

# [ PRESIDENTIAL DECREE NO. 198, May 25, 1973 ]

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

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

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

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

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

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

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

### **TITLE I— PRELIMINARY PROVISIONS**

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

**SEC. 2. Declaration of Policy.** — The creation, operation, maintenance and expansion of reliable and economically viable and sound water supply and wastewater disposal systems for population centers of the Philippines is hereby declared to be an objective of national policy of high priority. For purposes of achieving said objective, the formulation and operation of independent, locally controlled public water districts is found and declared to be the most feasible and

favorable institutional structure. To this end, it is hereby declared to be in the national interest that said districts be formed and that local water supply and wastewater disposal systems be operated by and through such districts to the greatest extent practicable. To encourage the formulation of such local water districts and the transfer thereto of existing water supply and wastewater disposal facilities, this Decree provides by general act the authority for the formation thereof, on a local option basis. It is likewise declared appropriate, necessary and advisable that all funding requirements for such local Water systems, other than those provided by local revenues, should be channeled through and administered by an institution on the national level, which institution shall be responsible for and have authority to promulgate and enforce certain rules and regulations to achieve national goals and the objective of providing public waterworks services to the greatest number at least cost, to effect system integration or joint investments and operations whenever economically warranted and to assure the maintenance of uniform standards, training of personnel and the adoption of sound operating and accounting procedures.

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

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

(b) *Appointing authority*. — The person empowered to appoint the members of the Board of Directors of a local water district, depending upon the geographic coverage and population, make-up of the particular district. In the event that more than seventy-five percent of the total active water service connections of a local water district are within the boundary of any city or municipality, the appointing authority shall be the mayor of that city or municipality, as the case may be; otherwise, the appointing authority shall be the governor of the province within which the district is located. If portions of more than one province are included within the boundary of the district, and the appointing authority is to be the governors then the power to appoint shall rotate between the governors involved with the initial appointments made by the governor in whose province the greatest number of service connections exists.

(c) *Administration*. — The Local Water Utilities Administration chartered in Title III of this Decree.

(d) *NEDA*. — The National Economic and Development Authority,

(e) *Board or Board of Directors*. — The board of directors of a district.

(f) *Contracts*. — All agreements, including leases, conveyances and obligations.

(g) *Districts*. — A local water district formed pursuant to Title II of this Act.

(h) *Local Water Utility*. — Any district, city, municipality, province, investor-owned public utility or cooperative corporation which owns or operates a water system serving an urban center in the Philippines, except that said term shall not include the Metropolitan Waterworks and Sewerage System (MWSS) or any system operated by the Bureau of Public Works as successor to the Wells and Springs Department of the National Waterworks and Sewerage Authority.

(i) *Person*. — A natural person, corporation, cooperative, partnership, association, city, municipality or other juridical entity.

- (j) *Property*. — All real and personal property, including but not limited to: water, water rights, works, easements, rights of way.
- (k) *Street*. — Includes road, valley, avenue, highway or other public way.
- (l) *Trustees or Board of Trustees*. — The Hoard of Trustees of the Administration.

## **TITLE II - LOCAL WATER DISTRICT LAW**

### **Chapter I — Title**

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

### **Chapter II — Purpose and Formation**

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

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

- (a) The name of the local water district, which shall include the name of the city, municipality, or province, or region thereof, served by said system, followed by the words "Water District."
- (b) A description of the boundary of the district. In the case of a city or municipality, such boundary may include all lands within the city or municipality. A district may include one or more municipalities, cities or provinces, or portions thereof.
- (c) A statement of intent to transfer any and all waterworks and/or sewerage facilities owned by such city, municipality or province to such district pursuant to a contract authorized by Section 31 (b) of this Title.
- (d) A statement identifying the purpose for which the district is formed, which shall include those purposes outlined in Section 5 above.
- (e) The names of the initial directors of the district with the date of expiration of term of office for each.
- (f) A statement that the district may only be dissolved on the grounds and under the conditions set forth in Section 44 of this Title.
- (g) A statement acknowledging the powers, rights and obligations as set forth in Section 36 of this Title.

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

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

municipality and province.

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

### **Chapter III — Directors**

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

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

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

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

**SEC. 12. *Vacancies.*** — In the event of a vacancy in the board of directors occurring more than six months before expiration of any director's term, the remaining directors shall within 30 days, serve notice or request the secretary of the district for nominations and within 30 days thereafter a list of nominees shall be submitted to the appointing authority for his appointment of a replacement director from the list of nominees. In the absence of any such nominations, the appointing authority shall make such appointment. Vacancies occurring within the last six months of an unexpired term may be filled by a vote of a majority of the remaining members of the board of directors constituting a quorum. The director thus appointed shall serve the unexpired term only.

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

**SEC. 14. *Personal Liability.*** — No director may be held to be personally liable for any action of the district.

## **Chapter IV — The Board**

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

**SEC. 16. *Quorum.*** — A majority of the board present in person shall constitute a quorum for the transaction of business: *Provided, however,* That no resolution or motion shall be adopted or become effective without the affirmative vote of a majority of the authorized number of members of the board.

## **Chapter V — Powers and Duties of Board**

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

**SEC. 18. *Functions Limited to Policy-Making.*** — The function of the board shall be to establish policy. The board shall not engage in the detailed management of the district.

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

**SEC. 20. *System of Business Administration.*** — The board shall, as soon as practicable, prescribe and define by resolution a system of business administration and accounting for the district, which shall be patterned upon and conform to the