

**ACT 20**

A Bill for An Act Creating a Kauai County Board of Water Supply.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 11 of Article III of the Constitution of the State of Hawaii provides for the consideration an enactment in a budget session of all urgency measures deemed necessary in the public interest. Said section 11 further provides that no urgency measure shall be considered unless a statement of facts constituting such urgency shall be set forth in a section thereof and until such action shall have been first approved by each House. Pursuant to said section 11 of Article III of the Constitution of the State of Hawaii, this act is hereby declared to be an urgency measure deemed necessary in the public interest. The following is a statement of facts constituting such urgency:

1. The Kauai Public Water Supply has been almost completely stagnant for a period of a quarter century.

2. There is no substantial economic potential now in sight other than tourism that can expand the island's earnings or employment.

3. Needed urgently are citizens with special knowledge of and ability in the fields of engineering, finance and administration and for their single-minded interest in the problems of water supply who could be assured of continuity of policy through overlapping terms of office.

SECTION 1. Chapter 147 of the Revised Laws of Hawaii 1955 is hereby amended by adding the following part and sections to be appropriately numbered:

**"PART . . . . KAUAI COUNTY BOARD OF WATER SUPPLY.**

**Section . . . . Definitions.** As used in this part, 'board' shall refer to the board of water supply of the county of Kauai, 'board of supervisors' shall refer to the board of supervisors of the county of Kauai, 'county' shall refer to the county of Kauai and 'chairman of the board of supervisors' shall refer to the chairman and executive officer of the board of supervisors.

**Section . . . . Board of Water Supply, County of Kauai.** There shall be a Board of Water Supply, to consist of seven members of whom five shall be appointive members and be appointed as hereinafter provided, and of whom two shall always be the State District Engineer from the Department of Transportation of the State and the Director of Planning and Traffic Commission of the County of Kauai. Members shall be nominated and, by and with the advice and consent of the board of supervisors, appointed by the chairman of the board of supervisors, provided, however, in the event the chairman of the board of supervisors fails to nominate and present to the board of supervisors for their consideration nominees to fill any position or positions on the board within thirty days after the effective date of this act or upon the expiration of the term of any position or upon any vacancy, then the board of supervisors may by the adoption of a resolution nominate and appoint any or all members of the board.

At least one appointed member of the board shall be an engineer duly registered under the provisions of chapter 166, Revised Laws of Hawaii 1955 at least one appointed shall be an accountant registered or certified under the provisions of chapter 164, Revised Laws of Hawaii 1955 and at least one shall be a representative of a labor organization listed with the Hawaii Employment Relations Board, provided, however, if an engineer or registered or certified accountant is not available for appointment, any other duly qualified elector of the County of Kauai may be appointed in his place and stead. No employee or officer of the state or any of its political subdivisions shall be eligible to serve as a board member, except as otherwise provided herein.

The members of the board shall serve without pay, but shall be reimbursed for their reasonable expenses incurred in the discharge of their duties as members of the board.

The term of office of each appointed member of the board shall be five years from and after the date of his appointment: provided, that of the initial members, one shall be appointed for a term to expire on January 1, 1961, one for a term to expire on January 1, 1962, one for a

term to expire on January 1, 1963, one for a term to expire on January 1, 1964, one for a term to expire on January 1, 1965. Any vacancy occurring on the board shall be filled in accordance with the foregoing provisions for the unexpired portion of the term concerned.

**Section . . . . Organization and meetings.** The members of the board shall select their own chairman and other officers. In the event of the temporary absence of the chairman, the members of the board shall select an acting chairman. The board shall hold at least one regular meeting each month. The board may adopt such rules and regulations as it may consider necessary for the conduct of its business and other rules and regulation of matters herein committed to its charge. A majority of the members of the board shall constitute a quorum for the transaction of business and the affirmative vote of at least four members of the board shall be necessary to validate any action of the board.

**Section . . . . Staff.** The board shall appoint an engineer duly registered under the provisions of chapter 166, Revised Laws of Hawaii 1955 to serve as the administrative officer of the board at its pleasure. He shall be known as the manager and chief engineer of the board and shall not be subject to the provisions of chapter 3, Revised Laws of Hawaii 1955. His compensation shall be fixed by the board. The board may appoint a deputy-manager-engineer under the terms and provisions of chapters 3 and 4, Revised Laws of Hawaii 1955, as amended.

The manager and chief engineer shall have such powers and duties as shall be prescribed by the board.

The manager and chief engineer shall have the power to appoint, suspend and discharge such other employees, subordinates and assistants as may be necessary for the proper conduct of the business of the board pursuant to the provisions of chapters 3 and 4, Revised Laws of Hawaii 1955, subject to the approval of the board; provided, however, that all present employees of the waterworks department, and all provisional, temporary and contractual employees of the waterworks department who are presently employed in such position, are transferred to the board under the provisions of chapters 3 and 4, Revised Laws of Hawaii 1955.

The board may require a bond in such amount as it deems proper from the manager and chief engineer or deputy or from any employees. The premiums of such bond or bonds shall be paid by the board.

**Section . . . . Powers and duties of board.** The board shall manage, control and operate the waterworks of the county and all property in connection therewith or necessary therefor, for the purpose of supplying water to the public in the county, and shall collect, receive, expend and account for all sums of money derived from the operation thereof and all other monies provided for the use or benefit of such waterworks and all property—used for or held in connection therewith.

**Section . . . . Legal department.** The county attorney shall be the legal adviser of the board and shall prosecute and defend, as the board may require, any and all actions and proceedings involving matters under its jurisdiction. He may, with the prior approval of the board, compromise, settle or dismiss any litigation or proceedings which may be pending for, or on behalf of or against the board relative to any matter or property under its jurisdiction.

**Section . . . . Outstanding obligations.** All outstanding obligations in connection with the operation of the waterworks shall be paid by the board out of waterworks funds.

**Section . . . . Purchase and sale of waterworks property; contracts.** The board may contract for work, and purchase supplies, materials or equipment, when the cost of the same can be met from the revenues or reserves of the waterworks, or from the proceeds of bonds authorized for the waterworks. All contracts shall be executed in the name of the board and shall be signed by the chairman or acting chairman of the board.

The board may sell or otherwise dispose of any buildings, materials, supplies or equipment, under its control, when no longer used or useful for its purpose; provided, however, that such buildings, materials, supplies or equipment shall first be offered at its depreciated or market value to the board of supervisors. All documents of transfer of such buildings and personal property shall be executed in the name of the board and shall be signed by the chairman or acting chairman thereof. All proceeds of any such sale shall be deposited with the county treasurer and be by him placed to the credit of the board.

**Section . . . . Construction, additions, extensions, increases, betterments and improvements.** The board shall locate and determine the character and type of all construction and additions, extensions, increases, betterments and improvements to the waterworks, and shall determine the policy for construction or the making of additions, extensions, increases, betterments and improvements out of any public funds under its jurisdiction.

**Section . . . . Accounts, revenues and expenditures.** The board shall maintain proper accounts in such manner as to show the true and complete financial status and the results of management and operation.

The accounts and financial status of the board shall be examined annually by the county auditor who shall report thereon to the board.

**Section . . . . Reserve fund.** The board may provide for the accumulation of a fund for the purpose of financing major replacements, or extensions and additions, the average estimated annual increment to which, for a period of ten years, shall not exceed fifteen per cent of the gross revenue of the board in any fiscal year.

**Section . . . . Revenue bond sales.** The county treasurer shall, when so directed by the board, sell such bonds as may be authorized for the acquisition, construction, replacement, extension or completion of the waterworks; provided, that such sale shall otherwise be conducted in accordance with the procedure specified by the law for the sale of such bonds. The proceeds from such sales shall be kept by the county treasurer in a separate fund to be used only for the purposes for which such bonds were sold.

**Section . . . . Provisions for payment of bonds, etc.** Whenever there are outstanding any bonds of the county representing monies heretofore or hereafter expended upon the waterworks system, the funds in the county treasury to the credit of the board shall be drawn upon by the county treasurer to the extent necessary from time to time to provide for payment of such bonds and the interest thereon according to the

tenor and terms thereof, the monies so drawn to be placed to the credit of the appropriate sinking fund and used for such purpose.

**Section . . . . . Operating expenses, reserves and appropriations.** All receipts of the board, other than from the sale of bonds, shall be paid daily into the county treasury and maintained in a special fund. The board may make appropriations and allowances from the fund for the following purposes, viz: (a) For the payment of the operating and maintenance expenses of the waterworks; (b) for repairs, replacements, additions and extensions; (c) for accident reserve, pension charges and compensation insurance; (d) for payment of interest and sinking funds on all bonds issued for the acquisition or construction of the waterworks and extensions thereto and for the reserve fund.

**Section . . . . . Disbursement of funds.** The county treasurer shall disburse all monies of the board only upon warrants issued by the county auditor on vouchers signed by the chairman or acting chairman of the board.

**Section . . . . . Rates.** The board shall have the power to fix and adjust rates and charges for the furnishing of water and for water service; to collect and by appropriate means, including the discontinuance of service to delinquent consumers, or commencement of civil action in the name of the board, enforce the collection of such rates and charges; and to adjust and settle all complaints, claims and accounts of consumers or the public. All water furnished to the county or any department thereof or to the state or any department thereof shall be charged to the respective departments and shall be payable to the board by the respective departments at such rates and times established by the board, and, upon the failure of such departments to make payment when payment is due, then the auditor of the county of Kauai and the comptroller of the Department of Accounting and General Services of the State of Hawaii shall pay from the account of such department or departments all delinquencies as certified to by the chairman of the board.

**Section . . . . . Acquisition of lands.** The board may, in the name of the county, acquire and take by purchase, lease or otherwise, all property situated within the limits of the county that it may determine necessary for the construction, maintenance, extension or operation of the waterworks system.

**Section . . . . . Agreements for joint use of utilities.** The board may enter into such arrangements and agreements as it deems proper for the joint use with any other person owning the same, or having jurisdiction of the same, of poles, conduits, towers, stations, aqueducts and reservoirs for the operation of any of the properties under its jurisdiction.

**Section . . . . . Pensions.** All officers and employees of the board shall be entitled to the benefits of the provisions of Part II of chapter 6, Revised Laws of Hawaii 1955, as amended. The employee's contribution to the retirement fund, as provided thereunder, shall be paid from the funds under the control of the board.

**Section . . . . . Deposit of money in banks.** All monies deposited in the office of the county treasurer belonging to the board shall be deposited in such manner and upon such provisions and requirements, as provided by Chapter 133, Revised Laws of Hawaii 1955, as amended, the county treasurer and the chairman of the board shall have the same

rights, powers and duties as devolve upon the State, its treasurer and the Governor, respectively, with respect to State funds so deposited. All interest received by the county treasurer upon monies belonging to the board shall be credited to the board.

**Section . . . . Name and service of process; claims against board.** The board created herein shall be known as the 'board of water supply, county of Kauai' and may sue and be sued under such name. Service of process in all matters affecting the board, or any property under its jurisdiction, may be made by service upon any member of the board or on its manager. Any action commenced or prosecuted for the recovery of damages for any injury to any person or property by reason of the negligence of the board or of any of its agents, servants or employees, shall be commenced and prosecuted against the board. No action shall be maintained for the recovery of any such damage, unless a written statement verified by the oath of the claimant, setting forth the nature and items of the claim, and the time and place where the alleged injury may have occurred or where the damage was sustained, has been filed with the board within six months after the date of the sustaining of the injury or damage; otherwise there shall be no recovery on the claim."

SECTION 3. All existing contracts of the county of Kauai affecting the affairs of the water department of the county of Kauai which are in effect as of the effective date of this Act shall also bind the board of water supply of the county of Kauai.

SECTION 4. The board of supervisors may advance to the board such sums as shall be necessary for the operating expenses of the board during its first year of operation, which sums shall be reimbursed to the county of Kauai within five years after the effective date of this Act. The board of supervisors shall provide necessary office and base yard space and facilities for the use and occupancy of the board.

SECTION 5. Chapter 145A, Revised Laws of Hawaii 1955, is hereby amended by deleting all references to the county of Kauai.

SECTION 6. This Act shall take effect upon its approval.

(Approved May 10, 1960.) **H.B. 403.**

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