

**ACT 155**

A Bill for an Act Relating to County Boards of Water Supply.

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

SECTION 1. Chapter 145A, Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows :

**“CHAPTER 145A  
COUNTY BOARDS OF WATER SUPPLY**

**Sec. 145A-1. Definitions.** As used in this Chapter :

‘Board’ means the board of water supply of each county ;

‘Council’ means the board of supervisors or council of each county ;

‘County’ means a county or city and county of the State ;

‘County attorney’ means the legal advisor of a county ;

‘County auditor’ means the auditor or finance officer of a county performing the audit function ;

‘County treasurer’ means the county official maintaining its treasury ;

‘Mayor’ means the chairman of the board of supervisors or executive officer of a county.

**Sec. 145A-2. Boards of water supply.** If a county does not have an existing board of water supply, there shall be a board of water supply for each county consisting of seven members of whom five shall be nominated, and by and with the advice and consent of the council, appointed by the mayor, one of whom shall be the state district engineer of the state department of transportation and one of whom shall be the chief engineer of the respective county.

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 the date of his appointment ; provided, that of the initial members one shall be appointed 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 ; one for a term to expire on January 1, 1966 ; and one for a term to expire on January 1, 1967. Any vacancy occurring on the board shall be filled in accordance with the foregoing provisions for the unexpired portion of the term concerned.

**Sec. 145A-3. Organization and meetings.** The members of the board shall select their own chairman and other officers.

If the chairman is absent, 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 rules and regulations necessary for the conduct of its business.

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.

**Sec. 145A-4. Staff.** The board shall appoint an engineer duly registered under the provisions of chapter 166 to serve as the administrative officer of the board. He shall be known as the manager and chief engineer of the board and shall be subject to the provisions of chapter 4. The manager-engineer shall appoint a deputy-manager-engineer who shall be an engineer duly registered under the provisions of chapter 166 and who shall be subject to the provisions of chapters 3 and 4.”

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

The manager and chief engineer may appoint, suspend or discharge other subordinate employees as may be necessary for the proper conduct of the business of the board in conformity with chapters 3 and 4, provided that all present employees of the waterworks department of a county, and all provisional, probationary, temporary and contractual employees of such waterworks department shall be transferred to the board under their present respective status and under the provisions of chapters 3 and 4.

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

**Sec. 145A-5. Powers and duties of board.** The board shall manage, control and operate the waterworks of the county and all property thereof, 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.

**Sec. 145A-6. Legal department.** The county attorney shall be the legal advisor 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.

**Sec. 145A-7. Outstanding obligations.** All outstanding obligations in connection with the operation of the waterworks shall be paid by the board out of waterworks funds.

**Sec. 145A-8. 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, that such buildings, materials, supplies or equipment shall first be offered at its depreciated or market value to the council. 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.

**Sec. 145A-9. 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.

**Sec. 145A-10. 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. The board may, whenever necessary in connection with the issuance of any bonds, employ a certified public accountant to make an audit of the accounts and financial status of the board.

**Sec. 145A-11. 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.

**Sec. 145A-12. 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.

**Sec. 145A-13. 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 purposes.

**Sec. 145A-14. Operating expenses, reserves and appropriations.** All receipts of the board other than from the sale of bonds shall be deposited daily in a bank by the board and the sums so deposited shall be accounted for and be paid into the county treasury at the end of each month 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.

**Sec. 145A-15. Disbursement of fund.** 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.

**Sec. 145A-16. Rates.** The board shall have the power to fix and adjust rates and charges for the furnishing of water and for water service; provided no rates or charges shall be fixed or adjusted prior to the holding by such board of a public hearing, notice of which shall have been published in a newspaper of general circulation (one publication) not less than four days before the date of such public hearing and such notice shall set forth the time, place of the hearing and the proposed rates and charges to be considered thereat. The board shall have the power 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 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.

**Sec. 145A-17. 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.

**Sec. 145A-18. 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.

**Sec. 145A-19. Pensions.** All officers and employees of the board shall be entitled to the benefits of the provisions of Part II of chapter 6. The employer's contribution to the retirement fund, as provided thereunder, shall be paid from the funds under the control of the board.

**Sec. 145A-20. 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, 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.

**Sec. 145A-21. Name and service of process; claims against the board.** The board created herein shall be known as the board of water supply of the county in which it is created, 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 a 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.

**Sec. 145A-22. Advances.** The council may advance to the board such sums as shall be necessary for the operating expenses of the board during its first year of operations, which sum shall be reimbursed to each respective county within 5 years after the date of this Act. The council shall provide

necessary office and base yard space and facilities for the use and occupancy of the board.”

**SECTION 2. Existing Contracts.** All existing contracts affecting the affairs of the water department of a county wherein a board of water supply is created pursuant to this Act and which are in effect as of the effective date of this Act shall also bind and become contracts of such board of water supply, and all monies heretofore appropriated for such contracts or other improvement projects affecting the affairs of the water department of such county and all monies heretofore appropriated for the use of the water department of such county shall be credited to such board.

**SECTION 3. Applicability.** This Act shall not apply to any county which has an existing board created pursuant to law.

**SECTION 4.** This Act shall take effect upon its approval.

(Approved July 7, 1961.) **H.B. 1166.**

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