal, interest and other charges thereon, as well as the importation of machinery, equipment, materials, supplies and services by the System, paid from the proceeds of any loan, credit, or indebtedness incurred under this Act, shall also be exempt from all direct and indirect taxes, fees, imposts, other charges and restrictions, including import restrictions previously and presently imposed and to be imposed by the Republic of the Philippines, or any of its agencies and political subdivisions."

**SEC. 9. A new section to be known as Section 9-A thereof is hereby provided to read as follows:**

"SEC. 9-A. Construction or Repair Work Awarded Upon Public Bidding; Exceptions. — All construction or repair work of the System involving an estimated cost of seventy-five thousand pesos or more shall be awarded by the General Manager with the approval of the Board, to the responsible bidder who made the lowest and most advantageous bid. Notice to bidders shall be published as provided by law. In case no satisfactory bid is received, the General Manager may proceed to advertise anew, or, with the approval of the Board, to do the work by administration. Before award of contract is made, the General Manager shall require the contractor to give an adequate bond to secure the proper accomplishment of the work under contract and to satisfy all obligations to materials used and labor employed upon the same: Provided, That any repair, reconstruction or other work of an emergency nature may be authorized by the Board to be undertaken by administration or by contract: And provided, further, That any single work of construction or repair involving an estimated total cost of less than seventy-five thousand pesos may, at the option of the General Manager, be authorized by him to be undertaken by administration or by contract after a canvass of the market to determine the lowest and most advantageous bid."

**SEC. 10. A new section to be known as Section 10-A thereof is hereby provided to read as follows:**

"SEC. 10-A. Punishable Acts. — Any person who shall maliciously destroy, injure or interfere with any canal, raceway, ditch, lock, pier, inlet, crib, bulkhead, dam, gate, service, reservoir, aqueduct, water mains, water distribution pipes, conduit pipes, weir, benchmark, monument, or other works, appliance, machinery, building, or property of the System, or who shall maliciously do any act which shall injuriously affect the quantity or quality of the water or sewage flow of the System, or the supply, conveyance, measurement, or regulation thereof, or who shall maliciously interfere with any person engaged in the discharge of duties connected therewith, or who shall maliciously prevent, obstruct, and interfere with the survey, works and the construction of access road and water main and distribution network and any related works of the System, shall be punished upon conviction, with a fine ranging from one thousand to five thousand pesos or imprisonment ranging from one to five years, or both such fine and imprisonment at the discretion of the court, and any injured party shall have the right to recover all damages suffered and cost of suit in a separate civil action in any court of competent jurisdiction: Provided, further, That any person who shall violate any rule or regulation of the System issued pursuant to the law or who shall connect to water and/or sewer lines without approval of the System, shall, upon conviction, be punished with a One of not more Hum one thousand pesos or imprisonment for not more than six months or both such fine and imprisonment upon the discretion of the court: Provided, finally, That the System shall be authorized to summarily disconnect any illegal connection even pending the appropriate court action."

**SEC. 11. Section 11 thereof is hereby amended to read as follows:**

"SEC. 11. Audit. — The Chairman of the Commission on Audit shall be the ex officio auditor of the System. The provisions of Section five hundred eighty-four of the Revised Administrative Code, as amended by Section one of Republic Act Numbered 2266 and Republic Act Numbered 2716 and further amended by Presidential Decrees Numbered 61, 111 and 111-A, shall apply to the Office of the Representative of the Commission on Audit in the System."

SEC. 12. Section 15 thereof is hereby amended by the deletion of the last proviso therein which reads as follows:

"Provided, finally, That in no case shall the expenses in any fiscal year for salaries, wages, allowances, emoluments, and other fringe benefits exceed thirty-five percent (35%) of the gross income of the System in the immediately preceding fiscal year."

SEC. 13. Section 18 thereof is hereby amended to read as follows:

"SEC. 18. Nonprofit Character of the System, Exemption from all Taxes, Duties, Fees, Imposts and Other Charges by Government and Governmental Instrumentalities. — The System shall be nonprofit and shall devote all its returns from its capital investment as well as excess revenues from its operations, for expansion and improvement. To enable the System to pay its indebtedness and obligations and the furtherance and effective implementation of the policy enumerated in Section one of this Act, the System is hereby declared exempt:

"(a) From the payment of all taxes, duties, fees, impost, charges and restrictions of the Republic of the Philippines, its provinces, cities, municipalities, and other government agencies and instrumentalities including the taxes, duties, fees, impost, and other charges provided for under the Tariff and Customs Code of the Philippines, Republic Act Numbered Nineteen Hundred Thirty-Seven, as amended and further amended by Presidential Decree No. 34, dated October 27, 1972, and costs and service fees in any Court or administrative proceedings in which it may be a party;

"(b) From all income taxes, franchise taxes and realty taxes to be paid to the National Government, its provinces, cities, municipalities and other government agencies and instrumentalities; and

"(c) From all impost, duties, compensating taxes, and advanced sales tax, and wharfage fees on import of foreign goods required for its operations and projects."

SEC. 14. This Decree is hereby made part of the law of the land and provisions of existing laws, decrees, orders, rules and regulations, or parts thereof, in conflict with this Decree are hereby repealed or modified accordingly.

SEC. 15. This Decree shall take effect immediately.

Done in the City of Manila, this 29th day of March, in the year of Our Lord, nineteen hundred and seventy-four.

(Sgd.) FERDINAND E. MARCOS

President

Republic of the Philippines

By the President:

(Sgd.) ALEJANDRO MELCHOR

Executive Secretary

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