

[ **PRESIDENTIAL DECREE NO. 768, August 15, 1975** ]

**AMENDING PRESIDENTIAL DECREE NO. 198 ENTITLED "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 DISTRICT; CHARTERING A NATIONAL ADMINISTRATION TO FACILITATE IMPROVEMENT OF LOCAL WATER FACILITIES; GRANTING SAID ADMINISTRATION SUCH POWERS AS ARE NECESSARY TO OPTIMIZE PUBLIC SERVICE FROM WATER UTILITY OPERATIONS, AND FOR OTHER PURPOSES."**

**WHEREAS**, it is the primary concern of the government to develop an orderly and effective system of local water utilities, particularly in the area of water supply and sewerage services;

**WHEREAS**, under Presidential Decree No. 198, the Government declared as a national policy the local operation and control of water systems; authorized the formation of local water districts; provided for the administration of such districts, and chartered a national administration to facilitate improvement of local water utilities;

**WHEREAS**, there is need to amend certain provisions of Presidential Decree No. 198 in order to hasten and make more effective the implementation and administration of the program of total development and expansion of domestic water systems;

**NOW, THEREFORE, I, FERDINAND E. MARCOS**, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order and decree the amendment of Presidential Decree No. 198, as follows:

**SECTION 1.** Section 3, paragraph (b) of Presidential Decree No. 198 is hereby amended to read as follows:

"(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 the 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: *Provided*, That if the existing waterworks system in the city or municipality established as a water district under this Decree is operated and managed by the province, initial appointment shall be extended by the governor of the province. Subsequent appointments shall be as specified herein.

"If portions of more than one province are included within the boundary of the district, and the appointing authority is to be the governor, 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.

**SEC. 2.** Paragraphs (b), (c), (e) and last paragraph of Section 6 of the same decree, are hereby amended to read as follows:

"\* \* \*

"(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: *Provided*, That such municipalities, cities and provinces, or portions thereof, cover a contiguous area. "(c) A statement transferring any and all waterworks and/or sewerage facilities managed, operated by or under the control of such city, municipality or province to such district pursuant to to a contract authorized by this Title.

"\* \* \*

"(e) The names of the initial directors of the district with the date of expiration of the term of office for each which shall be on the 31st of December of first, second, or third even-numbered year after assuming office, as set forth in Section 11 hereof.

" \* \* \*

"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; or the city, municipality or province in which 75% of the total active service connections are situated shall pass an initial resolution to be concurred in by the other cities, municipalities or provinces."

**SEC. 3.** Section 7 of the same decree is hereby amended to read as follows:

"**SEC. 7. *Filing of Resolution.***—A certified copy of the resolution or resolutions 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 22, 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. Upon such filing, the local government or governments concerned shall lose ownership, supervision and control or any right whatsoever over the district except as provided herein."

**SEC. 4.** Section 8 of the same decree is hereby amended to read as follows:

"**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 institutions and one member a representative of women's organizations. No public officials shall serve as director."

**SEC. 5.** Section 11 of the same decree is hereby amended to read as follows:

"**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, 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, subject to review and approval of the Administration."

**SEC. 6.** Section 12 of the same decree is hereby amended to read as follows:

"**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 to 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 such nominations, the appointing authority shall make such appointment. If within 30 days after submission to him of a list of nominees the appointing authority fails to make an appointment, the vacancy shall be filled from such list by a majority vote of the remaining members of the Board of Directors constituting a quorum. Vacancies occurring within the last six months of an unexpired term shall also be filled by the Board in the above manner. The director thus appointed shall serve the unexpired term only."

**SEC. 7.** Section 13 of the same decree is hereby amended to read as follows:

"**SEC. 13. Compensation.**—Each director shall receive a *per diem*, to be determined by the board, for each meeting of the board actually attended by him, but no director shall receive per diems in any given month in excess of the equivalent of the total per diem of four meetings in any given month. No director shall receive other compensation for services to the district.

"Any *per diem*, in excess of P50 shall be subject to approval of the Administration."

**SEC. 8.** Section 20 of the same decree is hereby amended to read as follows:

"**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 standards established by the Administration. Auditing shall be performed by a certified public accountant not in the government service. The Administration may, however, conduct annual audits of the fiscal operations of the district to be performed by an

auditor retained by the Administration. Expenses incurred in connection therewith shall be borne equally by the water district concerned and the Administration."

**SEC. 9.** Section 23 of the same decree is hereby amended to read as follows:

"**SEC. 23.** *The General Manager.*—At the first meeting of the board, or as soon thereafter as practicable, the board shall appoint, by a majority vote, a general manager and shall define his duties and fix his compensation. Said officer shall serve at the pleasure of the board."

**SEC. 10.** Section 24 of the same decree is hereby amended to read as follows:

"**SEC. 24.** *Duties*—The duties of the General Manager and other officers' shall be determined and specified from time to time by the board. The general manager, who shall not be a director, shall have full supervision and control of the maintenance and operation of water district facilities, with power and authority to appoint all personnel of the district: *Provided*, That the appointment of personnel in the supervisory level shall be subject to approval by the Board."

**SEC. 11.** Paragraph (b) of Section 31 of the same decree is hereby amended to read as follows:

"(b) *In-lieu Share.*—As an incident to the acquisition of the existing water system of a city, municipality, or province, a district may enter into a contract to pay in-lieu share for such utility plant, an annual amount not exceeding three percent (3%) of the district's gross receipts from water sales in any year: *Provided, however*, That no contract of this nature shall be executed during the first five years of the existence of the district; and *Provided, further*, That the Board of Directors shall determine that such contract will not adversely affect or impair the fiscal position and operations of the district as verified by the Administration."

**SEC. 12.** Section 32 of the same decree is hereby amended by adding four new subsections therein, which shall read as follows:

"**SEC. 32.** *Protection of Waters and Facilities of District.*—A district shall have the right to:

"(a) Commence, maintain, intervene in, defend and compromise actions or proceedings to prevent interference with or deterioration of water quality or the natural flow of any surface, steam or ground water supply which may be used or useful for any purpose of the district or be a common benefit to the lands or its inhabitants. The ground water within a district is necessary to the performance of the district's powers and such district is hereby authorized to adopt rules and regulations subject to the approval of the National Water Resources Council governing the drilling, maintenance and operation of wells within its boundaries for purposes other than a single family domestic use on overlying land. Any well operated in violation of such regulations shall be deemed in interference with the waters of the district.

"(b) Require a developer or builder of any structure within the service areas of the district to extend or connect its pipeline facilities to the

district facilities whenever such development or structure is within one hundred meters of existing district facilities or whenever the district is willing to extend its facilities within one hundred meters of said development or structure. For the purpose of this section, development shall include the subdivision of land for any purpose other than agricultural purpose, and structure shall mean any building or facility to be used for residential, commercial or industrial purposes.

"(c) Prohibit any person, firm or corporation from vending, selling, or otherwise disposing of water for public purposes within the service area of the district where district facilities are available to provide such service, or fix terms and conditions by permit for such sale or disposition of water.

"(d) Safeguard and protect the use of its waters. For this purpose, any person who installs any water connection without the previous authority from the water district established under this Decree; tampers water meters or uses jumpers or other devices whereby water is stolen; steals or pilfers water or water meters; knowingly possesses stolen or pilfered water or water meters shall, upon conviction, be punished by *prison correccional* in its minimum period or a fine ranging from two thousand pesos to six thousand pesos, or both. If the violation is committed with the connivance or permission of an employee or officer of the water district, an employee or officer shall, upon conviction, be punished by a penalty one degree lower than *prision correccional* in its minimum period and forthwith be dismissed and perpetually disqualified from employment in any utility or service company owned or controlled by the government."

**SEC. 13.** Section 34 of the same decree is hereby amended to read as follows:

"**SEC. 34.** *Receipt, Deposit and Payment of District Funds.*— The treasurer shall receive, to the credit of the district and in trust for its use and benefit, all monies belonging to the district. All monies belonging to the District shall, where practicable, be deposited by the treasurer in the Philippine National Bank."

**SEC. 14.** Section 35 of the same decree is hereby repealed.

**SEC. 15.** Section 36 of the same decree is hereby amended to be known as Section 35 to read as follows:

"**SECTION 35.** *Bonds or Other Evidence of Indebtedness.*—A district may borrow money to raise funds to pay all cost of any public, improvements authorized by this Title and may issue negotiable or non-negotiable bonds, promissory notes or other evidence of indebtedness to support such borrowings. These obligations may be secured by a mortgage, pledge, deed of trust of or any other encumbrance upon any of its then owned or after-acquired real or personal property, assets or revenues and the same shall constitute a lien as to the principal and interest thereon, on all such property, assets or revenues. The interests on such bonds or notes are exempt from all taxes, duties, fees, imposts, or other charges of the national or local governments."