

Republic of Liberia

The National Water, Sanitation & Hygiene Commission Act of 2012



Submitted: xxxxxxxx, 2012

Preamble

Whereas a vibrant Water, Sanitation and Hygiene sector supported by direct National Government and development partners investment is critical to the rapid economic recovery, reconstruction and development of Liberia;

Whereas in order to have a healthy people, the Government of Liberia must craft sound policies that ensure that the health and well-being of the people of Liberia shall be best achieved by a favorable and improved Water, Sanitation and Hygiene Services (WASH) that will guarantee the healthiness of the lives of the people;

NOW THEREFORE, IT IS HEREBY ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE REPUBLIC OF LIBERIA, IN LEGISLATURE ASSEMBLED:

Section 1: Short Title: This Act shall be known as the National Water, Sanitation & Hygiene Commission Act of 2012.

Section 2: Definitions

In this Act unless the context otherwise requires:

2.1 “**Commission**” means the National Water, Sanitation & Hygiene Commission (NWSHC):

2.2 “**Country**” means the Republic of Liberia

2.3 “**EPA**” means the Environmental Protection Agency

2.4 “**Equity**” refers to an equal interest (including a beneficial interest) in an enterprise entitling the holder thereof to participate in the income and profits of such enterprise;

2.5 “**Government**” means the Government of the Republic of Liberia;

2.6 “**Incentives**” include fiscal benefits, facilities, entitlements and exemptions conferred on an enterprise to which this Act applies for the purpose of promoting the economic growth and development of Liberia;

2.7 “**Investment**” includes direct and indirect investments and portfolio investments;

2.8 “**LWSC**” means the Liberia Water and Sewer Corporation

2.9 “**MLME**” means the Ministry of Lands, Mines and Energy

2.10 “**MoE**” means the Ministry of Education

2.11 “**MoH**” means the Ministry of Health

2.12 “**Person**” means a person of the Commission;

2.13 “**Portfolio investment**” means an investment in water and sanitation facilities in Liberia; and

2.14 “**UNICEF**” means the United Nations International Children's Education Fund

2.15 **WSS**- Water Supply Sanitation

CHAPTER 1: Establishment of the National Water Sanitation & Hygiene Commission

Section 1: The Commission Established. There is hereby established the Liberia National Water, Sanitation & Hygiene Commission.

Section 2: The mandate of the Commission is to promote and regulate the development, management of water, sanitation and hygiene services and serves as the principal government entity on water, sanitation and hygiene (WASH) throughout the Republic of Liberia.

Chapter 2: Functions

The functions of the National Water, Sanitation & Hygiene Commission shall include the following:

- a) To develop, promote and encourage a national agenda on the improvement of water, sanitation and hygiene services for the health, growth and development of the people of Liberia.
- b) To oversee implementation of this Act and the Water Supply and Sanitation Policy;
- c) In collaboration with the Ministry of Lands Mines & Energy, Ministry of Public Works, Ministry of Health, the Liberia Water and Sewer Corporation and other relevant Government Institutions shall encourage and foster support for the governance of water, Sanitation and Hygiene (WASH) sector.
- d) To build the capacity of local communities on sanitation and hygiene as a priority for sustainable livelihood.
- e) To participate in the evaluation and award of WSS investment to private investor or other WSS development rights with respect to assets of the Republic to the extent from time mandated by other laws, and in any case to assist or, where authorized by law, to lead Ministers in the review and evaluation and award to investors WSS development rights with respect to assets of the state.

- f) To be solely responsible for issuance of WSS service and development licenses to all stakeholders, in the interest of promoting private public partnership;
- g) To engage prospective domestic and foreign investors to invest in WASH;
- h) To provide standards, guidelines and recommendation to municipal and local authorities on the disposal of waste and other hazardous substances that affect the quality of water and sanitation;
- i) To collect, collate and analyze data and efficiently disseminate information about WSS for the development of the sector;
- j) To be a means through which Government equity participation in WSS provision for all is held and adequately financed;
- k) To promote the sustainability of safe water and related sanitation services in rural communities and villages;
- l) To engage Municipal, local authorities and local CSOs in the design, planning, construction and community management of projects related to safe water supply and related sanitation services;
- m) To formulate strategies for the effective mobilization of resources for the execution of safe water development and related sanitation programs in rural communities and villages;
- n) (c) To support private sector participation in related sanitation and hygiene services in rural communities;
- o) To provide technical support to local communities and villages in the planning and execution sanitation projects;
- p) To collaborate with the Ministries of Education, Health and the Environmental Protection Agency and municipal authorities in providing education on sanitation and waste management

Chapter 3: Powers of the Commission

The Commission shall have and exercise the following powers:

- (a) To sue and be sued;
- (b) To have all powers, rights and privileges specifically granted or conferred upon public authorities by the laws of the Republic of Liberia now or hereafter in force. The powers herein enumerated are not intended to be a waiver of any of the powers rights and privileges specifically granted to or conferred upon public authorities by the laws of the Republic of Liberia now or hereafter in force. The Commission is granted the power to do any and all things legally necessary and appropriate within the confines of its mandate in carrying out its functions and powers.
- (c) To issue rules and regulations as may be necessary to effectively carryout the powers and purposes here in provided, including the plans, programs and projects of the COMMISSION,
- (d) To solicit support and funding from relevant donors and developmental partners in pursuit of the objective of this act; and
- (e) To establish regional and or county offices within all parts of Liberia.
- (f) To enter and negotiate the implementation and execution of water, sanitation and hygiene contracts and/or monitor the performance of such undertakings.

Chapter 4: COMPOSITION, APPOINTMENT AND TENURE

Composition

Section 1. The commission shall be headed by a **Chairman** who shall be the Chief Executive Officer and head of the Commission and shall be appointed by the President with the consent of the Senate. The Chairman shall hold office for four (4) years and may be reappointed for an additional term provided that in no instance shall the Chairman serve more than two terms whether successive or separate.

FUNCTIONS OF THE CHAIRMAN OF THE WASH COMMISSION

The Chairman of the Commission shall have the following duties and functions:

- a. Be the head of the Commission and ultimately responsible for the administrative operations of the Commission;
- b. Serve as the official spokesperson for the Commission;
- c. Preside over all meetings of the Commission;
- d. Represent the Commission in all conferences, except where he or she designates the Executive Director or member of the staff to represent the commission.
- e. To submit to the President for transmissions to the regular session of the Legislature, annual reports to include an account of all monies received and disbursed by him or her during the preceding year and make any recommendations deemed necessary for the effectual accomplishment of the purpose of the Commission.
- f. To specify the duties of the officers of the Commission whose functions are not stated in this Act.
- g. To discharge such other duties as the President may from time to time prescribe to the Commission.

Section 2:

BOARD OF DIRECTORS

Board Established. There is hereby established a Board of Directors who shall manage the business and affairs of the Commission.

Section 3:

Composition of the Board .

There shall be a Governing Board constituted by the President of the Republic of Liberia. The Governing Board shall be headed by the Minister of Public Works. Other members shall include the Minister of Lands, Mines & Energy, Liberia Water and Sewer Corporation, Minister of Health, Minister of Education, the National Public Health Institute of Liberia, Environmental Protection

Agency, a Civil Society Organization (CSO) involved with WASH initiatives and a member from the private sector. Board members serving on the Commission shall not receive remuneration for their work on the commission.

All members of the Board shall be citizens and residents of the Republic of Liberia. They shall have demonstrated executive competence and experience in the field of Water and Sanitation. No person shall be appointed as member of the Board unless he/she is of unquestioned integrity.

Removal

A member of the Board may be removed from office by the President, for cause, to include but not limited to the following:

- a) Inability to perform the functions of the office;
- b) Misconduct and breach of duties as a Board member;
- c) For fraud or dishonesty; or
- d) Failure to timely disclose a material conflict of interest

Section 4:

Functions of the Board:

It shall be the duty of the Board, within the limits of its resources:

- a. Approve and ratify the internal policies of the Commission;
- b. To approve the annual and or supplemental budgets of the Commission;
- c. Authorize the opening bank accounts for the funds of the Authority
- d. Approve the terms and conditions for the employment and emoluments of the personnel of the Authority;
- e. To formulate , prescribe ,amend, and repeal rules and regulations to govern the conduct of the Commission;
- f. To do such other acts and perform such other functions as may be necessary to carry out the functions of this Act;

Section 5:

Meetings of the Board

(1) The Board shall meet for the dispatch of business at such time and to such places as the chairman may determine but shall meet at least once every month.

- (2) The Chairman of the Board shall, upon the written request of the Chief Executive or not less than one-third of the membership of the Board, convene a special meeting of the Board.
- (3) The quorum of a meeting of the Board shall be five
- (4) Every, meeting of the Board shall be presided over by the Chairman or in his absence by a member of the Board elected by the members present from among their number.
- (6) The Board may co-opt any person to act as an advisor at its meetings but no co-opted person is entitled to vote at the meeting.
- (7) The Chairman of the Commission shall serve as secretary to the Board during Meetings.

CHAPTER 5:

Structure and Personnel of the National Water, Sanitation and Hygiene Commission

The Commission shall have a secretariat, headed by an **Executive Director** who shall be hired through a merit based appointment procedure led by the Liberia Civil service Commission and shall serve as the principal deputy reporting directly to the Chairman.

He/She shall serve as Secretary to the Commission and be responsible for the daily administrative and technical operations of the Commission. The Secretariat shall render technical, professional, administrative and clerical assistance to the Commission in the pursuit of its mandate. There shall be established core departments/divisions/units where necessary with the advice of the Liberia Civil Service. All departments must report directly to the Executive Director.

Section 1:

Offices

The Principal Office of the Commission shall be located in the County of Montserrado, Republic of Liberia.

The Commission shall, in addition to its Principal Office, establish and maintain county or regional offices in such number as it may deem necessary within the Republic of Liberia and close or terminate any of them, and thereafter reopen and reactivate them according to its requirements.

Section 2:

Financial Accounting, Reporting and Auditing

Accounting

The National Water and Sanitation & Hygiene Commission shall have the same fiscal year as the Government of Liberia and shall be funded by the Government of Liberia and by development partners either as direct technical assistance as grants or donations. Also, the Commission shall develop resource mobilization strategy with the objective of sourcing funding from development partners to fund programs of the Commission.

All revenues of the Commission shall be required to be paid into, or shall be transferred on receipt to, the general account of the Government maintained under control of the Ministry of Finance and Development Planning in accordance with the public finance management laws of the Republic of Liberia. The Commission shall participate in the budget preparation and allocation process of the Government in accordance with the budgeting and public finance management laws and regulations of the Government of Liberia. The Commission shall submit such and other reports as are requested by the Legislature.

In furtherance of the laid down financial reporting responsibilities, the Commission shall:

- a) Keep proper books of accounts and proper records in such form as public finance management laws may direct;
- b) In every respect comply with such laws as exist for public finance management and procurement for statutory corporations and Government Ministries; and
- c) Within three (3) months of the end of every financial year, produce and publish a report on its activities during the financial year. The Commission shall also provide such additional reports as the Board may request.

Section 2.1 Auditing

The accounts of the Commission shall be subject to an annual audit to be conducted by the General Auditing Commission or an independent auditing firm sanctioned the General Auditing Commission. Such audit shall occur within such period after the end of each fiscal year as shall be specified by the General Auditing Commission.

Section 2.2 : Code of Conduct

All information furnished to the Commission and directly related to WASH proposal shall be absolutely confidential and shall, be subject to public disclosure requirements of Government, not be disclosed by the Commission or the Secretariat.

It is unlawful for any member of the Commission or officer or employee of the Secretariat to accept compensation from WASH service providers or potential investor in WASH for his or her personal benefit or to suggest or arrange for compensation for the benefit of a related person in connection with the individual who does so shall be subject to such lawful sanctions as shall be recommended by the ministry of justice or the Anti-Corruption Commission for prosecution under law.

Any member of the Commission or officer or employee of the Secretariat who has, or who has related person who has, an economic interest in any matter as to which the Commission by law participates in the decision or as to which the interest known to the executive director of the Commission and the Director of Regulation of the Secretariat and must refuse himself or herself from participation in such matter.

2.3 EMPLOYEES OF THE COMMISSION

- A. All employees working at the Commission shall be under the discipline, supervision and functional control of the Commission.
- B. The Commission may appoint employees as may be required to carry out its functions, and the service, terms and facilities of the employees so appointed shall be as prescribed by the rules framed by the Commission.
- C. The Commission shall remain adherent to the Civil Service standing orders on employees of the Government of Liberia

CHAPTER 6

Transitional Provision

Notwithstanding the repeal of WASH Act that may have existed, any incentives agreement executed under it shall remain in force subject to the transitional rules enacted under the Water Supply and Sanitation Policy of 2009 as an amendment.

Any application pending before the National Water & Sanitation Commission upon the entry into effect of this Act shall be deemed to be pending under this Act and shall, if eligible, receive incentives available under the Water Supply and Sanitation Policy of 2009 as amendment or any other applicable law.

The mention of particular matters in this section shall be without prejudice to the general application of the provisions of laws governing the interpretation of statutes, which relate to the effect of repeals or amendments to the Water Supply and Sanitation Policy of 2009.

Section 1: Entry into Force

This Act shall come into force upon its passage by the House of Representatives and House of Senate and immediately upon publication in handbills.

ANY LAW TO THE CONTRARY NOT WITH STANDING

Sponsored By: Hon. Munah E. Pelham-Youngblood
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