

REPUBLIC ACT NO. 8041

AN ACT TO ADDRESS THE NATIONAL WATER CRISIS AND FOR OTHER PURPOSES.

Sec. 1 *Short Title.* - This Act shall be shown as the "*National Water Crisis Act of 1995.*"

Sec. 2. *Declaration of Policy.* - It is hereby declared the policy of the State to adopt urgent and effective measures to address the nationwide water crisis which adversely allocate the health and well-being of the population , food production and industrialization process.

Pursuant thereto the government shall address the issues relevant to the water crisis including, but not limited to, supply, distribution, finance, privatization of state-run water facilities, the protection and conservation of watersheds and the waste and pilferage of water, including the serious matter of graft and corruption in all the water agencies.

Sec. 3. *Organization of Joint Executive-Legislative Water Crisis Commission.*- Within thirty (30) days after the effectivity of this Act, there shall be organized a Joint Executive -Legislative Water Crisis Commission. The Commission shall be chaired by the Executive Secretary, with the secretaries of the Department of Public Works and Highways and the Department of Environment and Natural Resources, and the chairmen of the appropriate Senate and House committees, as designated by the leaders of both Houses of Congress, as well as a representative of the minority from each House , as members.

There shall be a technical staff constituted by by representatives of the National Water Resources Board (NAIROBI) , the Metropolitan Waterworks and Sewerage System (MWSS) , the Local Water Utilities Administration (LWUA), the appropriate committees of the Senate and the House , and the certified workers' union in the affected water institutions.

Sec. 4. *Purposes and Objectives.* - The Commission shall have the following purposes and objectives:

a. to undertake nationwide consultations on the water crisis and in depth and detailed study and review of the entire water supply and distribution structure;

b. To enhance and facilitate cooperation and coordination between Congress and the executive department in formulating and implementing the government's water crisis management policy and strategy;

c. To recommend measures that will ensure continuous and effective monitoring of the entire water supply and distribution system of the country;and

d. To conduct continuing studies and researches on policy options, strategies and approaches to the water crisis including experiences of other countries similarly situated, and to recommend such remedial and legislative measures as may be required to address the problem.

Sec. 5. Powers and Functions. - To carry out the aforementioned purposes and objectives, the Commission is hereby authorized:

a. To secure from any department, bureau, office, agency or instrumentality of the government such assistance as may be needed, such as technical information, the preparation of reports, and the submission of recommendations or plans, as it may require;

b. To designate by resolution the watershed areas in which developmental undertakings are to be suspended; and

c. Generally, to exercise all the powers necessary, relevant and incidental to attain the purposes and objectives for which it is organized.

Sec. 6. Negotiated contracts. - For projects to be implemented under Build-operate-Transfer (BOT) and/or related schemes, the President of the Republic my, for a period of one (1) year after the effectivity of this Act, enter into negotiated contracts for the financing, construction, repair, rehabilitation, improvement and operation of water facilities and projects related to increasing water supply, its treatment and its distribution to industrial and household consumers: Provided, That here is no government financing or financing guarantee for the contracts, except for the acquisition of right-of-way.

The contracts shall be awarded only to contractors with proven competence and experience in similar projects, competent key personnel, efficient and reliable equipment ,and sound financial capacity.

Sec. 7. Reorganization of the Metropolitan Waterworks and Sewerage System(MWSS) and the Local Waterworks and Utilities Administration (LWUA). - Within six (6) months from the approval of this Act, the President of the Republic is hereby empowered to revamp the executive of any or all segments of these agencies, operations or facilities if necessary, to make them more effective and innovative to address the looming water crisis. For this purpose, the president may abolish or create offices, transfer functions, equipment, properties, records and personnel; institute drastic cost-cutting and other related measures to carry out said objectives.Moreover, in the implementation of this provision, the prescriptions of Republic Act No. 7430, otherwise known as the" Attribution Law"

shall not apply. Nothing in this section shall result in the diminution of the present salaries, and benefits of the personnel in the MWSS and the LWUA : Provided, That any official or employee of the said agencies who may be phased out by reason of the reorganization authorized herein shall be entitled to such benefits as may determined by existing laws.

The President may upgrade the compensation of the personnel of the MWSS and the LWUA at rates commensurate to the improved and efficient revenue collection of the two agencies as determined by the Board of Trustees and the same shall be exempted from the provisions of Republic Act No. 6750, otherwise known as the "Salary Standardization Law", to take effect upon a reduction of non-revenue water to forty percent (40%) and upon approval by the respective board of trustees of the MWSS and the LWUA of their budgets.

Sec. 8. *Anti-Pilferage*. - It is hereby declared unlawful for any person to:

a. Destroy, damage or interfere with any canal, raceway, ditch, lock , pier, inlet, crib, bullhead, dam, gate, service, reservoir, aqueduct, water mains, water distribution pipes, conduit, pipes, wire benchmark, monument, or other works, appliance, machinery buildings, or property of any water utility entity, whether public or private;

b. Do any malicious act which shall injuriously affect the quantity or quality of water or sewerage flow of any waterworks and/or sewerage system, or the supply, conveyance, measurement, or regulation thereof, including the prevention of, or interfere with any authorized person engaged in the discharge of duties connected therewith;

c. Prevent, obstruct, and interfere with the survey, works, and construction of access road and water mains and distribution network and any related works of the utility entity;

d. Tap, make, or cause to be made any connection with water lines without prior authority or consent from the water utility concerned;

e. Tamper, install or use tampered water meters, sticks, magnets, reversing water meters, shortening of vane wheels and other devices of steal water or interfere with accurate registry or metering or water usage, or otherwise result in its diversion in a manner whereby water is stolen or wasted;

f. Use or receive the direct benefit or water service with knowledge that diversion, tampering, or illegal connection existed at the time of that use, or that the use or receipt was otherwise without the authorization of water utility;

- g. Steal or pilfer water meters, main lines, pipes and related or ancillary facilities;
- h. Steal water for profit or resale;
- i. Knowingly possess stolen or tampered water meters ;and
- j. Knowingly or willfully allow the occurrence of any of the above.

Sec. 9. Prima Facie Evidence. - The presence of any of the following circumstances shall constitute prima facie evidence of theft, pilferage, or of any unlawful acts enumerated in Section 8 hereof:

- a. The existence of illegal or unauthorized tapping to the water main or distribution pipe;
- b. The existence of any illegal connection such as a reversed meter, shortened vane wheel, bypass or other connections which adversely affect the registration of the water meter;
- c. The presence of a bored hole in the glass cover of the water meter, or at the back of or any part of the meter including the vertical vane;
- d. The presence of tampered, or fake seals on the meters. Inspection of tampered water meters shall be done in the presence of the registered water consumer;
- e. The presence of a reversed meter in the premises, insertion of rod, wire, or stick in the meter, filed or shortened vane wheel, removal or altering of any part of the meter mechanism, use of magnet and any similar illegal devices which interfere with the meter registration;
- f. Destruction of the meter protection and other metering accessories; or
- g. Abnormal imprints, traces or marks found in the meter assembly.

The prima facie evidence shall not apply to tenants who have occupied the house or dwelling for ninety(90) days or less.

Sec. 10. Special Aggravating Circumstances. - The following shall considered as aggravating:

- a. When the violation is committed in conspiracy with at least another person, both of whom shall be considered as principals;

b. when the offense is committed by, or in connivance with, private plumber, officer or employee, of the water utility concerned, who shall all be considered as principals; or

c. when the violation is coupled with the sale from a source which is illegal, unregistered, or a source with a tampered meter.

Sec. 11. *Penalties.* - The Water utility concerned shall have the right and authority to disconnect the water services, five (5) days after-service of written notice to that effect, except on Sundays and holidays, without need of a court or administrative order, and deny restoration of the same, when a prima facie evidence of theft or pilferage shall have been established in accordance with Section 8 hereof: Provided, That a notice shall have been issued even upon discovery for the first time of the presence of any of the circumstances herein enumerated: Provided further, That the water service shall not be disconnected or shall be immediately restores upon deposit, by the person concerned, of the concerned, of the difference in the billing made by the water utility concerned: Provided, finally, That the deposit shall be credited against future billings , with legal interest thereon where the alleged theft, pilferage or current diversion has not been committed, without prejudice to being indemnified for damages in accordance with the Civil Code and other existing laws.

A written notice of seventy-two (72) hours is necessary to effect water service disconnection upon the discovery for the second time of any of the circumstances enumerated in Section 8 hereof.

Any person who shall violate Section 8 hereof shall be punished by imprisonment of six (6) months to two (2) years and a fine of not exceeding double the amount of the value of the water stolen or the value of the damaged facilities: Provided, however, That if the offender is assisted in the commission of the crime by a plumber, officer or employee of the water utility concerned, the said employee, officer or plumber shall be punished by imprisonment of two (2) years to six (6) years: Provided, further, That if the water is stolen for profit or resale, the offender shall be punished imprisonment from six (6) to twelve (12) years.

If the offender is a juridical person, the penalty shall be imposed on the chairman, president, general manager, administrator, and the officers thereof who shall have knowingly permitted, or are otherwise responsible for the commission of the offense .

Sec. 12. *Issuance of Guidelines, Implementing Rules and Regulations.* -

Within one (1) month from its organization, the Commission shall cause the issuance of guidelines, implementing rules and regulations necessary to carry out the provisions of this Act.

Sec. 13. *Commission's Report.* - The Commission shall submit a quarterly report to the President and to Congress on the implementation of this Act.

Sec. 14. *Sunset Clause.* - The Joint Executive-Legislative Water Crisis Commission shall complete its report and submit its recommendation to the President and the Congress within a period of six (6) months after its formal organization. After such period, it shall cease *functus officio*.

Sec. 15. *Separability Clause.* If, for any reason, any provision of this Act is declared unconstitutional or invalid, other parts or provisions hereof which are not affected thereby shall continue to be in full force and effected.

Sec. 16. *Repealing Clause.* - All laws, orders, rules and regulations, or portions thereof, inconsistent with this Act are hereby repealed or modified accordingly.

Sec. 17. *Effectivity Clause.* - This Act shall take effect fifteen (15) days following its publication in at least two (2) national newspapers of general circulation or in the Official Gazette.

This Act which is consolidation of H.B. No. 14471 and S.B. No. 2061 was finally passed by the House of Representatives and the Senate on June 5, 1995 and June 2, 1995, respectively.