

PROVINCIAL WATER WORKS AUTHORITY ACT

1979

BHUMIBOL ADULYADEJ REX.

Given this 24th day of February 1979

Being the 34th Year of the Present Reign

His Majesty King Bhumibol Adulyadej has been graciously pleased to proclaim that:

Whereas it is expedient to establishing the Provincial Water Works Authority;

Be it, therefore, enacted by His Majesty the King, by and with the advice and consent of the National Legislative Assembly, as follows:

SECTION 1. This Act shall be called the "Provincial Water Works Authority Act 1979"

SECTION 2. This Act shall come into force on and from the day following the date of its publication in the Government Gazette.

SECTION 3. In this Act :

"Board of Directors" means the board of directors of the Provincial Water Works Authority.

"Member of Board", means the member of the Board for Provincial Water Works Authority.

"Governor" means the governor of the Provincial Water Works Authority.

"Personnel" means the personnel of the Provincial Water Works Authority.

"Employee" means the employee of the Provincial Water Works Authority.

"Minister" means the Minister appointed for execution of this Act.

SECTION 4. The Minister of Interior is appointed for execution of this Act and empowered to issue the regulations for the purpose of this Act.

Chapter 1

Establishment, Capital Fund and Reserve Capital Fund

SECTION 5. There shall be established the authority cited as "the Provincial Water Works Authority" in short title as "PWA". This newly established Provincial Water Works Authority shall be a juristic person having the objectives to engage in and promote the business of waterworks by conducting surveys, providing sources of water and procuring raw water for production, delivery and distribution of water including undertaking other business related to or in continuous from the waterworks; for the purpose of providing utilities services to the public giving primary consideration to the interest of the country and public health of the population.

SECTION 6. The Provincial Water Works Authority shall have its head office in Bangkok Metropolis and its branch office or agency may be established at any given location inside or outside the Kingdom but establishment of branch office outside the Kingdom is subject to the prior approval of the Minister.

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SECTION 7. The Provincial Water Works Authority shall have the power to conduct any or various business within the context of its objectives pursuant to Section 5 and such powers shall include:

(1) to hold rights of ownership or rights to possession of various assets and the rights to construct, purchase, procure, sell rent, lease, hire-purchase, lend, borrow, take pawns, mortgage, exchange, assign,, transfer, take a transfer or to conduct any act or acts in respect of such assets both inside and outside the Kingdom including such donated properties.

(2) to conduct surveys, planning and development of sources of raw water including procurement of raw water.

(3) to conduct surveys, planning and construct production system, delivery and distribution of piped water.

(4) to determine the selling prices of piped water, service charges, equipment cost and other facilities cost including methods and conditions in paying for such prices and considerations.

(5) to determine criteria, methods and conditions in the use of piped water in the interest of providing utility service to the public.

(6) to prescribe regulations on use and maintenance of properties of the PWA.

(7) to seek loans or borrowing both within and outside the Kingdom.

(8) to advance loans or borrowing with collateral security of property in the interest of engaging in and promoting the business of PWA.

(9) to issue bonds or other instruments for a purpose of investment.

(10) to hold shares or enter into shareholding or joint venture with other persons in the interest of engaging in and promoting the business of the PWA.

SECTION 8. The PWA shall have the power for the purpose of distribution of piped water in the areas outside the territory of the Metropolitan Water Works Authority. However, the PWA may distribute piped water in the areas under the jurisdiction of the Metropolitan Water Works Authority subject to the consent of the Metropolitan Water Works Authority.

SECTION 9. The Capital Fund of the PWA consists of :

(1) Money and assets transferred pursuant to the provisions of Section 49 and Section 50 after reduction of liabilities.

(2) Money allocated pursuant to the National Expenditure Budget Act for a purpose of operating or expanding the business.

(3) Money or properties donated by outside persons

SECTION 10. The Reserve Capital Fund of the PWA consists of ordinary reserve fund established against shortage, reserve fund for expansion of business, reserve fund for redemption of mortgages or debts and other reserve funds as necessary for each individual purpose subject to the consent of the Board.

The Reserve Capital Funds may be spent with the consent of the Board only. :

SECTION 11. The assets of the PWA which is being used or to be used

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for the purpose of effective operations of the waterworks system shall not be subject to legal proceedings.

Chapter 2

Board of Directors and the Governor

SECTION 12. There shall be one board cited as "the Board of Directors of the Provincial Water Works Authority" consisting of the Chairman, the Director General of Public Works Department, Director General of Public Health Department, the Governor and not less than other seven persons as members of the Board.

The Cabinet shall appoint the Chairman of the Board and other members of the Board. The Governor shall be the secretary to the Board.

SECTION 13. In the interest of the business of PWA, the Board has the power to appoint the sub-committee to conduct any business of PWA and the sub-committee is to report to the Board.

SECTION 14. The Chairman of the Board or members of the Board appointed by the Cabinet must,

(1) not be personnel or employee,

(2) not have mutual interests in the business engaged with PWA or in other business competing with the business of PWA whether directly or indirectly,

(3) have the required qualifications and have no other prohibitive characteristics pursuant to the law on Qualifications Criteria for members of the Board and personnel of the State Enterprises.

SECTION 15. The chairman of the Board or members of the Board appointed by the Cabinet shall be in office for a three-year term.

In case of a member of the Board appointed by the Cabinet vacates office before the expiry date of term of office or in case of new appointments to the office during the term of office the Cabinet-appointed committee the person appointed is required to resume or replace the vacant office and shall remain in office for the unexpired term of office of the appointed member of the Board.

Upon completion of term of office pursuant to paragraph one, if new appointment of the chairman or members of the Board has not been made, the chairman or members of the Board who had completed his term of office is required to remain in office pending the appointment of a new chairman or members of the Board.

Chairmen of the Board or members of the Board who vacated office at expiry date of term of office may be re-appointed but not more than two terms of office consecutively.

SECTION 16. Unless vacating office pursuant to the provision of Section 15, the chairman of the Board or members of the Board appointed by the Cabinet shall also vacate office upon:

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- (1) death
- (2) resignation
- (3) becoming a disabled or quasi-disabled person by the Court's Decree
- (4) absence from the Committee meetings more than three times consecutively without reasonable justifications.
- (5) being removed from office by the resolution of the Cabinet
- (6) lack of qualifications or having disqualifications pursuant to Section 14.

SECTION 17. The Board shall have the power and duties to lay out policy and to have general control of the business of PWA. Such power shall include:

- (1) to prescribe regulations for the purpose of compliance with the provisions of Section 5 and Section 7,
- (2) to prescribe rules of meeting and functions of the Board and sub-committee,
- (3) to prescribe regulations on organization and administration of PWA
- (4) to prescribe regulations on functions of the governor and delegation of functions of the governor to other persons,
- (5) to prescribe regulations on job position, rate of salary, wage and other moneys of personnel and employees,
- (6) to prescribe regulation on position placement, appointment and raises in salary or wages, termination, dismissal of, disciplines, penalty and appeal against penalty of personnel and employee,
- (7) to prescribe regulations on filing grievances of personnel and employees,
- (8) to prescribe regulations on Welfare Funds or other welfare services of personnel and employees as well as their families with the consent of the Cabinet,
- (9) to prescribe regulations on transportation fees, travel expense, accommodations expense, overtime payment, meeting remunerations and other expenses,
- (10) to prescribe regulations on the uniform of personnel and employee,
- (11) to determine the selling price of piped water and rate of service charges including methods and conditions in payment of price and service charges,
- (12) to prescribe regulations on safety of use and maintenance of properties of PWA.

SECTION 18. In the regulations pursuant to Section 17, if limitations of power of the Governor in entering into legal obligations is specified, the Minister is to announce such power in the Gazette.

SECTION 19. The Board shall appoint and determine the salary of the Governor subject to the consent of the Cabinet.

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SECTION 20. The Governor must:

- (1) have no interest in the business engaged with the PWA or in the business competing with the business of the PWA whether directly or indirectly.
- (2) have the required qualifications or have no other prohibitive characteristics pursuant to the law on Qualifications Criteria for members of the Board and personnel of State Enterprises.

SECTION 21. The Governor shall vacate office upon,

- (1) death
- (2) resignation
- (3) being dismissed from the governorship by the resolution of the Board
- (4) becoming disabled person or quasi-disabled person,
- (5) absence from the Board meetings more than two times consecutively without reasonable justifications,
- (6) lack of qualifications or have disqualifications pursuant to Section 20.

The resolution of the Board for dismissal of the Governor from office pursuant to (3) must have the votes of not less than three fourth of the total number of members of the Board in office except the Governor and such resolution must have the consent of the Cabinet.

SECTION 22. The Governor has the functions and power to handle the administration of PWA in keeping with law and objectives, power and duties of PWA and in keeping with the policies and regulations prescribed by the Board together with the power to have the command of all personnel and employees of all levels.

The Governor shall be responsible to the Board in respect of administration of the business of PWA.

SECTION 23. The Governor shall have the power:

- (1) to place on position, appoint, dismiss, promote, reduce, cut salary or wages, prescribe disciplinary penalty on the personnel and employees including power to remove personnel or employee from position according to the regulations prescribed by the Board. If such personnel or employee is of advisory level, technical expert, director of department or equivalent position upwards such removal shall be subject to the prior consent of the Board.
- (2) to prescribe working- conditions for personnel and employee and to issue the regulations on operations of PWA not contravening or in conflict with the regulations prescribed by the Board.

SECTION 24. In the affairs dealing with outside person, the Governor shall represent the PWA and for this purpose, shall delegate power to any person to act on his behalf in a particular type of function but such delegation of power must conform with the regulations prescribed by the Board.

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Legal obligations entered into by the Governor in contravention of Section 18 shall not have any legal binding on the PWA unless it is ratified by the Board.

SECTION 25. In case the Governor is unable to perform his duty or in case of vacancy which remains to be filled, the Board shall appoint any one personnel to be acting Governor.

The acting Governor shall have the same power of the Governor.

SECTION 26. The chairman of the Board and members of the Board shall receive remunerations according to the regulations prescribed by the Cabinet.

SECTION 27. The chairman of the Board, members of the Board and personnel may receive bonus according to the regulations prescribed by the Cabinet.

SECTION 28. In performing duty in accordance with this Act, the Chairman of the Board, members of Board and personnel shall be content officer according to the Penal Code.

Chapter 3

Installation and Maintenance of Production System,

Delivery and Distribution of Piped Water

SECTION 29. In the interest of installing and maintaining the production system, delivery and distribution of piped water such as raw water sources, pipes, water pumping facilities, water gauging device, storage tank, filtering plant, sedimentation basin and various equipment, the personnel and employee are authorized to use or take possession of immovable properties, not residential quarters of any person, temporarily upon conditions as follows:

- (1) If such use or possession is necessary for the purpose of conducting surveys for installation or maintenance of production system, delivery and distribution of piped water or for prevention of danger or damage which may occur to production system, delivery and distribution of piped water.
- (2) When the PWA has served an advance notice in writing to the owner or possessor of immovable properties within appropriate time, but not less than 7 days, if personal contact can not be made with the owner or possessor of such immovable properties, notice of not less than 30 days will be posted at the site of such immovable properties and at the area or district office, sub-district office and village chief's office in whose jurisdiction such immovable properties are located, by giving time and date of such notice to be posted.

For the purpose of this Section, personnel or employee must produce the Identification Card to person involved.

In case the personnel or his co-workers performing duty according to this Section has caused damages to the owner or possessor or title holder of such immovable properties, such indemnity could not be reached,

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the dispute shall be settled by arbitration and in this case the law on expropriation of immovable properties shall be applied *mutatis mutandis*.

SECTION 30. For the purpose of producing, delivering and distributing piped water, the PWA has the power to lay the water pipe system and install equipment under, above, on, or across any properties if such properties are not being used as residential quarters.

The PWA shall have the power to determine the dimension of land for the purpose of laying the water pipes and installing equipment with the width of not more than 2.50 meters from each side for the pipe of more than 80 centimeters in diameter upward and the PWA is required to put up to boundary marks within the said area in keeping with the regulations prescribed by the Minister.

Within the areas prescribed pursuant to paragraph two, the PWA shall have the power to remove, dismantle any construction or any structure, cut or trundle the branches or roots of trees or other vegetations on the land by paying compensations for use of such land, removal or dismantlement of any construction thereon as the case may be, to its owner, possessor in the equitable amount unless the owner or possessor has been receiving worthwhile benefits from such use, In case settlement of the amount of compensation can not be reached, the provisions of Section 29, paragraph three, shall be applied *mutatis mutandis*.

When such compensation has been made to the owner or possessor of such land, but the owner or possessor shall refuse to accept or not be entitled to receiving the compensation, no subsequent demand for such compensation shall be permitted.

Before carrying out the above action, the PWA shall give a written notice to the owner or possessor of immovable properties concerned and the provisions of Section 29, paragraph one (2) shall be applied *mutatis mutandis*. Nevertheless, the owner or possessor of such property may file complaints expressing disagreements to such action to the Board for consideration within 30 days from the date of receipt of such notice. The decision of the Board regarding such complaints shall be final.

SECTION 31. Within the areas prescribed pursuant to Section 30, paragraph two, no person shall be permitted to construct any house or other structures, plant trees or carry out any acts which may cause danger or obstacle to the production system, delivery and distribution of piped water, unless a written permission has been obtained from the PWA. In granting such permission, the PWA may prescribe any required conditions. An array of houses, constructions, trees or anything erected or built thereon without permission from the PWA, the PWA shall have the power to remove, dismantle, cut down or doing any act or acts as it see fit without having to pay compensation for damage and at the entire expense of the violator.

SECTION 32. Under necessary and urgent circumstances for the purpose of preventing dangers or damages, the personnel and employees may enter the

land or premises of any person in order to inspect, repair or rectify the production system, delivery and distribution of piped water. If the owner or possessor is present in the premises, an advance notification shall be given to such owner or possessor by the personnel or employee.

In carrying out actions according to paragraph one, during hours of sunset to sunrise, the prior consent of the owner or possessor of the premises must be obtained. If the owner or possessor is not present at such premises, a prior consent of other persons present at the premises must be obtained.

SECTION 33. When PWA finds it necessary to acquire immovable properties for use in laying water pipes or installing the production system, if the agreement on transfer of title can not be reached, the immovable properties shall be expropriated according to the law on expropriation of immovable properties.

SECTION 34. Any person who obstructs the work of PWA or its personnel or employee performing duties according to Section 29, Section 30, Section 31 or Section 32, shall be liable to imprisonment of not more than six months or fine of not more 5,000 Baht or to both.

Chapter 4

Filing of Grievances and Welfare Services

SECTION 35. The personnel or employees are entitled to file grievances or appeals in accordance with the regulations prescribed by the Board.

SECTION 36. There shall be established by the Welfare Funds or other welfare services for the welfare of its personnel and employees and their families when they are discharged from the job, met with accidents, sick, dead or subject to other conditions eligible for welfare services.

There shall be established a welfare fund or other welfare subvention pursuant to paragraph one. Contributions to the Welfare Funds, determination of category of eligibility for the Welfare Fund, payment of welfare fund and management of the Welfare Fund shall be in accordance with the regulations prescribed by the Board.

Chapter 5

Finances, Accounting and Audits

SECTION 37. The PWA must make its annual budget by itemizing into Investment Budget and Operational Budget. For investment budget, it must be submitted to the Cabinet for information.

SECTION 38. For incomes received by the PWA each year shall become the revenue of the PWA for use as operational budget and after reduction of operational expenditures, and other consideration costs such as maintenance, depreciation, reserve capital fund according to Section 10 and contribution to the Welfare Funds or other subvention according to Section 36 and investment capital approved by the Cabinet, the balance

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thereform shall be delivered as State revenues.

If incomes are not sufficient to meet the expenditures according to paragraph one, except the Reserve Fund pursuant to Section 10 and the PWA is unable to secure money from other sources, the Government shall subsidize the PWA equivalent to the amount needed.

SECTION 39. The PWA is required to open Deposit Account with the Bank of Thailand or other banks in keeping with the regulations prescribed by the Cabinet.

SECTION 40. The PWA is required to lay and hold suitable accounting system for business categorizing-according to order of importance and to keep its ledger accounts making entry of receipts and expenditures, assets and liabilities presenting a fair and true view of its business according to the type of work; together with the statements on which such items are based and to arrange for periodic audits of its accounts.

SECTION 41. The PWA must make its Balance Sheet, Statement of Business Accounts and Profit/Loss Account to be presented to the auditor within 120 days from the end of the accounting years.

SECTION 42. The Office of the Auditor General of Thailand shall be appointed auditor to examine the statement of business accounts, certify all accounts and every category of finances of the PWA.

SECTION 43. The auditor has the power to examine various books and accounts, and relevant documents of the PWA. For this purpose, the auditor shall further have the power to question the chairman of the Board, members of the Board, the Governor, personnel and employees of the PWA.

SECTION 44. The auditor must make the report of the audits and finances to be submitted to the Board within 150 days from the end of the accounting year for further submission to the Minister.

SECTION 45. The Board is required to submit the annual report of the operations of the PWA to the Minister in which the activities of the PWA during the past year and the policies of the Board, programs and projects to be implemented during the coming year are included.

The PWA is required to publicize its annual report, balance sheet, statement of business accounts, profit/loss account correctly certified by the auditor together with the conclusive report of the operations during the past year within 180 days from the end of the accounting year of the PWA.

Chapter 6

Supervision and Control

SECTION 46. The Minister shall have the power of general supervision of the operations of the PWA. For this purpose, the Minister shall order the PWA to present facts, express opinions, make up reports or delay the action of the PWA deemed to be in conflict with the Government policies or the resolutions of the Cabinet including the power to order the PWA to comply with the Government policy or the resolutions of the Cabinet and to order the investigation of the operations of the PWA.

/SECTION 47.

SECTION 47. In case the PWA has something to be submitted to the Cabinet, such submission shall be made through the Minister.

SECTION 48. Unless approved by the Cabinet, the PWA shall not be permitted to carry out the following activities:-

- (1) Investment for expansion of old project or initiation of new project with the starting capital of more than five million Baht,
- (2) Borrowing or advancing loans of more than 5 million Baht,
- (3) Issuing bonds or other instruments for the purpose of investment,
- (4) Disposing immovable properties valued at more than 500,000 Baht,
- (5) Writing off assets valued at more than 100,000 Baht from its accounts as bad debts,
- (6) Determining the selling price of piped water,
- (7) Holding shares or entering into partnership or joint venture with other persons in the interest of engaging in or promoting the business of the PWA.

Interim

SECTION 49. An array of business, assets, rights, liabilities including budget and circulation capital for distribution of piped water in the provincial of the Public Works Department, the Ministry of Interior, for the parts related to the waterworks according to the joint decision of the Minister of Interior and the PWA shall be transferred to be of the PWA within 90 days of the date this Act goes into force.

SECTION 50. An array of business, assets, rights, liabilities including the budget of the Department of Health, the Ministry of Public Health, for the parts related to the waterworks according to the joint decision to be made by the Minister of Public Health and the PWA shall be transferred to be of the PWA within 90 days from the date this Act goes into force.

SECTION 51. The rights pursuant to Section 49 and Section 50 shall include the rights to utilize the royal properties belonged to the Public Work Department, the Ministry of Interior or the Department of Health, the Ministry of Public Health, for the parts related to the business and assets so transferred.

SECTION 52. Government officials or any employee of the Public Works Department, the Ministry of Interior and the Department of Health, the Ministry of Public Health, performing duty related to the business so transferred pursuant to Section 49 or Section 50 as the case may be, if voluntarily wishing to be transferred to be under the PWA, the intention of such transfer shall be submitted in writing to the Director of the Department to which one is attached within 30 days from the date this Act goes into force. Such government officials or employees may be transferred to be the personnel or employees of the PWA as the case may be.

Employee pursuant to paragraph one shall include the employee on revolving fund for selling the piped water in the provincial area of the

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Public Works Department.

The Government officials or employees transferred to be the personnel or employees of the PWA pursuant to paragraph one shall receive salary or wages including rights and other fringe benefits in the same amount as had previously been received for the time being pending formal job placement and appointment. However, the salary and wage of such appointments shall not be less than the salary or wages previously received.

SECTION 53. The transfer of the Government officials pursuant to Section 52 shall be regarded as being retired from the service due to dissolution of position in accordance with the law on Retirement Pension of Civil Servants.

The transfer of the employee pursuant to Section 52 shall be regarded as being retired from position due to dissolution of position of termination of employment without committing offense and shall be eligible to receiving bonus according to the Regulations of the Ministry of Finance on Employee Bonus.

In the interest of counting the tenure of service for calculation of bonus or pension according to the Regulations of the PWA (if any), any Government official or employee so transferred pursuant to Section 52 wishing to count one's tenure of service with the Government before a transfer to be the personnel or employee of the PWA as being uninterrupted may be permitted to do so upon notice of cancellation of receiving the bonus or pension.

A notice of cancellation of receiving bonus or pension pursuant to paragraph three must be served within 30 days from the date of such transfer. In case of the government officials, such notice of cancellation shall be made in compliance with the law on Retirement Pension of Civil Servants. In case of employee, such cancellation shall be submitted in writing and duly signed to the Employer for further submission to the Ministry of Finance for information.

SECTION 54. Within 180 days from the date this Act goes into force pending the appointment of the Governor, the Board may appoint any member of the Board or any personnel to be acting Governor having the same power of the Governor and for this purpose, the provisions of Section 14 shall be applied.

SECTION 55. Within two years from the date this Act goes into force, the Minister of Interior may appoint any civil official to any position in the PWA if such official is approved by the Ministry to which he is attached. Such official is entitled to receiving either one's previous salary or the salary of the new appointment in the PWA and for this purpose the provisions of Section 17 (5) Section 20 on the law regarding the Civil Service and law on Qualification Criteria of members of the Committee and personnel of the State Enterprise shall not be applied to the appointment of such official.

