

AN ACT TO AMEND ACT NUMBERED TWENTY-ONE HUNDRED AND FIFTY- TWO, ENTITLED “AN ACT TO PROVIDE A SYSTEM FOR THE APPROPRIATION OF PUBLIC WATERS, AND FOR THE DETERMINING OF EXISTING ...

Act No. 3208, December 05, 1924

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Be it enacted by the Senate and House of Representatives of the Philippines in Legislature assembled and by the authority of the same:

SECTION 1. Section two of Act Numbered Twenty-one hundred and fifty-two is hereby amended to read as follows:

"SEC. 2. The power to grant appropriations of public waters is hereby vested ft the Secretary of Commerce and Communications, in accordance with the provisions of this law upon the recommendation and approval of the Irrigation Council herein created.

"There is hereby created an Irrigation Council which shall consist of five members as follows: The Secretary of Commerce and Communications who shall be ex-officio chairman thereof; the Secretary of Agriculture and Natural Resources; the chairman of the Committee on Commerce and Communications of the Senate; the chairman of the Committee on Public Works of the House of Representatives; and one agriculturist who shall be appointed by the Governor-General and shall receive a per diem of fifteen pesos for each session of the council which he actually attends: Provided, That the officers already receiving a salary or per diem from the Government shall serve without additional remuneration.

"The Chief Water Rights Inspector of the Bureau of Public Works shall be ex-officio secretary of the Irrigation Council without additional compensation.

"The Director of Public Works shall have direction and supervision of the investigation for and construction of irrigation systems by the Government of the Philippine Islands and shall perform such duties as are prescribed herein.

"The Chief Irrigation Engineer shall, in addition to the duties and responsibilities stated in his appointment, be charged with those of the superintendent of irrigation as provided in Act Numbered Eighteen hundred and fifty- four."

SEC. 2. Section four of Act Numbered Twenty-one hundred and fifty-two is hereby amended to read as follows:

"SEC. 4. Any controversy between the persons claiming right to the use of water of any stream shall be submitted to the Secretary of Commerce and Communications through the Director of Public Works, and his decision thereon shall be final unless appeal therefrom be taken to the proper court within thirty days after the date of the notification of the parties of said decision. In case of such appeal the court having jurisdiction shall try the controversy de novo: Provided, however, That the Secretary of Commerce and Communications is hereby vested with authority, by virtue of his decision, upon bond in a sum to be fixed by the Secretary of Commerce and Communications being furnished by the party concerned, to order the removal or alteration of the dam, the filling in or opening of canals or ditches, the construction of gates, the installation of gauges or

such other measures as may be necessary in order that the interested parties may enjoy the rights to the use of water as determined by him. The Director of Public Works or his authorized agents, after the decision has become final, are hereby authorized to execute the order of the Secretary of Commerce and Communications, and if the party concerned refuses to comply with the same, said Director of Public Works or his authorized agent may direct the order to be executed at the expense of the party concerned, without prejudice to such party being held criminally liable in accordance with the provisions of Act Numbered Twenty- one hundred and fifty-two."

SEC. 3. Section thirteen of Act Numbered Twenty-one hundred and fifty-two, as amended by section five of Act Numbered Twenty-six hundred and fifty-two, is hereby further amended to read as follows:

"SEC. 13. In the event of the appropriators not organizing in accordance with the provisions of the next preceding section, or during the time in which the rights of using the public waters which have been appropriated are being determined and adjudicated, the system shall be temporarily administered under this Act as follows:

"(a) By the municipal council, when the system affects one municipality alone.

" (b) By the provincial board, when it affects two or more municipalities of a province.

"(c) By the Director of Public Works, when it affects two or more provinces.

"The regulations issued for the administration, use, and distribution of waters shall be previously approved by the Irrigation Council, and in the preparation of those regulations all the persons interested shall be given a hearing.

"The cost of this service shall be a lien upon the crops, in the first place, and in the second place, upon the land of the water users and ditch owners, in accordance with the distribution thereof, as shown by the accounts of the municipal council, the provincial board, or the Director of Public Works, which distribution shall be based upon the irrigable area held by each appropriator or ditch owner, in proportion to the total area served by the system: Provided, hoivever, That the funds necessary to defray the administration expenses prior to the expiration of each agricultural year (the period intervening between the beginning of the planting and the completion of the harvesting of the crops), in accordance with the appropriation, shall be advanced by the municipality or the province out of its funds, or by the Director of Public Works, out of the funds appropriated for the administration expenses of old irrigation systems, and shall be reimbursed by the appropriator or ditch owner at the end of each year with interest at the rate of six per centum: Provided, further, That in the event of the municipalities or provincial boards being without funds to cover these expenses the administration of such system shall be given to the Director of Public Works for such time as the funds advanced to meet said expenses are paid from the Insular Treasury.

"The municipal and provincial treasurers shall, in the performance of their official duties, collect the charges for administration expenses for each year upon the completion of each harvest, acting in this respect as delegates of the Director of Public Works. Such lien shall have preference over all other liens except that for taxes on the land and any mortgage lien in favor of the Philippine Agricultural Bank, or its successor, and such preferred lien shall not be removed until all charges are paid or the property is sold for payment thereof. Within one year after default of payment on an installment payable on any parcel of land, the municipal president, the provincial governor, or the Director of Public Works shall file with the clerk of the Court of First Instance of the district in which the land is situated, a list of all lands upon which default has been made. The clerk of the court shall thereupon publish in the manner provided for the publication of the summons in a civil action, a list of the lands so filed by the Director of Public Works, accompanied by a notice requiring the owners to file an answer thereto within thirty days after the completion of the publication.

"Upon the filing of an answer by the person interested, the action in respect to such person shall proceed to

judgment, as provided for other actions by the Code of Civil Procedure. Upon termination of such thirty days judgment shall be entered against such persons as have not answered, and their lands, or the portion thereof deemed necessary, shall be sold, after ten days' public notice, at public auction by the sheriff to satisfy such preferred lien.

"Any excess over the amount of said lien and the cost of such procedure shall be returned to the interested person who shall have one year thereafter to redeem his land by payment of the amount of judgment and costs, with interest at six per centum: Provided, however, That in the event of the cost of maintenance being so exceptionally high in any year that it exceeds fifty per centum of the net profits, such exceptional cost shall be distributed in an equitable manner, over two or more years, but not more than five; And provided, further, That in the cases in which a crop is unharvested at the time of the execution of the lien the execution shall be levied first on said crops.

"In the preparation of the regulations mentioned in this and the next preceding section, the customs and usages of each locality shall be taken into consideration, and in these regulations one day of the year shall be fixed for a meeting of all the persons interested for the purpose of preparing an estimate of expenditures for the next succeeding year."

SEC. 4. Section fourteen of Act Numbered Twenty-one hundred and fifty-two, as amended by section six of Act Numbered Twenty-six hundred and fifty-two, is hereby further amended to read as follows:

"SEC. 14. Any person hereafter desiring to appropriate any public water shall previously make an application to the Secretary of Commerce and Communications through the Director of Public Works.

"This application shall set forth:

" (a) The name and post-office address of the applicant.

"(b) The source from which said appropriation shall be made.

"(c) The place or site of diversion.

" (d) The approximate amount of water to be diverted.

"(e) A description of the proposed works.

" (f) The purpose or object of the appropriation.

" (g) If for irrigation, a description of the land to be irrigated and the area thereof, and any additional facts required by the Secretary of Commerce and Communications.

" (h) The names and post-office addresses of all persons known to have interest, either directly or indirectly, relative to the application.

"On receipt of this application, which shall be on a form prescribed by the Secretary of Commerce and Communications, and to be furnished by the Director of Public Works without cost to the applicant, it shall be the duty of the Director of Public Works to make a record thereof in his office, and to carefully examine the same to ascertain whether it sets forth all facts necessary to determine the nature and the amount of the proposed appropriation. "If the application be defective it shall be the duty of the Director of Public Works to point out the defects noted and return it to the applicant for correction, and sixty days after receipt thereof by said applicant shall be allowed for the refile thereof. If refiled, corrected in proper form, within such time the application shall take priority as of the date of original filing, subject to compliance with the further provisions of the law and the regulations there- under : Provided, That prior to the approval of the application the applicant shall not be authorized to perform any work for the use of the waters: Provided, further, That during the pendency of any application for the appropriation of the waters of a river or other stream designated by the

Secretary of Commerce and Communications previous to the filing of the application, for the determination of existing rights in accordance with sections five, six, seven, and eight of Act Numbered Twenty-one hundred and fifty-two, as amended by sections one and two of Act Numbered Twenty-six hundred and fifty-two, the Director of Public Works may, in his discretion, issue temporary permits for the appropriation of waters, upon approval by the Secretary of Commerce and Communications."

SEC. 5. Section fifteen of Act Numbered Twenty-one hundred and fifty-two, as amended by section seven of Act Numbered Twenty-six hundred and fifty-two, is hereby further amended to read as follows:

"SEC. 15. When the original or corrected application is filed in accordance with the requirements of this Act, the Director of Public Works shall, within thirty days, cause to be published in English and when advisable in Spanish and in the local dialects, once a week for four consecutive weeks in the Official Gazette, a notice showing:

"(a) The name of the applicant;

"(b) Date of filing of application;

"(c) The information required in section fourteen hereof under (b), (c), (d), (e), (/), and (g). "Such notice shall also be posted in English, Spanish, and the local dialect, for the period of four weeks provided in the next preceding paragraph, at the usual place for posting public notices in the municipalities affected by the appropriation, and shall besides be published once a week by means of bandillos or public criers: Provided, That any person interested may object to the appropriation within the time limit stated in the notice and fixed by the Director of Public Works, which shall not be less than thirty days nor more than sixty days, beginning with the last day of the publication in the Official Gazette of the said notice, filing with the said Director of Public Works a written protest stating reasons for the objection. Upon termination of the period set for the filing of protests, the Director of Public Works shall make the necessary investigation regarding the appropriation, and any objections that may have been filed, taking testimony, if necessary, in accordance with the provisions of section eight hereof and shall make report upon the case to the Secretary of Commerce and Communications, who shall take action thereon, after reviewing the evidence in support of and against the appropriation. The decision of the Secretary of Commerce and Communications shall be subject to appeal in accordance with the provisions of section four of this Act."

SEC. 6. Section eighteen of Act Numbered Twenty-one hundred and fifty-two, as amended by section nine of Act Numbered Twenty-six hundred and fifty-two, is hereby further amended to read as follows:

"SEC. 18. Upon the approval of the completed work by the Director of Public Works, he shall issue to the applicant a certificate signed by the Secretary of Commerce and Communications, setting forth the name of the applicant, the date, source, purpose, and amount of the appropriation, and if for irrigation, a description of the land to be irrigated, which certificate shall within one year after its issuance be recorded in the province in which the point of diversion of the appropriation is, as well as in the province where the water is used, in the same manner as is provided in section nine of this Act for the registration of certificates of appropriation. The priority of such new appropriation shall date from the filing of the application in the office of the Director of Public Works."

SEC. 7. Section twenty-five of Act Numbered Twenty-one hundred and fifty-two is hereby amended to read as follows: "Sec. 25. Upon determination by the Secretary of Commerce and Communications that the Government construction of any irrigation project is advisable, he shall, in the manner prescribed in section fifteen hereof, give public notice of:

"(a) The land irrigable under such project.

"(b) The approximate annual charge per hectare of said land to cover the cost of construction.

" (c) The number of annual installments, which in no case shall be less than twenty nor more than forty, in which said construction charge shall be paid.

" (d) The estimated approximate annual cost of maintenance and operation.

"(e) A statement that protests against the construction of the project may be filed with the Governor-General within ninety days after completion of publication.

"At the beginning of the publication of the notice a map shall be filed in the office of the municipal secretary of each municipality interested, showing the land to be affected by the irrigation project, which map shall be open to inspection by the public.

"The Secretary of Commerce and Communications shall publish or cause to be published in English and, when advisable, in Spanish, and in the local dialect, in the Official Gazette, the notice provided for in this section, which notice shall be published once a week for four consecutive weeks. Such notice in English and Spanish and the local dialect shall also be posted at the usual places for posting public notices in each municipality and place affected by said project and shall also be published once a week by bandillos or public criers."

SEC. 8. A new section is hereby inserted between sections twenty-five and twenty-six of Act Numbered Twenty-one hundred and fifty-two which shall be known as section twenty-five (A) and shall read as follows:

"SEC. 25 (A).—The Secretary of Commerce and Communications, in addition to the powers vested in him by the Irrigation Law, shall also have authority to order the removal of any obstacle to the free course of public waters, canals, ditches, or irrigation systems which may redound to the detriment of public or private rights recognized by the Irrigation Law and its amendments, and shall give the party concerned a period not to exceed thirty days for the removal, of such obstacle, which period may be extended if the nature of the construction or some fortuitous cause requires it.

"Any natural or juridical person failing to comply with any legal order for the removal of any obstacle shall be punished in accordance with the provisions of section forty- seven of Act Numbered Twenty-one hundred and fifty-two."

SEC. 9. This Act shall take effect on its approval.

Approved, December 5, 1924.

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