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TARABA STATE WATER, SANITATION AND HYGIENE SERVICES LAW

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TARABA STATE OF NIGERIA
TARABA STATE WATER, SANITATION AND HYGIENE SERVICES LAW, 2019.

LAW NO: 7 OF 2019

A LAW TO PROVIDE FOR THE ESTABLISHMENT OF THE TARABA STATE AGENCY FOR WATER SANITATION SERVICES, REGULATION AND CONTROL AND FOR OTHER PURPOSES CONNECTED THEREWITH.

Date of Commencement

(.....)

Enactment

BE IT ENACTED by the House of Assembly of Taraba State of Nigeria as follows:

Citation and Commencement

1. This Law may be cited as the Taraba State Agency for Water Sanitation Services Law, 2019 and shall come into operation on the day of 2019.

Application

2. This Law shall apply to Taraba State Agency for Water Sanitation Services, Regulation and Control; Taraba State Water Supply and Sewerage Corporation; Taraba State Small Town Water Supply and Sanitation Agency, Taraba State Rural Water Supply and Sanitation Agency, Private Water and Sanitation Service Providers.

Interpretation

3. In this Law, unless the context otherwise requires:

“**Abstraction**” in relation to water contained in any source of supply, means the doing of anything whereby any of that water is removed from that source of supply, whether temporarily or permanently, including anything whereby the water is so removed for the purpose of being transferred to another source of supply.

“**Adviser**” means a person appointed in writing, who has or have appropriate skills and experience to assist and advise in achieving informed decisions concerning the effective delivery of the defined service, including, if appropriate, the preparation and conclusion of PPP Agreement.

“**Agency**” means any of the following TAWASREC, STOWASSA and RUWASSA as it shall apply in each parts of this law.

“**Authority**” means the institutions established to administer, control and supply services under this law.

“**Aquifer**” means an underground geological formation able to store and yield water.

“**Authorized Officer**” means any member of staff of the institution duly authorized in writing to act on its behalf.

“**Basic Water Supply**” means the prescribed minimum standard of water supply services necessary for the reliable supply of a sufficient quantity and quality of water to households, including informal households,

to support life and hygiene, as specified from time to time by the National Council on Water Resources in Nigeria (NCWR).

“Board” means the Governing Board of any institution under this law.

“Chairperson” means the Head of the Board of any of the institution specified under this law.

“COMEG” means Council of Mining Engineers and Geologists.

“COREN” means Council for Regulation of Engineering in Nigeria.

“Customer” means any person who is supplied with water and/or sanitation services or any person who otherwise uses the services and is liable for the payment of approved tariff.

“Contravention” means failure to comply with any law, approved guideline or regulation for the purpose of water supply and sanitation services.

“Corporation” means the Taraba State Water Supply and Sewerage Corporation.

“District/Area Office” means a sub office established for effective delivery of services and easier administration to a delineated boundary.

“Distribution System” means any operator’s networks or mains, pipes, pumping stations and reservoirs through which water is conveyed to Customers.

“Domestic supply” means water from any waterworks used in any household for drinking, washing, cooking, or for baths or any other purpose of domestic life.

“Dwelling house” means any premises used wholly or mainly for the purposes of private dwelling, with or without any garage, outhouse, garden, compound, yard, court, forecourt or other appurtenances belonging thereto or usually enjoyed therewith;

“Excess consumption” means;

(a) in the case of a tenement which is exempt from the general water rate, any quantity of water ascertained by meter as having been used in such tenement;

(b) in the case of a tenement in respect of which the general water rate is paid, any quantity of water ascertained by meter as having been used in such tenement in excess of such monthly allowance as may be prescribed; “Essential Service” includes hospitals; fire Services, orphanages, public schools and other Customers as may be prescribed by the Regulatory Agency

“Emergency Situation” means any situation declared as such by the Governor or the Ministry that poses a risk to health, life, property or the environment.

“Feasibility Study” means the internal and external mechanism assessment described under Schedule One, section 9 of this law.

“Financial year” means the period of twelve months beginning from 1st January and terminating on the 31st of December or as may be prescribed as such in the financial Regulations and Laws of the State”.

“Fire Authority” means any Authority or body of firefighters duly constituted, organized or established under any enactment or Law by the Federal, State or Local Government.

“Functions” includes objectives and duties.

“Gazette” means the official gazette of the Taraba State Government. “Governor” means the Governor of Taraba State of Nigeria

“**Ground water**” means water from underground sources “**Hygiene**” means conditions or practices conducive to maintain health and preventing diseases, especially through cleanliness;

“**IDDMCs**” means Internally Delegated District Management (Performance Contracts)

“**Information**” includes anything contained in any official record and communication.

“**Local Government**” means any Local Government Council having jurisdiction over a specific area for the purpose of this law.

“**Land Holder**” in relation to land, means a registered owner of the land or the person in whom the land otherwise vested by law, and includes:

(a) Any person who by any established right, custom or estate is entitled to be the holder or possessor of a land;

(b) Any person lawfully holding or occupying land in accordance with the provisions of any law;

(c) and or any person to whom a mining lease or mining license location has been granted under the Mining and Mineral Act.

“**Leakage**” means the loss of water from the water service Provider distribution system or from parts of service pipes.

“**License**” shall mean the certificate of permit to be issued by the appropriate authority stating the information that may be required or as shall be determined.

“**Manhole**” means any chamber constructed on a closed drain so as to provide access thereto for inspection and cleaning.

“**Meter**” includes any appliance used for measuring, ascertaining or regulating the volume of water taken, used, or discharged from any waterworks by means of any service.

“**Metered supply**” means the supply of water, where the water supply is measured by meter.

“**Member**” means a Member of the Governing Board and shall include the Chairperson.

“**Ministry**” means the Ministry responsible for Water Resources.

“**NSDWQ**” means Nigerian Standard for Drinking Water Quality.

“**Non-Domestic Supply**” means any water from all waterworks used for the purpose of, or in carrying on, any trade, business or manufacture, or from watering fields or gardens cultivated or occupied as a means of pecuniary profit, or for private fountains, or for any ornamental purpose, or for the supply of ponds or tanks, or for laundries or public wash-houses or public baths, vessels, ship, boats or machinery, and includes the water used or consumed by any person resident in or occupying any premises where a non-domestic supply is given as well as any water taken or used from any waterworks for the use of any local government or Federal or State Government establishment or department;

“**Occupier**” in relation to premises means the person in occupation of the whole or of any part of such land but does not include a lodger or squatter.

“**Owner**” includes the person for the time being receiving the rent of the tenement in respect of which the water is used whether on his own account or as agent or trustee of any other person or who would receive the rent if such tenement were to be let to a tenant and includes the holder of a tenement from the Governor whether under lease, license or otherwise.

“Person” means an individual (natural), corporate entity (artificial), duly recognized under the Companies and Allied Matters Act, or as defined under the Interpretation Act.

“Pollution” means man-induced alteration of the chemical, physical, biological, and radiological integrity of the environment.

“Premises” means land with buildings, distinct or separate holding or tenancy or any wharf or pier, or any tract of land used for any purpose.

“Private Sector Participation (PSP) Agreement” means a concession agreement, affermage agreement, management agreement or any agreement entered into by or on behalf of the State and a private sector person selected by the state through a competitive process:

- (i) To provide prescribed water and/or sanitation services or
- (ii) To improve, rehabilitate or expand the network of prescribed water services capabilities within the State.

“Public Private Partnership (PPP) Agreement” means

- A contract between public sector (institution) and private sector (Private Party)
- Private Party performs an institutional function and/or uses state property in accordance with output specifications
- Substantial transfer of financial, technical and operational risk to the Private Party
- Private Party benefits through unitary payments by institution and/or user fees
- Institution retains major role as main purchaser of the services or as main enabler of the project.

“PPP Project Adviser” means a person appointed by the Corporation to provide hands- on technical assistance from the date of registration to the completion of a project, including, if appropriate, the signing of a PPP agreement, and in the development and delivery stages.

“Procurement stage” means the period from project initiation until the contract is executed.

“Records” include computer records and other records kept otherwise than in a document.

“Public Fountain” means any fountain, standpipe, valve, tap or appliance, used or intended to be used for or in connection with the supply of water to the public from any waterworks,

“Public Utility Corporation” means any such body corporate directly established by any Law enacted by the State or the Federal Government, or any enactment having effect as if so enacted, as the Executive Governor may by notice in the State Gazette declare to be a public utility corporation for the purposes of this Law;

“Reasonable time” means the time between 6am and 6pm or in an emergency situation any time authorized by the Chief Accounting Officer of any of the Agencies or Corporation ;

“Rural” means community or population less than 5,000 or as may be determined by the relevant authority.

“RUWASSA” means Rural Water Supply and Sanitation Agency.

“Sanitation Service” means the provision of facilities and services for the safe management of human excreta including its safe confinement, treatment, disposal and associated hygiene related practices.

“**Service**” means pipes, valves, cisterns, cocks, fittings, or other appliances. or devices (excepting any meter as herein defined) by or through which water flows or is intended to flow from any waterworks or which are or may be used for the purpose of supplying any tenement from any waterworks;

“**State Waters**” means waters from sources in Taraba State of Nigeria other than such sources as may be declared by the Federal Government to be sources affecting the State and another State;

“**Small Town**” means population of 5,000 but not more than 20,000 or as may be determined by the relevant authority.

“**Sanitation**” means the provision of facilities and services for the safe management of human excreta, solid and animal waste including its safe confinement, treatment, disposal and associated hygiene-related practices. In addition generation of industrial and other specialized or hazardous wastes.

“**Service Provider**” means the Corporation and any other Person who provides water and sewerage services to Customers or other Water Services Providers with or without the responsibility-to collect any Tariffs that may be due.

“**State**” means the Taraba State of Nigeria.

“State Government” means the Government of Taraba State of Nigeria.

“**State Ministry**” means the ministry established by the Taraba State Government of Nigeria.

“**State Information System**” means the system for the collection of information pertaining to prescribed water and sanitation services to be created and maintained in accordance with regulations prescribed by the TAWASREC and this Law.

“**State Water Sanitation and Hygiene Laws and Policies**” means this Bill, other relevant Laws, Regulations including Orders and Guidelines issued by the Ministry pursuant to this Bill, and all WASH Policies in the State.

“**STOWASSA**” means Small Town Water and Sanitation Agency. “Tariffs” means the charges for Water Supply, Sanitation and Hygiene Services set in accordance with this Law.

“**TAWASREC**” means Taraba State Agency for Water, Sanitation Services Regulation and Control.

“**TAWASCO**” means Taraba State Water and Sewerage Corporation.

“**Treated water**” means water treated for supply purposes.

“**Urban**” means population above 20,000 or as may be determined by the relevant authority.

“**WASH**” means Water, Sanitation and Hygiene.

“**Water Services**” means any services of or incidental to the supply or storage of water including the provision of sewerage services.

“**Water Quality Standards**” means the health, environment, and sanitation standards relating to the quality of drinking water consistent with the National Drinking Water Quality Standards developed by the Federal Ministry of Health and the Standards Organization of Nigeria as may be amended from time to time.

“**Water/Sewerage Works**” means a reservoir, dam, well, pump house, borehole, pumping installation, purification work, sewerage treatment plant, sewers, access road, dedicated electric power supply, pipeline, meter, fitting or apparatus built, installed or used by a Water and/or Sewerage Services Provider to provide Water and or Sewerage Services.

“Water and Sanitation Services Provider (WSSP) Licenses” means the license issued pursuant to this Bill granting a Person rights to provide Water and/or Sanitation Services within a jurisdiction i.e., the geographic areas specified therein and shall include a license/permit in accordance with Regulations or Guidelines issued by the Regulatory Agency.

“Water and Sanitation Service Provider (WSSP)” means the institutions of the State Government acting in that capacity and any other person who is under license to provide prescribed water and/or sanitation services to customers or other water and/or sanitation service providers within a specific jurisdiction together with or without the responsibility to collect any tariffs that may be due and includes a water or sanitation service intermediary.

PART II

ESTABLISHMENT OF INTEGRATED STATE WASH MANAGEMENT SYSTEM.

Establishment

4. There is hereby established a Water, Sanitation and Hygiene Committee to be known as the “Integrated State Steering Committee (ISSC)”, (hereinafter referred to as “the Committee”).

Composition

- 5.** (1) The Committee shall consist of the following:
- i. Chairperson who is the Secretary to the Government of Taraba State (SGS) as Chairperson;
 - ii. Ministry of Water Resources which shall be the Coordinating Ministry/ Secretariat and Commissioner as Vice Chairperson);
 - iii. Ministry of Justice;
 - iv. Ministry of Environment;
 - v. Ministry of Health;
 - vi. Ministry of Rural Development;
 - vii. Ministry of Education;
 - viii. Ministry of Agriculture & Natural Resources;
 - ix. Ministry of Information;
 - x. Ministry of Urban & Town Development;
 - xi. Ministry of Women Affairs & Child Development;
 - xii. Ministry of Local Government and Chieftaincy Affairs;
 - xiii. Taraba State Agency for Water, Sanitation Services Regulation and Control;
 - xiv. Taraba State Water and Sewerage Corporation;
 - xv. Rural Water Supply and Sanitation Agency;
 - xvi. Taraba State Planning Commission;
 - xvii. Small Towns Water Supply and Sanitation Agency;
 - xviii. Taraba State Environmental Protection Agency;
 - xix. The Customer WASH Forum;
 - xx. WASH NGOs and;
 - xxi. Taraba State Emergency Management Agency.

(2) The Chairperson may from time to time invite participation from any other Ministries, Departments and Agencies or private organization(s) not mentioned to provide input on technical issue whenever the need arise.

Function

- 6.** The Committee shall be responsible for the following objectives:
- a) Ensure integrated water resources management in the State;
 - b) Coordinate State efforts for water, sanitation and hygiene promotion;
 - c) Ensure the implementation of Water, Sanitation Hygiene Policy in Taraba State.

PART III

PERFORMANCE CONTRACT.

Performance Contract

7. (I) There shall be a Performance Contract between the State Government and every WASH institution under the Ministry responsible for Water Resources (TAWASREC, TAWASCO, STOWASSA and RUWASSA);

- a) The State Government shall be represented by the Performance Contract, Monitoring and Review Committee.
- b) The composition of the Performance Contract, Monitoring and Review Committee shall be in accordance with Section 8 of this law.

(2) Such contract shall guarantee:

- a) Quality, accessibility and sustainability of service;
- b) Pro-poor considerations in service delivery;
- c) Incentives for commercial, financial and technical efficiency of the Public Service Provider;
- d) Obligations of the State towards investment, subsidies and creating an enabling environment for the operation of the Corporation; and such other terms as the parties may deem fit.

(3) There shall be a Performance Contract between the Corporation and the District/Area offices with such terms as the Corporation shall determine.

(4) The Performance Contract shall provide for Key Performance Indicators (KPIs) and an Incentive! Penalty framework for their achievement or non - achievement.

Performance Contract,
Monitoring & Review
Committee

8. Establishment, Constitution and Function of Performance Contract, Monitoring and Review Committee.

1. There is hereby established a Performance Contract Monitoring and Review Committee (referred to in this law as “the PCMRC”) and constituted in accordance with this law under the Coordination of Ministry responsible for Water Resources.
2. The PCMRC shall consist of the following members:
 - a) Chairperson who shall be the Commissioner responsible for Water Resources;
 - b) Permanent Secretary, Ministry of Finance;
 - c) Executive Secretary Taraba State Planning Commission;
 - d) Solicitor General Permanent Secretary Ministry of Justice;

- e) Permanent Secretary Ministry of Water Resources.
- 3. The Committee shall meet at least once in twelve (12) months and at any other time as may be requested by either party to the Performance contract.
- 4. The PCMRC may engage the Services of experts to assist them in the discharge of their duties.
- 5. It shall be the function of the PCMRC to:
 - a) Monitor compliance of the parties with the contract and to make recommendations as deemed necessary;
 - b) Ensure that expenditure to be incurred and which commits service providers contractually on any matter shall derive only from approved plans and budgets;
 - c) Ensure approval to spend are set not only against a framework of defined financial limits, but also taking into account specific technical and internationally acceptable parameters;
 - d) Review or update targets if there is significant change in the environment or significant new factors;
 - e) Ensure report and recommendations of the PCMRC shall be submitted to both the Executive and the service provider within a period of 14 days after the reviews.

PART IV

ESTABLISHMENT OF TARABA STATE AGENCY FOR WATER, SANITATION SERVICES REGULATION AND CONTROL

Establishment and Objectives

- 9. (1) There is hereby established an Agency to be known as the Taraba State Agency for Water, Sanitation Services Regulation and Control (TAWASREC) hereinafter called “the Regulator” as it relates to this part.
- 2. The Agency shall be a body independent and can sue and be sued in its name.
- 3. The Agency shall have the following principal objectives:
 - a) To promote State Water, Sanitation and Hygiene Laws and Policies in line with the National Water Resource Management Policy;
 - b) To create, promote, and preserve efficient industry and market structures, and to ensure the optimal utilization of resources for the provision of Prescribed Water, Sanitation and Hygiene Services;
 - c) To maximize access to prescribed water services, by promoting and facilitating Customer connections to distribution systems in urban areas;
 - d) To ensure that adequate supply of water and hygiene service is available to Customers and ensure that Customers (including low-income or vulnerable Customers) benefit from any gains from increased competition and efficiency;
 - e) To ensure that the prices charged by Water and Sanitation Service Providers are sufficient to finance their activities and allow for reasonable earnings for efficient operation;
 - f) To ensure the safety, security, reliability, and quality of service in the production and delivery of water and sanitation service to Customers;
 - g) To ensure that regulation is fair and balanced for service providers, customers, investors, and other stakeholders;

- h) To receive complaints and resolve disputes between government ministries or agencies, Customers and service providers;
- i) To ensure that regulatory decision-making has regard to all relevant health, safety, environmental and social legislations applying to the water, sanitation and hygiene sector; and
- j) To promote consistency between the state regulation and the national regulation.

Independence of the Agency

10. Except as expressly provided by or under this law, the Agency shall not be subject to the direction or control of any person in respect of its exercise of the Water and Sanitation Services Regulatory Functions, including any determination, report or inquiry.

Composition of the Board

- 11.** (1) the Board of Directors shall be appointed by the Governor which shall consist of the following:
- a) A Chairperson;
 - b) Four part- time voting Non-Executive Directors;
 - c) The Executive Secretary of the Agency.
2. In appointing the Board as contained in sub Section (1) above, the Governor shall have regard to the principles of ‘Gender Equity and Social Inclusion (GESI)’ and nomination shall be as follows:
- i. Two persons to be nominated by the State Commissioner for Water Resources;
 - ii. A representative of the Water, Sanitation, and Hygiene (WASH) Customers Forum;
 - iii. A representative of the organized private sector as represented by the State Chapter of the (Nigerian Chambers of Commerce, Industry Mines and Agriculture);
 - iv. A legal practitioner of at least ten years experience nominated by the Honourable Attorney - General and Commissioner for Justice; and
3. The Executive Secretary shall be a full time and non -voting member of the Board.
4. For the period of four years after commencement of operation of the TAWASREC, one person shall be appointed as regulatory advisor with at least five years’ experience in regulation of WASH utility or services.

Tenure of Office (Non-Executive Directors

- 12.** (1) A Non -Executive Director shall hold office for a period of four years,
2. To ensure continuity in the Agency, the period of appointment of the first five Non — Executive Directors shall be as follows:
- a) The Chairperson shall be appointed for five years;
 - b) The other Non-Executive Directors shall be appointed for four years.
3. A Non- Executive Director shall continue in office after the expiry of his term until he has been re-appointed, or his successor has been appointed, provided that a Non- Executive director shall not continue in office pursuant to this subsection for longer than six months.
4. A Non- Executive Director shall hold office on such reasonable terms and conditions as the Governor may determine in relation to Non- Executive director generally and in accordance with the terms hereof.

5. A Non- Executive Director whose term of office has expired is eligible for re- appointment for another four-year term only.
6. The terms and conditions of office of a Non- Executive Director shall not, without the Chairman consent, be altered to his detriment during his tenure of office.

Qualifications

- 13. (1)** A person shall not be appointed as a Non- Executive Director who;
 - a) Is neither a citizen of Nigeria nor permanently resident in Nigeria; or
 - b) Has a pecuniary interest in any Service Provider regulated under this law or any entity which is in competition with or provides similar services to those supplied by a Service Provider regulated under this law within the State unless the Governor is satisfied that the interest or activity is indirect and passive and will not interfere with the person's impartial discharge of his duties as a regulator, or unless the pecuniary interest is terminated prior to the appointment taking effect; or
 - c) Has, in terms of a law in force in any country:
 - i. Been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or
 - ii. Made an assignment to, or arrangement or composition with, his creditors which has not been rescinded or set aside; or
 - d) Has, in terms of a law in force in any country:
 - i. Been adjudged, by a court of competent jurisdiction, to be of unsound mind;
 - ii. Been banned from practicing his profession; or
 - iii. Been convicted of any financial offence or misappropriation of funds and sentenced to a term of imprisonment imposed with or without the option of a fine, whether or not any portion has been suspended, and has not received a free pardon.
- (2)** A person who is a current member of the National Assembly, State House of Assembly, Political office holder shall not be appointed as a Non - Executive Director.

Vacation of office

- 14. (1)** A Non- Executive director shall vacate his office:
 - a) Three months after the date upon which he gives notice in writing to the Governor of his intention to resign, or on the expiry of such other period of notice as he and the Governor may agree; or
 - b) The person is found guilty of criminal offence other than a misdemeanor, convicted and sentenced by a Court of Competent Jurisdiction.
 - c) The person has been absent from three consecutive meeting of the Board without permission.
 - d) In the case of members who have professional qualifications, the Non- Executive director is barred or suspended from his professional body.
- (2)** On the death or vacation of office of Non — Executive director, the Governor shall appoint a candidate to fill that vacancy to complete the unexpired term.

Duties of the Non-Executives Directors

15. In addition to observing standard fiduciary duties, Non - Executive directors shall perform the following key roles:

1. Evaluate the performance of the Agency in meeting set goals and objectives;
2. Develop a framework of reasonable and efficient control for assessing and managing risks;
3. Approve regulations and enforcement frameworks;
4. Appointment of external auditors of the Agency;
5. Review and approve annual budget; and
6. Enforce strategic communication stakeholders.

Meetings of the Board

16. (1) the Board shall regulate its own proceedings.

2. The Board shall meet for the dispatch of its business once every three month and subject to this section, may adjourn, close and otherwise regulate its meetings and procedures as it deems fit but the first meeting of the Board shall be called by the Ministry of Water Resources not later than 6 months after the commencement of this law.
3. In emergency or special circumstance, an extra ordinary meeting may be summoned by the Chairman based on a notice by the Executive Secretary.
4. The Chairman or, in his absence, a person nominated among the Non - Executive directors shall preside at all meetings of the Board.
5. All decisions of the Board shall be based on the majority of the members present and voting.
6. The quorum for the meeting of the Board shall be three and each Non - Executive Director present shall have one vote on each question during the meeting and, in the event of an equality of vote, the Chairperson shall have a casting vote in addition to a deliberative vote.
7. For a meeting of the Board to review any previous decision or order taken by the Board, the quorum shall be no less than the Board members present when the decision was taken, or order was made.

Executive Secretary

17. (1) there shall be an Executive Secretary of the Agency who shall be appointed by the Governor and shall:

- a) Be a person with professional qualification registered with the appropriate professional body with at least twelve years experience in the WASH public or private sector;
- b) The Executive Secretary shall be appointed through a competitive bidding process.
2. The Executive Secretary shall be a person who has served in the public or private WASH sector at the Senior Management level for a minimum of five years.
3. The Executive Secretary shall be the chief accounting and administrative officer of the Agency and shall hold office for a term of five years and is subject to reappointment of another five year term only on the basis of performance and other conditions as may be specified in the letter of appointment.
4. The appointment shall be tied to a Performance Contract.

5. The Executive Secretary shall not directly or indirectly engage in any paid employment outside the duties of the Agency.
6. The Executive Secretary shall be assisted by Department Directors who shall oversee and administer the day to day activities and operations of the Agency.

Departments

18. The Agency shall have Directors responsible for the following departments:

1. Water resource and environment management;
2. Water Services and sanitation quality control;
3. Economic, price setting and adjustment;
4. Project Monitoring, Evaluation, Learning, Research and Adaption (PMERLA);
5. Legal and Compliance;
6. Project finance and Procurement;
7. Communication;
8. Administrative and finance.

Appointment and Remuneration
of Staff

19. (1) In approving the remunerations of Staff, the Governor shall have regard to the salaries and allowances paid to the staff of other regulatory Agency's operating in Nigeria and the following principles shall apply:

- a) The specialized nature of work to be performed by the Agency;
- b) The salaries paid in the private sector to individuals with equivalent responsibilities expertise and skills;
and
- c) The nature of the expenses incurred by the Agency's employees, including national and international travel expenses.

Non-Executive Directors

2. Non- Executive directors shall be paid from the funds of the Agency such sitting allowances, as the Agency may propose from time to time with the approval by the Governor.

Directors and other Staff of the Agency

3. Staff of the Agency shall be paid special remuneration and allowances as the Head of Service on advice from the National Salaries and Wages Commission shall determine.
4. No employee of the Agency shall, for the period that is two years after his resignation or retirement, seek any form of office, employment or consultancy arrangements, either for remuneration or otherwise, connected with any Water and Sanitation Services Provider regulated under this law.
5. For the purposes of this part, employee shall include Directors and staff of the Agency.
6. The appointment of employees of the Agency other than the Non - Executive Directors shall be through interview and competitive recruitment process.

Disclosure

- 20.** (1) If a Director:
- a) Acquires or holds a direct or indirect pecuniary interest in any matter that is under consideration by the Agency; or
 - b) Owns any property or has a right in property or a direct or indirect pecuniary interest in a company or association of persons which results in the Director private interests coming or appearing to come into conflict with his functions as Board Member; or
 - c) Knows or has reason to believe that a relative of a Director acquired or holds a direct or indirect pecuniary interest in any matter that is under consideration by the Board; or
 - d) If for any reason the private interests of a Director come into conflict with his functions as a regulator, the Director shall forthwith disclose the fact to the Board.
2. A Director referred to in subsection (1) shall take no part in the consideration or discussion of, or vote on, any question before the Board which relates to any contract, right, immovable property or interest referred to in that subsection.
3. If for any reason the private interests of a Director come in conflict with his functions, the Director shall forthwith disclose the fact to the Board.
4. A Director shall, prior to accepting his appointment to the Agency make a declaration of assets in accordance with Paragraph 11 of the Fifth Schedule of the 1999 Constitution.

Validity of decision

- 21.** (1) No decisions or act of the Agency done under the direction of the Board shall be invalid on the ground that:
- a) There existed a vacancy or vacancies among the Board; or
 - b) There existed some defect in the constitution of the Board at the time the decision was taken, or Law was done or authorized.
2. If a Director referred to in Section 18 takes part in the consideration of a matter in which his private interests are in conflict with his function as a Director, the other Directors may subsequently ratify any such decision or action.

Budget

- 22.** (1) On or before such date as the Governor may specify before the beginning of every financial year, the Chairperson and the Executive Secretary shall prepare and submit to the Governor a budget showing the expenditure which the Agency proposes to incur in respect of that financial year to carry out the functions of the Agency.
2. During any financial year the Agency may prepare and submit to the Governor a supplementary budget relating to expenditures which were inadequately provided for in the annual budget due to unforeseen circumstances.
3. A supplementary budget shall be deemed to form part of the annual budget of the Agency for the financial year to which it relates.

4. The Agency may vary a budget prepared under this section, provided that no variation may be made which has the effect of increasing the total amount of expenditure provided for in the budget.

Funds of the Agency

23. (1) There is established for the Agency a fund into which all monies accruable to the Agency shall be paid and from which shall be defrayed all expenditure incurred by the Agency.

2. The funds of the Agency shall consist of:

- a) Fees, charges and other income accruing to the Agency from Water Supply and Sanitation Service Provider (VSSP) and other things done by it in terms of this law, excluding any fines or penalties recovered pursuant to this law;
- b) A surcharge of two (2%) percent on Tariffs payable by Customers of Prescribed Water Supply and Sanitation Services as the Agency may by regulation decide;
- c) Funds allocated to the Agency by the Executive and ratified by the House of Assembly, pursuant to a request by the Agency for additional funds required to meet its reasonable expenditures;
- d) Such other moneys as may vest in or accrue to the Agency, whether in the course of its operations or otherwise approved by the House of Assembly.

Accounts

24. (1) The Executive Secretary shall ensure that proper accounts and other records relating to such account are kept in respect of all Agency activities, funds and property, including such accounts and records as the Agency may require.

2. The accounts shall be audited annually by external auditors appointed in accordance with the guidelines for the appointment of auditors issued by the Auditor -General of the State.
3. The auditor shall be entitled at all reasonable times to require to be presented to him all accounts and other records relating to such accounts which are kept by the Agency or its agents and to require from any officer or employee or agent of the Agency such information and explanation as in the auditor's opinion are necessary for the purpose of its audit.
4. Any officer or employee or agent of the Agency who fails without just cause to comply with a requirement of an auditor in terms of subsection (3) commits an offence and is liable on conviction to a fine or to imprisonment as specified under section 130 of this law.

Annual Report

25. (1) The Agency shall submit an annual report of its activities to the Governor and the State House of Assembly in accordance with the provisions of this law.

2. The annual report shall, amongst other information, contain a detailed presentation of the Agency performance during the reporting year stated against any targets set in the Agency approved plans together with an analysis of the opportunities and constraints impacting upon the Agency performance and the actions proposed for addressing them.
3. The Agency shall, within six months after the end of the financial year, furnish the State House of Assembly with:
 - a) A copy of the audited accounts of the Agency; and

b) A copy of the report of the External Auditor.

4. The Agency shall publish its annual report in two national daily newspapers circulating within the State and on the Internet.
5. The Agency shall cause the audited accounts and annual report to be published in the State Government Official Gazette after complying with subsection (3) of this section.

Other Reports

- 26.** (1) In addition to any report which the Agency is required by this law to submit to the Governor, the Agency shall submit such other reports as may be required.
2. The Governor shall make public any report(s) submitted pursuant to subsection (1), within two months following the receipt of such a report(s).

Protection of Agency

- 27.** (1) No liability shall be attached to the Executive Secretary or to any employee of the Agency or to any Director for any loss or damage sustained by any person as a result of the bona fide exercise or performance of any function which, by or in terms of this law, is conferred or imposed upon such person.
2. No execution or attachment of process shall be issued against any property vested in the Agency except with the prior consent of the Attorney General.

Benchmarking of the Agency

28. Where so required under any Water Sector Program Commitments or otherwise by the Governor, the Agency must submit such report(s) to the Governor and the Federal Ministry of Water Resources as may be required in order to facilitate the comparison of activities and performance of the Agency against other State Water Regulatory Agencies or Commissions operating in Nigeria.

Delegation of Powers

- 29.** (1) Subject to subsection (2), the Agency may, in writing delegate any power vested in it by or under this law and may impose separate or concurrent duties with respect to enforcement of any regulations or orders made by the Agency in a relevant area on any Water and Sanitation Service(s) Provider (or a Local Government Authority).
2. The Agency shall not delegate the power:
 - a) To make regulations; or
 - b) To issue or cancel Water and Sanitation Service Provider License(s).

Advisory support and outsourcing

- 30.** (1) The Agency may appoint advisory committees to advise on the exercise of the water and sanitation services regulatory functions.
2. The Agency may (for the period of five years after commencement of operation) enter arrangements with Multilateral Donor Organization or private sector experts to advise on or to undertake the performance of any water services regulatory functions.
 3. Any Expert appointed under this section shall be appointed by an open and competitive bidding, subject to bidding and award guidelines, including adequate technical requirements.

PART V

FUNCTIONS OF THE REGULATORY AGENCY.

Water and Sanitation Services
Regulatory Functions

- 31. (1)** The Agency shall have the following functions:
- a) Advising the State Government on water supply, sanitation and hygiene service(s) matters;
 - b) Licencing Water Service(s) Providers;
 - c) Licencing Sanitation Service(s) Providers in collaboration with Taraba Environmental Protection Agency (TEPA);
 - d) Developing sector guidelines on technical and financial management of Water and Sanitation Service(s) Providers;
 - e) Making regulations prescribing all matters which by this law are required or permitted to be prescribed or which, in the opinion of the Agency, are necessary or convenient to be prescribed for carrying out or giving effect to this law, including:
 - i. The administration of the affairs of the Agency, including arbitration and mediation proceedings,
 - ii. The procedure for issuing Water and Sanitation Service(s) Provider Licence (s);
 - iii. The determination of the standards for the provision of Prescribed Water and Sanitation Services;
 - iv. The method and manner by which the Tariffs that may be charged by Water and Sanitation Services Providers for their Prescribed Water and or Sanitation Services;
 - v. The duties, powers, rights, and obligations of a Water and/or Sanitation Services Provider;
 - vi. The resource procurement policies of, and entry into Private Sector Partnership or Public Private Partnership agreement(s) by, the Water and/or Sanitation Services Providers, including, as may be applicable, the review and approval of same;
 - vii. The requirements of Water and/or Sanitation Services Development Plans;
 - viii. Procedures for monitoring compliance with National Water and Sanitation Acts and Policies and State Water and Sanitation Laws and Policies;
 - ix. Guidelines to eliminate illegal connections, unregulated or illegal use of Prescribed Water and/or Sanitation Services;
 - x. Guidelines to eliminate illegal and unregulated disposal of waste, use of sanitary services; and
 - xi. Practices, procedures and reporting requirements for monitoring and enforcing this law (including Establishment fines and penalties).
 - f) Set, approve and from time to time review standards of performance of services in the sector.

Discharge of Functions

- 32. (1)** In the discharge of its regulatory functions under this law, the Agency shall:
- a) Consult in good faith with persons who are or are likely to be affected by the decision including Water and Sanitation Services Providers, Customers, Ministry, Department and Agency and any Customer Associations;

- b) Give to such persons an opportunity to make submissions to and to be heard by the Agency;
 - c) Have regard to the evidence adduced at any hearing and to matters contained in any submissions;
 - d) Give reasons in writing for every decision;
 - e) Ensure that notice is given of each regulation, decision or determination in the Government Gazette, in a national daily newspaper circulating in the State and on the internet;
 - f) Ensure that decisions are accessible to the public at reasonable times and places; and
 - g) Ensure that decisions are consistent with all applicable National and State Water and Sanitation Laws and Policies and Water Sector Programme Commitments of the State.
2. The Agency may make interim orders pending the final disposition of a matter before it subject to obtaining an order of Court within forty-eight hours.

Other Powers of the Agency

33. (1) The Agency may exercise such other powers in relation to economic regulation (including the power to make determinations and the power to act as an arbitrator in disputes under a PSP or PPP Agreement) as may be conferred on it under a PSP or PPP Agreement.
2. In making a determination under this section the Agency must have regard to any factors specified in the PSP OR PPP Agreement in relation to economic regulatory matters.

PART VI LICENCES

License required to operate as Water and/or Sanitation Service Provider

34. (1) No Person shall operate a Water and/or Sanitation Services unless such person:
- a) Holds a WSSP License from the Taraba State Agency for Water & Sanitation Services Regulation and Control; or
 - b) Established government owned Corporation/Agency under this law are exempted
2. The Agency shall determine as to whether a person is engaging, or is about to engage in a business for which a WSSP License is required under this law. An exemption of general or specific application may be granted by the Agency in considering application for license.
3. Any exemption granted under this law shall be subject to the terms, conditions and limitations specified in the order.

Interim Licensing

35. The Agency may issue an interim License to any person as specified under the law for a period not exceeding eighteen months, or such shorter period as may be specified in the license, if it determines that it is necessary in the public interest to do so.

Limitation on transfer

36. A Service(s) Provider shall not, except as provided under this law, assign or cede its License or any part thereof without the written consent of the Agency and such consent not to be unreasonably withheld.

Application

- 37. (1)** An application for License shall be made to the Agency in the form and manner prescribed by the Board and accompanied by the prescribed fee, such information or documents as may be prescribed or required.
2. The applicant shall, at his own expense, cause a notice of the application to be published in the Gazette and in a national newspaper in circulation in the area in which it intends to operate as a Services Provider within thirty days.
 3. Subject to subsection (4), and upon consideration the Agency is satisfied that:
 - a) The applicant has complied with such provisions of this law, including, without limitation, all codes of conduct, standards, regulations and License terms and conditions, as apply to the service or system it intends to provide or operate; and
 - b) The granting of License is in the public interest after consideration of all relevant factors, including but not limited to the following:
 - i. Existing lawful services;
 - ii. Efficient and beneficial use of Prescribed Water and/or Sanitation Services in the relevant geographic area; and
 - iii. The socio-economic impact of issuing or failing to issue License, the Agency shall issue the appropriate license to the applicant.
 4. If on consideration of an application that satisfies the requirements of subsection (1), the Agency is not satisfied as to the additional matters referred to in subsection (3), it shall refuse to issue a license to the applicant, subject to affording the applicant an adequate opportunity to make representations in the matter.
 5. The period between the Agency receipt of an application under subsection (1) and all documents and information submitted in support of it and the date on which it notifies the applicant of the adequacy of the documents and information, shall not exceed thirty working days.
 6. The period between the Agency receipt of an application that satisfies the requirements of subsection (1), and the date on which the Agency notifies the applicant of its decision or proposed decision in accordance with subsection (3) or subsection (4), as the case may be, shall not exceed six months, unless the applicant consents to an extension of the period.
 7. Notwithstanding subsections (1) to (6) the Agency may establish simplified procedures for different Water and Sanitation Service(s) Providers to expedite the application and licensing process.

Terms and Conditions of License

- 38. (1)** A License shall be issued subject to such terms and conditions as may determine by the Agency in line with the PSP OR PPP Agreement, where applicable.
2. Unless expressly indicated in the License, the grant of a License shall not hinder or restrict the grant of a License to another person for a specific purpose, for a geographic area.
 3. A License may be subject to amendment or modification.
 4. A License shall be valid for the period explicitly set out.

Determination of fees and charges

39. The Agency shall impose a fee in accordance with this section in relation to all Licenses issued under this law and shall be payable in such amounts to be determine as reasonable estimate of the costs which will be incurred in relation to regulation of the Prescribed Water and/or Sanitation Services to which the License relates.

Renewal of License

40. Subject to this law, a Service(s) Provider may apply to the Agency for a renewal of the License before it expires in the form and manner prescribed.

Publication of License

41. (1) The Agency shall publish a notice of the proposed alteration or amendments to the License;
2. Such notice shall state the period within which objections or representations shall be raised; and
3. The Agency shall not amend any License until all objections or representations received by the Agency have been treated.

PART VII STANDARDS AND TARIFFS

Standards

42. (1) The Agency shall develop, in consultation with applicable Federal and State Ministries, Water and Sanitation Services Providers, Customers and other interested parties, the following performance standards and codes:

- a) Standards of overall performance in connection with the provision of Prescribed Services and in connection with the promotion of the efficient use of water, sanitation and hygiene services by Customers;
 - b) Required quality standards;
 - c) Such technical codes and manuals as may be required for the safe, reliable, and efficient operation of the system; and
 - d) Such other standards, codes and manuals as the Agency may require.
2. Standards, codes and manuals approved by the Agency pursuant to Subsection (1) shall be binding on all Service(s) Providers and shall be published in such manner as the Agency may direct.
 3. Different standards may be determined for different Water and Sanitation Services Providers under this section.
 4. In carrying out its functions under this law, including setting and monitoring standards under this section, the Agency shall consult and cooperate with the State Environmental Protection Agency and other State, Federal and regional agencies responsible for environmental and water resource management regulation.

Tariffs

- 43.** (1) The Agency shall adopt and provide to the Service (s) Provider(s) methodologies for Tariffs that may be charged for the Prescribed Water and/ or Sanitation Services.
2. No Service(s) Provider shall fix any Tariff to be charged for Prescribed Water and/or Sanitation Services unless the Tariff is in accordance with the applicable Tariff methodology adopted by the Agency.
 3. In determining Tariff methodologies, the Agency shall have regard to:
 - a) The nature and circumstances of the Prescribed Water and/or Sanitation Services for which the determination is being made;
 - b) The operating costs of the Prescribed Water and/or Sanitation Services;
 - c) The interests of the Service Provider including assurance of the financial integrity of the Service;
 - d) The cost of complying with relevant health, safety, environmental and social legislation;
 - e) The need to provide incentives for continued improvement in technical and economic efficiency and quality of prescribed services;
 - f) The interests of Customers, including the need to avoid undue discrimination between Customer's categories.
 4. The Agency may establish simplified Tariff methodologies for different Water and Sanitation Services Providers such as Water and/or Sanitation Services Intermediaries.
 5. Notwithstanding subsection (3) (f), in establishing Tariff methodologies the Agency may differentiate among Customers on the basis of differences in income, and other such criteria as may affect the cost of providing a service and may allow a lifeline Tariff for some Customers.
 6. Prior to approving a Tariff methodology, the Agency shall give notice in the Gazette and in one or more National newspapers with wide circulation in the State, of the proposed establishment of a Tariff methodology, indicating the period within which objections or representations in connection with the same may be made by the public.
 7. The Agency shall fix the date on which the Tariff methodology shall come into operation and it shall cause notice to be given in the Gazette.
 8. The Agency shall establish procedures for undertaking fixed and extraordinary reviews of the Tariff methodology.
 9. Every person upon whom any function has been conferred or imposed in connection with setting Tariffs shall be bound by a Tariff methodology that has come into operation under this section.
 10. Every Service Provider shall, within the time prescribed by the Agency, file in the prescribed form a schedule showing the Tariffs charged by it.
 11. Any fines or penalties levied against a Service Provider in terms of this law or any other Law or regulation shall not be transferable to Customers.

PART VIII

WATER AND SANITATION SERVICES PROVIDERS (WSSP)

Conditions for provision of prescribed water and/or sanitation services

44. (1) Prescribed Services shall be provided on terms and conditions set by the Service Provider and consistent with applicable Laws and regulations.

2. These conditions shall:

- a) Be in writing, accessible to the public and available free of charge to any Customer;
- b) Be in accordance with applicable National and State Water and Sanitation Laws and Policies;
- c) Be in accordance with conditions for the provision of Prescribed Water and/or Sanitation Services contained in this Law and all regulations made pursuant to this Law;
- d) Be in accordance with every applicable Water and Sanitation Services Development Plan adopted in terms of this Law; and
- e) Provide for:
 - i. The technical conditions of existing or proposed extensions of supply;
 - ii. The determination and structure of Tariffs;
 - iii. The conditions for payment;
 - iv. The circumstances under which Prescribed Water and Sanitation Services may be limited or discontinued;
 - v. Procedures for limiting or discontinuing Prescribed Water and/or Sanitation Services; and;
 - vi. Measures to promote water conservation and demand management.

3. Procedures for the limitation or discontinuation of prescribed services shall:

- i. Be fair and equitable; and
- ii. Provide for the required notice of intention to limit or dis continue service and for an opportunity to make representations, unless:
 - a) Other Customers would be prejudiced;
 - b) There is an Emergency Situation; or
 - c) The Customer has interfered with the limited or discontinued service;

4. Every person who uses services provided by a Service Provider does so subject to any applicable condition set by that Service Provider.

5. Where one Service Provider provides services to another Service provider, it may not limit or discontinue those services for reasons of non-payment, unless it has given at least 30 days' notice in writing of its intention to limit services to:

- a) The other Service Provider; and
- b) Regulatory Agency.

Duty to provide access to prescribed services

45. (1) Every Service Provider has a duty to all Customers in its area of jurisdiction, as designated in its Service License, to ensure efficient, affordable, economical and sustainable access to Prescribed Services in accordance with the terms of its License.

2. This duty is subject to:

- a) The terms of the service License and any applicable PSP or PPP Agreement;
 - b) The availability of water resources;
 - c) The need to regulate access to Prescribed Water or Sanitation Services in an equitable way;
 - d) The duty of Customers to pay reasonable charges, which must be in accordance with any prescribed norms and standards for Tariffs for Prescribed Services;
 - e) The duty to conserve water resources;
 - f) The nature, topography, zoning, ecology and environmental situation of the land in question; and;
 - g) The right of the relevant Service Provider to limit or discontinue the provision of Prescribed Water and or Sanitation Services if there is a failure to comply with reasonable conditions set for the provision of such services.
3. A Service provider shall not unreasonably refuse or fail to give access to Prescribed Water and/or Sanitation Services to a Customer in its area of jurisdiction.
 4. In Emergency Situations, a Service Provider shall take reasonable steps to provide basic Water Supply or Sanitation Service to any person within its area of jurisdiction and may do so at cost to the State Government in accordance with standards prescribed by the Agency.
 5. A Service Provider may impose from time to time reasonable limitations on the use of Prescribed Water and/or Sanitation Services.

Rights of Water and Sanitation Services Providers (WSSP)

46. (l) The Water and Sanitation Services Provider (WSSP) may;
 - a) Construct, operate, alter or repair any Water Services Work, dumpsite, recycle plant in accordance with the terms of its License and, where applicable, any applicable PSP or PPP Agreement and with the permission of the relevant State and Federal Government authorities;
 - b) Levy Tariffs for Prescribed Services in accordance to the Tariff methodology applicable; and
 - c) Apply for, enter into agreements for, and perform all obligations related to grants or loans under a WASH Sector Programme Commitment.

Obligations of Water and Sanitation Services Providers

47. (l) A Water and Sanitation Services Provider shall:
 - a) Comply with the provisions of its License, regulations, general codes, and other requirements issued by the Agency from time to time, unless stayed by a court of competent jurisdiction;
 - b) Provide the Prescribed Services in accordance with all applicable State and Federal Water Laws and any other Laws applicable to it;
 - c) unless expressly exempted by the Agency, prepare and submit to the Agency each year, such accounting information as the Agency may require;
 - d) provide to the Agency, complete and regular information, in the form and substance prescribed, as may be called for concerning the provision of Prescribed Services and so as to prove compliance with the approved Tariff, methodology and with any other obligation of the Service Provider under this Bill or its License, and to enable the Agency monitor implementation of the Sector Service Development Plan.

(2) Every Service Provider shall establish procedures for dealing with complaints by its Customers, which procedure and any amendment shall be approved by the Agency.

PART IX CUSTOMERS

Customers

48. (1) In addition to any other right contained in the Contract between the Customer and the Service Provider, a Customer shall have the right to be informed by the Service Provider of the rights and obligations as contained under the License.

(2) A Customer shall in addition to any other obligation contained in any Contract between the Customer and the Service Provider:

(a) Pay for the services provided or made available in accordance with the applicable Tariff;

(b) pay the surcharge on Tariff imposed under this Law;

(c) Comply with the technical regulations issued by the Service Provider related to Customer installations including their maintenance;

(d) allow the Service Provider to install a meter on the property where appropriate, and keep the meter in the same condition as existed when installed, fair wear and tear excepted;

(e) Report a damaged meter as soon as the damage occurs or becomes known to the Customer;

(f) permit the Service Provider employees or agents to read the meter where applicable in accordance with the terms established in the License.

(3) Where the Customer fails, after the prescribed notice, to comply with subsection (2), the Service Provider may suspend the service to that Customer.

PART X COMPLAINTS, ENFORCEMENT AND APPEALS

Rights of Complaint

49. (1) a dispute between a Customer and a Service Provider in the first instance that relates to the provision of Prescribed Service(s) or the Tariff chargeable for the service provided shall be treated by the Customer Complaint Unit of the Service Provider and if not resolved be referred to the Agency for investigation and settlement.

(2) Any Customer or Service Provider may submit a complaint in the prescribed form to the Agency in respect of a matter arising under this law.

(3) The Agency shall investigate complaints received by it unless it is of the opinion that:

(a) The complaint is trivial, frivolous, vexatious or not made in good faith; or

(b) The complaint is on the same subject already under investigation.

Investigation

50. Upon receiving a complaint from any Customer or Service Provider, or on its own initiative, the Agency may inquire into the conduct or functioning of any Service Provider in carrying out the obligations under this law, rules or regulations, codes of conduct, or the terms and conditions of the License.

Enforcement Orders

51. (1) Without derogation from its other powers in this Part, where the Agency is satisfied that a Service Provider is likely to contravene, contravening or has contravened any of the conditions of the License, the Agency may serve upon the Service Provider an enforcement order:

(a) requiring the Service Provider to do, or not to do, such things as are specified in the order for the purpose of rectifying or avoiding any contravention or threatened contravention of any condition of the License; and

(b) Stipulating the period within which any requirement referred to in subsection (1)(a) shall be commenced and completed.

(2) A notice of any enforcement order shall be published by the Agency in the Gazette and in the public media or in such manner as the Agency considers appropriate to draw the attention of other persons affected or likely to be affected by the contravention or threatened contravention of the License.

(3) Before serving an order in terms of subsection (1), the Agency shall serve a notice upon the Service Provider concerned:

(a) specifying the grounds upon which the order is to be issued and what the Agency considers appropriate for the purpose of rectifying or avoiding any contravention or threatened contravention of any condition of the License;

(b) Stipulating the maximum period that the Agency considers reasonable for the implementation of any requirement it proposes to order; and

(c) Allowing the Service Provider, to make representations to the Agency within such period from the date of service of the notice as it shall specify.

(4) An order served under subsection (1), may specify a penalty for each day that the Service Provider subjected to the order is in default of compliance with such order.

Suspension and
Revocation of License

52. (1) the Agency may revoke or suspend any License if, in its opinion:

(a) The License was issued through fraud or the misrepresentation or nondisclosure of a material fact by the Service Provider;

(b) The Service Provider has failed, without reasonable cause, to comply with an enforcement order issued;

(c) The Service Provider has failed, after appropriate notice in accordance with the terms of the License, to comply with any term or condition of its License, the breach of which is expressly declared by such License to render it liable to cancellation; or

(d) The Service Provider is unable to discharge the duties and obligations imposed under the License.

(2) Before revoking a License, the Agency shall notify the Service Provider in writing of its intention to revoke the License,

(a) In revoking the license, the Agency shall issue a seven days' notice of intention to revoke;- and

(b) Shall allow the Service Provider an opportunity to show cause, within 21 days following the delivery of such a notification, that circumstances have changed such that cancellation may no longer be warranted.

(3) Notwithstanding subsections (1) and (2), where it appears in the opinion of the Agency that service provision cannot be practicable, the Agency may intervene to provide a palliative measure and allow the License to remain in force, subject to such further terms and conditions.

Review of Decisions by
the Agency

53. (1) any person who is aggrieved by:

- (a) A decision of the Agency not to issue a License;
- (b) Any term or condition of a License issued, or a refusal by the Agency to specify a term or condition in a License;
- (c) A refusal by the Agency to renew a License;
- (d) Any amendment of a License or a refusal by the Agency to amend a License;
- (e) The cancellation of a License;
- (f) The grant or refusal by the Agency to grant any approval or authority in terms of this law;
- (g) The outcome of any arbitration or mediation by the Agency on a dispute;
- (h) A decision with respect to Tariffs; and or
- (i) Any other decision of the Agency. May within fourteen days after receipt of that decision, apply to the Agency for reconsideration of the matter.

(2) An application shall only be heard under this section if the applicant:

- (a) Relies on new facts or changed circumstances that could not, with ordinary due diligence, have become known to the applicant while the matter was being considered by the Agency; or
 - (b) Alleges that the decision was based upon material errors of fact or law.
- (3) Where an application has been made for review under sub -section (1) the Appellate Body may not hear an appeal under Section 55 until such review has been completed.

Rights of Appeal

54. Any person who is aggrieved by any decision, including any condition imposed by the Agency, may appeal against the decision to the High Court of the State.

Deviation from Water and
Sanitation Services
Development plan

55. A Service Provider shall not undertake activities that constitute a deviation from a Water and Sanitation Services Development Plan approved by the Agency unless it is embodied in a new Water Services Development Plan approved by the Agency.

Reporting on
Implementation of Water
and Sanitation Services
Development Plan

56. A Service Provider shall report on the implementation of its Water and Sanitation Services Development Plan during each financial year in the form and manner prescribed by the Agency.

State-Wide Development
Plan

57. (1) The Agency shall develop a State-Wide Regulatory Plan in line with the approved Water and Sanitation Services Development Plans in accordance with National and State Water and sanitation Laws and Policies and any Water and Sanitation Sector Program Commitments of the State, and submit same for approval by the State Executive Council.

(2) The State-Wide Regulatory Plan shall prioritize among the approved Water and Sanitation Services Development Plans, funding needs to support applications for funding from the State or Federal Government (including any Water and Sanitation Sector Program Commitments of the State).

(3) Where the State Executive Council does not approve or requires any changes to the State -Wide Regulatory Plan recommended by the Agency, the Agency shall review reasons of the State Executive Council and represent same for approval.

(4) Upon approval by the State Executive Council, the Agency shall cause the State -Wide Regulatory Plan to be Gazetted.

Financial Assistance

58. (1) The Agency is authorized to perform any obligations imposed on it under any Water and Sanitation Sector Programme Commitments or any functions delegated to it by the Federal or State Government in accordance with such program or otherwise in relation to the advance of financial assistance to Service Provider(s) by the Federal or State Governments, including, as applicable, to make recommendations with respect to applicants for funds available under such programmes in accordance with the terms and conditions applicable to the program.

(2) The Agency may refuse to recommend that financial assistance be provided to any Service Provider which fails to comply with its terms and obligations.

PSP or PPP Agreement

59. (1) The State Government (directly or through the State Corporation, Agency or any publicly owned utility) may, where permitted in accordance with the provisions of this law and other applicable State laws and policies, enter into a PSP or PPP Agreement with any Person to perform any function, or service or to provide any facility under this law.

(2) The award of a PSP or PPP Agreement shall be carried out in accordance with all applicable State and Federal Laws and Policies, including the following provisions:

(a) PSP or PPP Agreements shall be awarded by open and competitive bidding process except otherwise provided.

(b) The scope of the project or activities, the subject of the PSP or PPP Agreement must be in conformity with the State- Wide Development Plan.

(c) No representations shall be made to State or Federal Government for funding or subsidies except as previously approved in writing by the State or the Federal Government, as the case may be;

(d) The awards shall be consistent with the bidding and award guidelines developed for the PSP or PPP Agreement; and

(e) The PSP or PPP Agreement shall be approved by the Agency, but such approval shall be limited to ensuring that the PSP or PPP Agreement is in compliance with this law and the applicable Water and Sanitation Services Development Plan.

(3) The Agency shall develop further provisions for the procedure for award of PSP or PPP Agreements which may include compulsory provisions to be included in a PSP or PPP Agreement.

(4) As soon as PSP or PPP Agreement has been concluded, the State owned Water and Sanitation Services Provider must supply a copy thereof to the Agency.

PART XI

STATE INFORMATION SYSTEM

Establishment of the State Information System

60. (1) The Agency shall ensure that there is a State Information System on Prescribed Water and Sanitation Services.

(2) The State Information System may form part of a National information system operated by the Federal Ministry of Water Resources relating to water generally.

(3) The Agency shall provide reports from the State Information System to the National information system.

(4) The Agency shall ensure that information provided is in a format accessible to all stakeholders.

Purpose of State Information System

61. (1) The purpose of the State Information System shall be:

(a) To record and provide complete and accurate data for the development, implementation and monitoring of Prescribed Water and Sanitation Services in the State as necessary; and

(b) To provide information to Water and Sanitation Services Providers, Customers and other members of the public:

(i) To enable them to monitor and compare the performance of Water and Sanitation Services Providers;

(ii) For research purposes; and

(iii) For any other lawful reason.

Provision of Information

62. (1) The Agency may require any Service Provider(s) and Customer to furnish information to be included in the State Information System.

(2) The Agency or the provider of the State Information System may charge a reasonable fee for making information available, subject to the objectives of transparency and effective public access to relevant information.

PART XII

GENERAL PROVISIONS

Compliance with other Laws

63. In addition to the provisions of this law, any Service Provider or any other person shall comply with any other provision relating to the management or regulation of the environment or water resources applicable in the State law or Federal Act.

Entry and inspection of Property

64. (1) Any person authorized in writing by the Agency or any Service Provider may:

(a) at any reasonable time and without prior notice, subject to limitations set out in subsection (3), enter any property and inspect any service Work in order to ensure compliance with regulations and provisions of this law;

- (b) After reasonable notice to the owner or occupier of any property, enter that property with the necessary persons, vehicles, equipment and material:
 - (i) To repair, maintain, remove or demolish any Service Work belonging to or operated by the Service Provider concerned;
 - (ii) To remove vegetation interfering with any Service Work belonging to or operated by the Service Provider concerned;
 - (iii) To establish the suitability of any water source or site for the construction of a Service Work; and
 - (iv) Search, excavate, bore or carry on any activity necessary for the recovery or measurement of water or landfill site.
- (2) Any person entering a property shall present a means of identification and letter of authorization.
- (3) A private residence or business premises may only be entered:
 - (a) Where it is necessary under the provision of this law;
 - (b) On reasonable notice; and
 - (c) At a reasonable time.

PART XIII

ESTABLISHMENT, CONSTITUTION AND FUNCTIONS OF THE TARABA STATE WATER AND SEWERAGE CORPORATION

Establishment and
Incorporation of
TAWASCO

- 65.** (1) The Taraba State Water Supply Agency is hereby transformed into a body corporate to be known as the Taraba State Water and Sewerage Corporation with acronym TAWASCO, (hereinafter referred to as the “Corporation”).
- (2) The Corporation shall be a body corporate with perpetual succession and a common seal and shall have power to sue and be sued in its corporate name and to acquire, hold or dispose of movable and immovable property for the purpose of its functions under this law.
- (3) The Corporation is the asset holding company in which all government properties in the urban water and sewerage sector is held under trust.

Objectives of the Corporation

- 66.** (1) The objectives of the Corporation shall be to:
- (a) Provide safe, adequate and affordable water supply services to the residents of the Urban Service Areas in accordance with this law;
 - (b) Provide sewerage and wastewater management Services, whether by the provision of sewers or otherwise, for the collection, treatment, and disposal of sewage and wastewater generated by Customers within its area of operation, and other Services incidental thereto.
 - (c) Collaborate with the Ministry responsible for Water Resources to secure efficient use, conservation and protection of water resources;
 - (d) In accordance with the State Tariff Policy and regulations, operate on sound commercial practice and maintain Customer focus for service sustainability and efficiency while ensuring that its revenues are sufficient to provide for:

- (i) All depreciation, amortization and interest costs
- (ii) All operation and maintenance costs; and
- (iii) Reasonable return on investment.

Establishment and Composition
of the Governing Board

67. (1) There is hereby established a Governing Board of the Taraba State Water & Sewerage Corporation (hereinafter referred to as “the Board”)

(2) The Board who shall report to the Governor shall consist of:

(a) A Chairperson, who is a person, trained in a professional discipline with at least twenty years experience in private or public sector and is registered with the appropriate professional body related to his field.

(b) Managing Director of the Corporation

(c) A representative of the Ministry responsible for Water Resources;

(d) An Engineer registered with the Council for the Regulation of Engineering in Nigeria (COREN)

(e) A representative of the WASH Customers Forum;

(f) One other person who by reason of his ability, experience or specialized knowledge of water and sewerage utility service nominated by the Nigerian Chambers of Commerce.

(g) A representative of the Ministry of Finance.

(h) A representative of the Ministry responsible for Environment matters. (3) The Chairperson and other members of the Board shall be appointed by the Governor, shall serve as part-time members of the Board.

(4) A member shall not be made personally liable for any act or omission or any default of the Board so long as such act, omission, or default is done in good faith and in the course of the operations of the Board.

(5) The appointment of the Board shall be made in such a manner as to recognize the diversity of the people of the state.

(6) In the appointment of members, the Governor shall take into consideration Gender Equity and Social Inclusion (GESI) in WASH decisions in the State.

Remuneration of Members

68. There shall be paid to the members of the Board such sitting allowances as the Governor may from time to time determine.

Tenure of office of Members

69. The Chairperson and members of the Board other than the Managing Director shall hold office for a term of four years and may be reappointed for another term of four years only.

Proceedings of the Board

70. (1) The Board shall meet for the dispatch of its business once every 3 months, and subject to this section, may adjourn and otherwise regulate its meetings and procedure as it deems fit.

(2) The Chairperson or, in his absence, any member chosen by the members present from among themselves at the meeting shall preside over the meeting of the Board.

(3) All decisions of the Board shall be on the basis of simple majority of the members present and voting.

(4) No act or proceeding of the Board shall be invalidated solely on the ground of existence of any vacancy or defect in the constitution of the Board, except where actions are not supported by a quorum.

(5) The quorum for the meeting of the Board shall be five members, each member present shall have one vote on each question before the Board and in the event of equality of votes, the Chairperson shall have a casting vote in addition to a deliberative vote.

(6) For a meeting of the Board to review any previous decision taken by the Board, the quorum shall not be less than the number of Board members present when the decision was taken.

Board Members Fiduciary Duty

71. (1) If a Member:

(i) Acquires or holds a direct or indirect pecuniary interest in any matter that is under consideration by the Board;

(ii) owns any property or has a right in property or has a direct or indirect pecuniary interest in a company or association of Persons which results in the member's private interests coming or appears to come into conflict with his functions as a member; or

(iii) Knows or has reason to believe that a relative of the member has acquired or hold a direct or indirect pecuniary interest in any matter that is under consideration by the Board, or owns any property or has a right in property or a direct or indirect pecuniary interest in a company or association of persons which results in the member's private interests coming or appeal functions as a member, or if for any reason the private interests of a member come into conflict with his functions as a member, the member shall forthwith disclose the fact to the Board.

(2) A member referred to in subsection (1) shall take no part in the consideration or discussion of, or vote on, any question before the Board which relates to any contract, right, immovable property or interest referred to in that subsection.

(3) a member of the Board who is directly interested in any company or enterprise, the affairs of which are being deliberated upon by the Board, or is interested in any contract made or proposed to be made by the Board shall as soon as possible after the relevant facts have come to his knowledge disclose the nature of his interest at a meeting of the Board.

(4) A disclosure under subsection (3) of this section shall be recorded in the minutes of the Board, and the member shall:

(a) Not take part after such disclosure in any deliberation or decision of the Board with regard to the subject matter in respect of which his interest is thus disclosed; and

(b) Be excluded for the purpose of constituting a quorum of the Board for any such deliberation or decision.

Vacation of office

72. (1) Notwithstanding the provisions of Section 71 of this law, a member shall vacate his office if:

(a) The person gives one-month notice in writing to the Governor of his intention to resign;

(b) The person is convicted of any offence other than misdemeanor by a court of competent jurisdiction; and has not been granted pardon;

(c) The person does not attend seventy percent of the Board meetings in a year without genuine reason;

(d) The person is barred from practicing his profession by any professional body to which he belongs;

(e) The person becomes bankrupt;

- (f) The person becomes of unsound mind or incapable of carrying out his duties; or
- (g) The person is guilty of serious misconduct with relation to his duties as a member of the Board.

Functions of the Governing Board

73. The Board shall be the governing body of the Corporation and shall in that capacity:

- (a) Exercise all the functions of the Corporation;
- (b) Make strategic decisions on the activities and mandate of the Corporation; (c) review and approve the Corporation's Business Plans, Budget and performance;
- (d) Approve pre-qualified PSP or PPP Contracts, including revenue mobilization Agents, in accordance with this law and any other applicable Law;
- (e) Monitoring the implementation of the State WASH Policy as it affects water and sewerage services in its areas of operation,
- (f) Ensure compliance with regulations and standards set by the Regulatory Agency;
- (g) Approve and monitor the implementation of the Corporation's Water and Sewerage Services Development Plan;
- (h) Propose urban water and sewerage tariffs for approval by the Regulatory Agency;
- (i) take all steps to ensure that in the discharge of their duties, the Board does not engage in activities which prejudice, unduly influence, coerce or subvert the normal legal, commercial and financial activities of the Corporation; and
- (j) Undertake any other business which may be considered necessary by the Board in pursuance of the Corporation's functions as provided in this Law;

Functions of the Corporation

74. The functions of the Corporation shall be to:

- (a) Control and manage all water schemes and sewerage infrastructure vested in the Corporation under section 65 (2);
- (b) develop new water supply infrastructure as the Board may consider necessary for the purpose of providing wholesome, potable water for domestic consumption of the public, and water for commercial, industrial, scientific and other uses;
- (c) develop new wastewater/sewerage infrastructure as the Board may consider necessary for the purpose of providing effective and efficient collection, treatment, and disposal Services for domestic, industrial, commercial, scientific and other water-related waste;
- (d) Ensure that adequate wholesome water is supplied to its Customers in line with National Drinking Water Quality Standards (NDWQS);
- (e) Determine rates and scales of charges for water and sewerage management services subject to approval by the Taraba State Agency for Water, Sanitation Regulation and Control;
- (f) Conduct or organize research and training with respect to water and sewerage Services;
- (g) Develop, maintain and beneficially exploit water resources, both natural and artificial;
- (h) Provide data on water supply, sanitation, and hygiene related matters for formulation of policy;
- (i) Prepare plans for the development and maintenance of water supply and wastewater Services

infrastructure in its areas of operation (referred to as the “Water and Sanitation Services Development Plans”), in consultation with the relevant authorities, stakeholders, and consumer groups;

(j) identify and implement projects for the provision of water and sewerage Services which may be undertaken with Private Sector Participation, after consultation with the relevant authorities and with the approval of the Governor in cases involving divestiture or assets;

(k) Enter into any commitments, agreements, joint ventures, performance Contracts, Public-Private Partnership agreements or other arrangements in respect of the provision, distribution, supply or sale of Water and sewerage management Services;

(l) provide consultancy and project management Services;

(m) Establish and implement proper accounting procedures for all assets and liabilities of the Corporation;

(n) Specify the terms and conditions of supply of water and sewerage Services to the Customers in accordance with regulations issued by the Ministry responsible for Water Resources/relevant Regulatory bodies and in accordance with this Law;

(o) Recommend Regulations to the Ministry/relevant Regulatory bodies for protection and preservation of the assets of the Corporation and water resources of the State;

(j,) promote the rational use of water resources and potable water;

(q) Conduct training and retraining of staff for skills development;

(s) Collect rates and charges for water and sewerage Services for Urban settlements in accordance with regulations issued by the Ministry/ relevant Regulatory bodies; and

(t) Carry out any other activities that are expedient or necessary for effective and efficient performance of its functions under this law.

Powers of the Corporation

75. (1) The Corporation shall, subject to the provisions of this Law, have power for the purpose of carrying out its functions to:

(a) Own all water services assets and construct new water services assets within its areas of operation as described in section 65(2) hereto;

(b) Own all sewerage networks, sewerage management and wastewater infrastructure and assets and construct all such assets within its areas of operation.

(c) determine and collect all rates and charges payable by Customers for water supply and sewerage management services in urban settlements provided by the Corporation and determine all other fees, subject to the approval of the Regulatory Agency;

(d) acquire, purchase, lease, hold, construct, manufacture, maintain or insure any property forming part of the water and sewerage management services infrastructure of the Corporation, whether movable or immovable, required for or in connection with the performance of its functions and may sell, lease, concede, dispose of, or otherwise deal with such property or any part thereof subject to the approval of the Executive Council in instances of sale;

- (e) lay any water pipe or sewers through, across, or under any street or any place laid out or intended as a street and thereafter give reasonable notice in writing to the owner or occupier thereof, and make good any damage done;
 - (f) examine from time to time any surface or underground water forming part of the water resources of the State for the purpose of determining what pollution, if any, exists and its causes and to do likewise in respect of other water bodies by arrangement with the appropriate Authority under and in accordance with the provisions of any existing Law in that behalf;
 - (g) subject to the issuance of reasonable notice to the occupier thereof, at any time between the hours of six o'clock in the morning and six o'clock in the evening, or in case of urgency at any other time, to enter into premises or place upon which any service has been laid or into which any water supply Services is supplied so as to:
 - (i) Inspect and repair any facility and to ascertain whether there is any wastage, leakage, obstruction, illegal connection or disposal of sewerage, or damage to any facility or meter therein and anything in connection therewith;
 - (ii) Ascertain the amount of water taken or used or;
 - (iii) Disconnect the supply of water or of any sewer to any premises;
 - (h) Diminish, withhold, suspend, stop, turn off or divert the supply of water through or by means of any service or public fountain either wholly or in part whenever the Corporation deems necessary subject to Regulations of the Ministry relevant Regulatory bodies on same;
 - (i) Accept or acquire and hold any security in any kind whatsoever; (j) surrender, transfer or re-convey any security held by the Corporation whether upon exchange for other security or upon discharge;
 - (k) Make, draw, accept, or endorse negotiable instruments;
 - (l) invest money standing to its credit and not for the time being required for its immediate need, in accordance with the provisions of this Law and the Taraba State Fiscal Responsibility Law;
 - (m) Write off bad debts with the approval of the Governor;
 - (n) Grant exemptions from any water rate or charge of any premises or class of premises targeted at vulnerable class of persons;
 - (o) Make regulations for carrying out its functions under this Law. (p) enter into Internally Delegated District Management (Performance Contract)
- (2) The Corporation shall have power for the purpose of carrying out its functions to do all such acts as appear to it to be expedient, advantageous, or convenient and may carry on any activities in that behalf either alone or in association with any other person or body.

District/Area offices of the Corporation

- 76.** (1) There shall be established in each Urban Center a, District/Area Station offices of the Corporation.
- (2) A District/Area office of the Corporation shall be provided with such officers as the Board shall determine.
- (3) A District/Area office of the Corporation shall perform such functions of the Corporation as the Board may direct.

The Managing Director

- 77.** (1) The Governor shall on the recommendation of the Board, appoint an officer of the Corporation to be known as the Managing Director who shall be subject to the general direction of the Board and shall:
- (a) Be the Chief Executive and Accounting Officer of the Corporation;
 - (b) Be responsible for the implementation of the decisions and policies of the Board the general administration of the Corporation;
 - (c) Perform such other duties as the Board of the Corporation may from time to time direct.
- (2) The Managing Director shall:
- (a) Be appointed through a competitive and transparent recruitment process carried out by the Board pursuant to an advertisement for such vacancy;
 - (b) A person trained in a professional discipline with at least fifteen years experience in the public or private WASH sector and is registered with the appropriate professional body related to his field.
 - (c) Must demonstrate technical capacity and knowledge in the running of a public utility or private organization and shall have held a senior management position for a minimum of five years; and
 - (d) Be appointed pursuant to a Performance based Employment Contract for a term of 5 years on a fulltime basis which may be renewable for another term of five years upon considerations of the improved financial, managerial, operational, and relevant indicators as contained in such Performance Contract.
- (3) The Managing Director shall submit a report to the Board on a quarterly basis as an assessment of the performance of the Corporation which shall also include a proposed action plan to be forwarded by the Board to the Governor.

Establishment of Departments

- 78.** (1) The Corporation shall as it deems fit establish Departments to be headed by Directors as may from time to time be considered necessary by the Board for the performance of the Corporation under this law.
- (2) Such officers as mentioned in subparagraph 1 shall be appointed by the Managing Director subject to the ratification of the Board under such terms and conditions as are contained in the Corporation Scheme of Service.
- (3) In the discharge of his functions, the Managing Director shall be assisted by a Management Team set up by him for which he shall be the Chairman.
- (4) The Management Team shall consist of the Directors of each department
- (5) The Directors shall be subject to the exclusive jurisdiction and control of the Managing Director.
- (6) The Management Team shall:
- (a) Be responsible for the appointment of persons to posts for which the remunerations are equivalent to salary grade level 01- 09 within the Corporation's salary structure;
 - (b) Advise the Managing Director in the discharge of his duties; deliberate and advise the Board through the Managing Director on matters referred to it by the Board.

The Secretary and Legal Adviser

79. (1) There shall be a Secretary and Legal Adviser (referred to in this Bill as the Secretary) to the Corporation who shall be responsible to the Managing Director and shall assist the Corporation in the discharge of its functions under this law.

(2) The Secretary shall be appointed by the Board through a competitive and transparent recruitment process carried out by the Board through to an advertisement for such vacancy;

(3) The Secretary shall be a Legal Practitioner with a minimum of 10 years post-call experience and shall be the head of the Corporate Governance and Compliance Unit.

(4) Be appointed pursuant to a Performance Based Employment Contract:

(a) For a term of five years on a fulltime basis

(b) Renewable for another five-year term upon considerations of good performance and relevant Indicators as contained in such Contract of the Corporation.

The Functions of the Secretary and Legal Adviser

80. The Secretary shall perform the following functions:

(a) Organize and take minutes of the meetings of the Board;

(b) Keep the seal and records of the Corporation and conduct correspondence of the Board;

(c) Arrange for payment of fees and allowances of meetings and all other matters affecting Members of the Board;

(d) Communicate policy decisions at Board Meetings to affected Departments; (e) render advice on compliance with Laws, rules and regulations affecting the Corporation;

(f) Draft and recommend the execution of legal documents; and

(g) Perform all other duties as the Board or the Managing Director may from time to time direct.

Staff of the Corporation

81. (1) The Corporation shall have the power to recruit such number of staff and other employees as it may from time to time require in the discharge of its functions under this law;

(2) The Corporation shall determine generally the terms and Conditions of Service of the staff and other employees which shall include:

(a) Conditions for the appointment, promotion, termination and dismissal of staff and other employees; and

(b) Procedures for Appeals by employees against dismissal or termination or other disciplinary measures:

PROVIDED that until such conditions of service are made, any instrument relating to the conditions of service in the Public Service of the State shall be applicable, with such modifications as may be necessary, to Staff and employees of the Corporation.

(3) The Corporation shall determine the salaries and emoluments of the staff and other employees of the Corporation.

(4) Staff and other employees of the Corporation shall be entitled to pensions, gratuities and other retirement benefits as prescribed under the National Pension Act.

(5) Without prejudice to the provisions of subsection (4) of this section nothing in this Bill shall prevent the appointment of any person to any office on terms which preclude the grant of pension, gratuity or other retirement benefits with respect to that office.

PART XIV

FINANCIAL, NOTICES AND INDEMINITY PROVISIONS

Funds and Resources of the Corporation

82. (1) The funds and resources of the Corporation shall consist of:

- (a) All sums, investments or other property vested in the Corporation by virtue of the provisions of this law;
- (b) such sums or other property as may from time to time be advanced by way of loans or grants to the Corporation by either Federal, State, Local Government, any International Organization, and private foundation or any person whatsoever;
- (c) any investments or other property whatsoever acquired by the Corporation;
- (d) all other sums such as water and sewerage management services charges and rates, or other property whatsoever which may become payable to or vested in the Corporation under this law or any other Law and;
- (e) Any money allocated to the Corporation under the State Government budgetary allocation or such other money as may from time to time accrue to the Corporation.

(2) The Corporation shall ensure that its funds and resources are adequate to meet the operating expenses, depreciation charges, debt servicing requirements and such percentage of its annual capital expenditure requirements as may be determined by the State Government and any shortfall may be provided as a loan by the State Government to the Corporation upon terms as the Government may determine so that the Corporation continues to provide water supply and sewerage services.

Bank Account

83. The Corporation shall operate Bank Accounts with reputable Banks and the signatories to the accounts shall be approved by the Board.

Application of the Corporation's Funds

84. (1) The following charges shall be defrayed out of the funds of the Corporation for any financial year:

- (a) The allowances of the Members of the Board of the Corporation;
- (b) the remuneration, fees, allowances pensions and gratuities of the staff, employees, agents, technical and other advisers or Consultants of the Corporation;
- (c) All expenses of the operation and management of the Corporation and its waterworks and other properties including provision for depreciation wear or tear or renewal of assets;
- (d) Such works of a capital nature as the Corporation may deem necessary from time to time;
- (e) Such sums including compensation that may be payable by the Corporation to any person or Authority by virtue of the provisions of this law or any other law;

(f) interest on loans raised by and on behalf of the Corporation; (g) sums required to be transferred to any special fund or otherwise set aside for the purpose of making provision for the capital investments, redemption of investments in the Corporation or other securities or the repayment of other loans; and (h) Such other sums as the Board may approve for payment out of the funds of the Corporation in respect of any financial year.

PROVIDED that the income and property of the Corporation, shall not be rated for taxation under the relevant Laws of the State.

General Reserve Fund

85. (1) Without prejudice to the provisions of the Taraba State Fiscal Responsibility Law, the Corporation shall with the approval of the Governor maintain a Special Reserve Fund in a separate Account into which shall be paid the following:

(a) Not more than 2% of the revenue of the Corporation as maybe determined by the Board for any financial year;

(b) Such money as the Governor may from time to time direct from any other sources;

(2) The General Reserve Fund shall be used for:

(i) Emergency and urgent needs of the Corporation relating to the rendering of urgent and essential services as the Corporation may from time to time authorize subject to the approval of the Board and subsequently ratified by the Governor;

(ii) Making good the loss or deficiency which may occur in any of the transactions of the Corporation. Provided that where the fund is used to meet State or National water related emergencies, the Government shall make arrangements to replace such amount upon application by the Corporation.

Loans, Grants and Investment
by the State Government

86. (1) The State Government may make to the Corporation the following:

(a) Grants and investments of any sums of money or property deemed necessary; and

(b) Loans upon such terms as to repayment of interest or otherwise as the Government may determine.

(2) The Government may waive in favour of the Corporation any right or liability to the Government arising from any transaction made pursuant to subsection (1) of this section.

Annual Budgets Accounts and
Audit

87. The provisions contained in Taraba State Fiscal Responsibility Law as regards Budgetary Planning of Corporations and other related Statutory Bodies shall have effect in relation to the Corporation as regards annual budgets, accounts and audits.

Annual Reports

88. The Corporation shall prepare and submit to the Government not later than four months after the end of each financial year, a report on the activities of the Corporation during the immediate preceding year and shall include in such report a copy of the audited accounts of the Corporation for that year and the auditors' report on the accounts.

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| External Auditor | <p>89. (1) The Corporation shall have an External Auditor who shall be appointed by the Board through a competitive and transparent recruitment process carried out by the Board;</p> <p>(2) Subject to the provision of this law, the External Auditor shall be responsible to the Board for the performance of its function.</p> <p>(3) As part of its functions under this Bill, the External Auditor shall at intervals of three months prepare a report on the internal audit work carried out during the period immediately preceding the preparation of the report and submit the report to the Board for discussion.</p> <p>(4) The External Auditor's report shall cover the financial transactions of the Corporation.</p> <p>(5) Without prejudice to the general effect of sub-section (3) of this section, the External Auditor shall make in each report such observations as appear necessary as to the conduct of the financial affairs of the Corporation during the period to which the report relates.</p> <p>(6) The Board shall transmit such report to the supervising Ministry and the regulatory Agency.</p> |
| Power to Accept Gifts | <p>90. (1) The Corporation may accept gifts of land, money or other property on such terms and conditions, if any, as may be specified by the person or organization making the gift.</p> <p>(2) The Corporation shall not accept gifts if the conditions attached by the person or organization offering the gifts are inconsistent with the functions of the Corporation or against the interests of the State.</p> |
| Power to Borrow Money | <p>91. (1) The Corporation may with the consent of the Governor borrow whether by way of mortgage or otherwise on such terms and conditions as the Board may determine, any such sum of money as may be required in the execution of the function conferred on the Corporation by this law.</p> <p>(2) An approval given for the purpose of this section may be either general or limited to a particular borrowing and any specified conditions.</p> |
| Investments to Stocks, etc. | <p>92. Subject to the approval of the Board, the Corporation may:</p> <p>(a) Invest money standing to the credit and not for the time being required for the purpose of the Corporation functions in stocks, shares, debentures or any other securities; and</p> <p>(b) Sell, dispose of or otherwise deal with all or any of such securities on recommendation of the Board and subject to Governor's approval.</p> |
| Power to raise Capital on the Stock Exchange | <p>93. The Corporation may with the approval of the Governor raise capital for the implementation of its developmental plans and programs through the capital market or by issuing Bonds or other instruments, subject to satisfying the requirements of the Stock Exchange.</p> |
| Guarantee on Loans or other instruments of the Corporation by the State Government | <p>94. (1) Subject to the provisions of the relevant law, the Government may guarantee by an undertaking, the payment of the principal and interest of, any sum or sums borrowed, or Bonds issued by the Corporation</p> |

(2) Any sum required by the Commissioner for Finance for the purpose of making good the obligations of the Government under the guarantee shall be charged on the Consolidated Revenue Fund of the State Government subject to the provisions of the Taraba State Fiscal Responsibility Law.

Bad Debts

95. The Corporation may, subject to approval by the Governor write off bad debts of the Corporation.

Proof of Moneys due

96. In any action for the recovery of any rate or other moneys (other than fines and penalties) payable or recoverable under this law, a certificate under the-hand of the Corporation that any sum of money is due, and that the defendant is the person liable to pay the same shall, be evidence of such debt and of non-payment thereof.

Corporation's responsibility to Customers for continuous supply of Water and Sewerage Services

97. (1) The Corporation shall ensure efficient, affordable, economical and sustainable access to water and sewerage services subject to:

- (a) Availability of resources;
 - (b) Need for an equitable allocation of resources to all Customers;
 - (c) need to monitor and ensure access to Water and Sewerage Services in an equitable manner;
 - (d) duty of Customers to pay approved tariff, which shall be in accordance with the State approved Tariff Policy and Regulations;
 - (e) Duty to conserve water resources;
 - (f) Nature, topography zoning and situation of the area in question;
 - (g) Right of the Corporation to limit or discontinue the provision of water and sewerage services if there is a failure to comply with reasonable conditions set for the provision of such Services.
 - (h) Need to carry out inspections, tests, or repairs and for the making of new connections; and
 - (i) Need to effect alterations and modifications to its pipelines and other facilities or general maintenance of the water and sewerage works subject to Notice as may be determined by Regulations.
- (2) The Corporation shall not be under any obligation to pay compensation for loss, damages or inconveniences caused to any customer through any suspension, failure, discontinuance or a total or partial interruption of the supply of water or sewerage services howsoever caused in furtherance of subsection 1 of this section except in the case of negligence on the part of any employee or agent of the Corporation.
- (3) The Corporation shall take reasonable steps to notify the public ahead of time of any proposed interruption in the provision of water and sewerage Services subject to any regulations.

Rates and Scales of Charges

98. (1) The Corporation shall fix rates and scales of charges payable for water supply and sewerage services within its areas of operation in accordance with a methodology for tariff setting approved by the Regulatory Agency.

(2) The water and sewerage rates and charges may be fixed at different rates for different locations and different users as shall be approved by the Regulatory Agency.

(3) In fixing the rates and charges for Water supply and Sewerage Services, the Corporation shall notify the Customers to whom such rates shall be applied to determine their willingness to pay for specified service levels and Service delivery methodology as well as tariff impact assessment for planning purposes.

(4) Subject to sub-section I of this section, the Corporation shall review the tariff periodically to reflect inflation, changes in cost of inputs and other social considerations.

Application for Water and Sewerage Services

99. (1) The Corporation may supply water to premises upon application of the owner or occupier pursuant to any rules and regulations issued;

(2) The Corporation may refuse to supply water to any particular premises except by a meter installed and maintained by the Corporation;

PROVIDED that the Corporation shall not disconnect any user or fail to connect a potential customer for the failure of the Corporation to provide such meter in accordance with service regulations issued by the Regulatory Agency.

Prohibition of sale of Water supplied by the Corporation

100. (1) As from the commencement of this Law, no person shall resell water supplied by the Corporation except pursuant to a Contract or other Agreement with the Corporation for that purpose:

PROVIDED that no Authority shall be required for the sale of any manufactured goods or other commodities in which water supplied by the Corporation is included such water having been from the Corporation in the first place.

(2) A person who contravenes the provision of subsection I of this Section shall be guilty of an offence punishable under section 120 of this law.

Payment for Water and or Sewerage Services Rates and Charges

101. (1) The owner or occupier of any premises to which water is supplied or sewerage Services are being rendered by the Corporation shall pay to the Corporation such rates and charges for water supply or other service as may from time to time be determined by the Corporation and approved by the Regulator.

(2) Where any person fails to pay such rates or charges in subsection (1) above from one to three months after the delivery to such person of a Notice of Default, the Corporation may discontinue Service to such premises and take steps to recover such rates or charges in accordance with regulations issued by the Regulatory Agency for that purpose or by an action brought before a court of competent jurisdiction.

Liability for damaged installation works

102. The Corporation shall not be liable for the malfunctioning or safety of any installation or appurtenances in a Customer's premises, only by reason of the connection of such installation to the Corporation's supply network unless such damage is due to the negligence of the agent, servant or employee of the Corporation.

Maps of Waterworks and Sewerage Works

103. (1) The Corporation shall keep, modify and update annually printed and electronic records of the location of:

(a) All resource mains, Water and Sewerage mains or discharge pipes vested in the Corporation; and

(b) Any other underground pipes, other than a service pipe, which are vested in the Corporation.
(2) Any modification of the records by the Corporation pursuant to subsection (1) of this section, shall be made as soon as practicable and the date of such modification and completion of the work resulting in the modification shall be incorporated into the records.

(3) The Corporation shall ensure that the contents of any records kept by it under this section are available, at all reasonable times, for inspection by the public, free of charge at any office of the Corporation upon application in writing to the Corporation.

PROVIDED that where copies of such information are required, the Corporation may charge a reasonable fee for the provision of such copies thereof.

(4) Any information which is required under this section for inspection by the public shall be made available in the form of a map.

Establishment of Customer Care Centre

104. (1) The Corporation shall establish a Customer Service Complaint Centre within the Corporation's Headquarters.

(2) The Corporation may establish Complaint Centres in its District/Area Offices as it may deem necessary with a view to bringing its services closer to the customers.

Limitation of suits against the Corporation Pre-action Notice, etc

105. (1) No suit shall be instituted in any court against the Corporation, a Member of the Board in his capacity as member, the Managing Director, or any staff, or other employees of the Corporation for any act done in pursuance or execution of this law, or public duties or in respect of any alleged neglect or default in the execution of this Bill, duties or Authority, unless:

(a) It is commenced within three months immediately following the act of neglect or default complained; or
(b) In the case of continuation of damage or injury, within three months next after the ceasing thereof.

(2) No suit shall be commenced against the Corporation before the expiration of a period of one month after written notice of intention to commence the suit shall have been served on the Corporation by the intending plaintiff or his agent; and the notice shall clearly and explicitly State the following:

(a) Cause of action;

(b) Particulars of claim

(c) Name and place of the abode of the intending plaintiff and (d) relief which he claims

Service of Documents

106. Any Summons, Notice or other document required or authorized to be served on the Corporation shall be served by delivering the same to the Head Office registry of the Corporation.

Restriction on execution against the Corporation's property

107. In any action or suit against the Corporation, no execution or attachment of property in the nature thereof shall be issued against the Corporation's water and sewerage works, treatment plants or other infrastructure such as office buildings, equipment, machinery, tools and operational vehicles of the Corporation without the consent of the State Attorney General.

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| Personal Immunity of Member, Agents, etc | <p>108. No Member of the Governing Board, agent, officer or other employee of the Corporation, or Member of any committee appointed by the governing Board under this law shall be personally liable for an act of default of the Corporation, done or omitted to be done in good faith and without negligence in the course of the operations of the Corporation.</p> |
| Directives by the Governor | <p>109. The Governor may give directives to the Corporation of general or specific nature that have impact on the socio economic living standard of the people and it shall be the duty of the Corporation to comply with the directives in accordance with the corporations' mandate.</p> |
| Restriction on Dealings with Immovable property | <p>110. The Corporation shall not, without the approval in writing of the Governor take steps for the alienation, mortgage, charge or demise of any immovable property which has been vested in the Corporation under any provisions of this law.</p> |
| Provisions relating to abstraction of Water by Fire Authorities | <p>111. (1) Nothing in this Bill shall preclude the Fire Authority from abstracting water, for the purpose of the prevention or control of fire, from any public fountain, service or water works of the Corporation.</p> <p>(2) No charge shall be made for water supplied by the Corporation under subsection (1).</p> <p>(3) The Corporation may, at the request of or after consultation with the Fire Authority, provide at any convenient or suitable places within the area of operation of the Corporation any main, pipe, valve, hydrant, services or other water works which may be required by the Fire Authority in the discharge of its functions to prevent or control fire.</p> <p>(4) No charge shall be made by the Corporation for any work done or services rendered under the provisions of subsection (3) of this section but all materials required for the work or services shall be paid for by the fire authority.</p> |
| Authorities of Documents | <p>112. The use of the Common Seal of the Corporation shall be authenticated by two signatures as follows:</p> <p>(a) The signature of the Managing Director of the Corporation and</p> <p>(b) The signature of the Corporation Secretary or any other officers of the Corporation authorized by the Board to act on that behalf.</p> |
| Certain provisions relating to Defaulters, etc. | <p>113. (1) Where any person contravenes any of the provisions of this law, the Corporation may, without prejudice to the rights of the Corporation to commence proceedings against any defaulter: (a) serve a Notice in writing on the defaulting occupier or customer; and</p> <p>(b) Authorize or cause an officer or employee of the Corporation to enter, alter, disconnect, stop or remove any water and or sewerage fittings, appurtenance, belonging to or used by such defaulting occupier or customer.</p> |

(2) Where an occupier or customer fails to remedy the default or contravention referred to in subsection (1) of this section, the Corporation may cause repairs, replacement and re-connection of the water and or sewerage fittings and the Corporation shall recover the cost or expenses reasonably incurred to effect the repairs or replacement or re-connection as the case may be from such defaulter.

Provisions relating to Acquisition of Land

114. (1) Wherever it appears to the Corporation that any land in the urban areas or areas of its operations is required for the purpose of any water and or sewerage works, the Corporation shall, subject to the Land Use Act, Cap L5, Laws of the Federation of Nigeria, 2010 apply to the Governor for allocation of such land including an application for approval for its officers or agents to enter upon the land and:

- (a) Survey and take levels of the land,
- (b) Dig or bore hole under the subsoil; and
- (c) Do such other things as are necessary to ascertain whether the land is adapted for such purposes including the conduct of Environmental Impact Assessments.

PROVIDED that no such officer, agent, servant or employee of the Corporation shall enter any building or any enclosed court or garden attached to a dwelling house (except with the consent of the occupier) except at least seven days' notice of intention to enter shall have been given to such occupier.

(2) Where any entry made under subsection (1) of this section occasions any damage requiring the payment of compensation, the Corporation shall pay reasonable compensation in the circumstances.

PART XV

TARABA STATE SMALL WATER SUPPLY AND SANITATION AGENCY

Establishment of the Agency

115. There is hereby established a body to be known as the Taraba State Small Town Water Supply and Sanitation Agency, (hereinafter referred to as “the STOWASSA or Agency as this part relates”).

Incorporation of the Agency

116. (1) The Agency shall have power to acquire, hold or dispose of movable and immovable property for the purpose of its functions under this law.

(2) The Agency is the asset holding institution in which all government properties in the small -town water sector is held under its trust.

(3) All existing and new State-owned water supply and sanitation infrastructure in the Areas classified as small town (“Service areas”) are hereby vested in the STOWASSA.

Objectives of the STOWASSA

117. (1) The objectives of the STOWASSA shall be to:

- (a) Provide safe, adequate and affordable water supply services to the residents of the Small Town Service Areas in accordance with this law;
- (b) Support sanitation and wastewater management Services, whether by the provision for the collection or treatment, disposal of wastewater generated by Customers within its area of operation, and other Services incidental thereto.

- (c) Collaborate with the Ministry responsible for Water Resources to secure efficient use, conservation and protection of water resources;
- (d) In accordance with the State Tariff Policy and regulations issued by the TAWASREC, operate on sound commercial practice and maintain Customer focus for service sustainability and efficiency while ensuring that its revenues are sufficient to provide for:
 - (i) All depreciation, amortization and interest costs
 - (ii) All operation and maintenance costs; and
 - (iii) Reasonable return on investment.

Composition of the Agency

118. There is hereby established a 'Board' for STOWASSA which shall consist of the following members:

- (1.) A Chairperson.
- (2.) A representative of Bureau for Local Government and Chieftaincy Affairs.
- (3.) Six ex-officio member which shall include:
 - (i). The representative of Ministry in charge of Water Resources in the State.
 - (ii). The representative of Ministry of Health
 - (iii). The representative of the State Chapter of Water Sanitation and Hygiene Committee (WASHCOM)
 - (iv). The representative of Ministry of Women Affairs
 - (v). The representative of the Ministry of Finance
 - (vi). The General Manager of the Agency.
- (4) The Chairperson and other members of the Board shall be appointed by the Governor, shall serve as part-time members of the Board.
- (5) In the appointment of members, the Governor shall take into consideration Gender Equity and Social Inclusion (GESI) in WASH decisions in State.
- (6) The appointment of the Board shall be made in such a manner as to recognize the diversity of the people of the state.

Tenure of office of Board Members

119. A member other than the General Manager shall hold office for a term of 4 years and shall be eligible for reappointment for another term of 4 years only.

Remuneration of Members

120. A Board member shall be paid allowances subject to such terms and conditions as the Executive Governor may approve from time to time.

Vacation of office

121. The office of members shall become vacant if the person:

- (a) Has completed his tenure of office;
- (b) Resigns his appointment by writing and addressed to the Executive Governor;
- (c) Has without permission is absent from three consecutive meetings of the Board;
- (d) Is adjudged to be bankrupt;
- (e) Has been convicted for an offense involving dishonesty;

- (f) Has been found incapacitated due to infirmity of body or mind;
- (g) appointment has been revoked by the Governor.

Proceedings of the Board

- 122.** (1) Where on any occasion the Board is desirous of obtaining the advice of any person upon any matter, the Board can co-opt such person to be a member of such meeting or meetings as the Board may decide;
- (2) Any person so co-opted shall have the rights and privileges of a member except voting rights.

Validity of Proceedings

- 123.** The validity of any proceedings of the Board shall not be affected by any vacancy in the membership or any defect in the appointment of a member or by reason that a person not entitled so to do, has taken a part in such proceedings.

Meetings

- 124.** At any meeting of the Board the Chairman shall preside and in event the chairman is absent or unable to preside, the members present shall appoint one of them to preside.

Quorum

- 125.** (1). At any meeting of the Board two thirds of members shall form a quorum.
- (2). The Board may make standing orders to prescribe its own procedure and the conduct of its meeting and amend, vary such standing orders.
- (3). The Board may, subject to such conditions as it may approve establish such committees as it deem necessary for the purpose of performing any of its functions under this Law.
- (4). The decision or resolution of any committee established pursuant to sub-section (2) of this section shall not have any effect unless it has been approved by the Board.

Functions of the Agency

- 126.** (1) Provision of WASH service delivery in small towns as well as maintenance of facilities
- (2) Collection of water and sanitation tariffs for services in Small Towns
- (3) Monitoring and evaluation of WASH services delivery with a view to achieving policy targets and quality control.
- (4) Preparation of periodic report on WASH service delivery in Small Towns and dissemination of same to stakeholders.
- (5) Identify and implement projects for the provision of water and sanitation Services which may be undertaken with Private Sector Participation, after consultation with the relevant authorities and with the approval of the Governor in cases involving divestiture or assets;
- (6) Enter into any commitments, agreements, Joint Ventures, Performance Contracts, Public-Private Partnership agreements or other arrangements in respect of the provision, distribution, supply or sale of water and sewerage management Services;
- (7) Small towns Water data acquisition and management.
- (8) Submit to the Ministry of Water Resources quarterly reports of activities.
- (9) Propose tariffs for approval by TAWASREC and maintain good customer relations and feedback system.

- (10) Compile and forward periodic water quality reports to relevant Agency/ Department in the State Ministry of Health.
- (11) Ensure results of internal routine water quality control be made available to Ministry of Water Resources and Drinking Water Quality Surveillance inspectors of the Ministry of Health
- (12) Establish and implement a Water Safety Plan that includes all measures undertaken to achieve NSDWQ.
- (13) Inform Taraba State Ministry of Health in case of failure of water treatment process.
- (14) Provide regular update on water facilities characteristics and status to Ministry of Water Resources and Ministry of Health.
- (15) Recommend Regulations to the Ministry/relevant Regulatory bodies for protection and preservation of the assets of the STOWASSA and water resources of the State;
- (16) Promote the rational use of water resources and potable water;
- (17) Conduct training and retraining of staff for skills development;
- (18) Collect rates and charges for water and sanitation services for small town settlements in accordance with regulations issued by the Regulator; and
- (19) Carry out any other activities that are expedient or necessary for effective and efficient performance of its functions under this law.

Powers of the Agency

- 127.** (1) The STOWASSA shall, subject to the provisions of this Law, have power for the purpose of carrying out its functions to:
- (a) Own water services assets and construct new water services assets within its areas of operation;
 - (c) Determine and collect all rates and charges payable by Customers for water supply and sanitation management Services in small town settlements and determine all other fees, subject to the approval of the Regulator;
 - (d) Acquire, purchase, lease, hold, construct, manufacture, maintain or insure any property forming part of the water and sanitation management Services infrastructure of the STOWASSA, whether movable or immovable, required for or in connection with the performance of its functions and may sell, lease, concede, dispose of, or otherwise deal with such property or any part thereof subject to the approval of the Governor in instances of sale;
 - (e) Lay any water pipe or sewers through, across, or under any street or any place laid out or intended as a street and thereafter give reasonable notice in writing to the owner or occupier thereof, and make good any damage done;
 - (f) Examine from time to time any surface or underground water forming part of the water resources of the State for the purpose of determining what pollution, if any, exists and its causes and to do likewise in respect of other water bodies by arrangement with the appropriate Authority and in accordance with the provisions of any existing Law in that behalf.
 - (g) Subject to the issuance of reasonable notice to the occupier thereof, at any time between the hours of six o'clock in the morning and six o'clock in the evening, or in case of urgency at any other time, to enter

into premises or place upon which any service has been laid or into which any water supply Services is supplied so as to:

- (i) Inspect and repair any facility and to ascertain whether there is any wastage, leakage, obstruction, illegal connection or disposal of sewerage, or damage to any facility or meter therein and anything in connection therewith;
 - (ii) Ascertain the amount of water taken or used or;
 - (iii) Disconnect the supply of water or of any sewer to any premises;
 - (h) diminish, withhold, suspend, stop, turn off or divert the supply of water through or by means
 - (i) Make, draw, accept, or endorse negotiable instruments;
 - (j) write off bad debts with the approval of the Governor;
 - (k) Enter into Performance Contract with any staff or private person to ensure effective service delivery.
- (2) The STOWASSA shall have power for the purpose of carrying out its functions to do all such acts as appear to it to be expedient, advantageous, or convenient and may carry on any activities in that behalf either alone or in association with any other person or body.

District and Area offices

- 128.** (1) There shall be established in each Small-Town Center a, District/ Area/ Station offices of the STOWASSA.
- (2) A District/Area office of the STOWASSA shall be provided with such officers as the Board shall determine.
- (3) A District/Area office of the STOWASSA shall perform such functions of the agency as the Board may direct.

Chief Executives

- 129.** (1). Terms of appointment of all Staff of the Agency shall be pursuant to a Performance based Employment Contract
- (2). There shall be a General Manager for the Agency who shall be appointed by the Governor through a competitive and transparent recruitment process carried out by the Board pursuant to an advertisement for such vacancy.
- (3). The person appointed shall have a minimum often (10) years' experience in the field of water supply and sanitation and shall hold office on such terms and conditions as may be specified in his instrument of appointment.
- (4). The General Manager shall:
- (a) Be the Chief Executive and Accounting officer of the Agency;
 - (b) Be responsible for carrying out the policy of the Agency and for the general management of its day to day business;
 - c) Carryout such functions as the Board may from time to time direct.
 - d) Report to the Board of the Agency.

Secretary of the Agency **130.** (1) there shall be a Secretary for the Agency who shall be a Legal Officer of seven years post call experience;

(2) Be responsible for the Administration and Finance;

(3) Keep proper records of the Boards and management committee proceedings and perform such functions as the Agency may from time to time direct.

(4) Report to the General Manager

General Staff **131.** (1) The Civil Service Commission shall have the power to recruit such number of staff and other employees as it may from time to time require in the discharge of its functions under this law;

(2) The Civil Service Commission shall determine generally the terms and Conditions of Service of the staff and other employees which shall include:

(a) Conditions for the appointment, promotion, termination and dismissal of staff and other employees; and

(b) Procedures for appeals by employees against dismissal or termination or other disciplinary measures: PROVIDED that until such conditions of service are made, any instrument relating to the conditions of service in the Public Service of the State shall be applicable, with such modifications as may be necessary, to Staff and employees of the Agency.

(3) The Agency shall determine the salaries and emoluments of the staff and other employees of the Agency.

(4) Staff and other employees of the Agency shall be entitled to pensions, gratuities and other retirement benefits as prescribed under the National Pension Act.

(5) Without prejudice to the provisions of subsection (4) of this section nothing in this Law shall prevent the appointment of any person to any office on terms which preclude the grant of pension, gratuity or other retirement benefits with respect to that office.

Composition of the Management of the Agency **132.** (1) There shall be for the Agency a body to be known as the Management Committee:

(a).The Committee shall consist of a Chairman Who shall be the General Manager of the Agency;

(b). The Directors of all the departments shall constitute the members of the committee and report to the General Manager.

Organizational Structure of the Agency **133.** (1) The STOWASSA shall as it deems fit establish Departments to be headed by Directors as may from time to time be considered necessary by the Board for the performance of the Agency under this law.

(2) Such officers as mentioned in subparagraph I shall be appointed by the General Manager subject to the ratification of the Board under such terms and conditions as are contained in the Agency's Scheme of Service.

(3) The Directors shall be subject to the exclusive jurisdiction and control of the General Manager.

(4) The departments established under sub-section (1) of this section shall each be headed by a Director.

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| Engagement of Staff | 134. The Agency shall engage the services of staff as may be necessary for the performance of its functions. |
| Executive Governor Directions | 135. The Executive Governor may give the Agency directions of general or specific nature with respect to the performance of its functions and the Agency shall give effect to such directions. |
| WASH Regulation | 136. The Agency shall be subject to any regulations made by the TAWASREC in respect of any of the provision of this law. |
| Representation in Court | 137. (1). In any suit, the Agency shall at any stage of the proceedings, be represented by the Attorney General of the State or his representative; (2). For the purpose of this section “suit” includes action or any civil proceeding commenced by a writ of summons or in such other manner as may be prescribed of by the rules of the court but does not include criminal proceedings. |
| Limitation of suits against the Agency, Pre-action Notices, etc. | 138. (1) No suit shall be instituted in any court against the Agency, a Member of the Board in his capacity as member, the General Manager, or any staff, or other employees of the Agency for any act done in pursuance or execution of this law, or public duties or in respect of any alleged neglect or default in the execution of this law, duties or Authority, unless: (a) It is commenced within three months immediately following the act, neglect or default complained; or (b) In the case of continuation of damage or injury, within three months next after the ceasing thereof. (2) No suit shall be commenced against the Agency before the expiration of a period of one month after written notice of intention to commence the suit shall have been served on the Agency by the intending plaintiff or his agent; and the notice shall clearly and explicitly State the following: (a) Cause of action; (b) Particulars of claim (c) Name and place of the abode of the intending plaintiff and (d) Relief which he claims |
| Service of Documents | 139. Any Summons, Notice or other document required or authorized to be served upon the Agency under the provisions of this law shall be served by delivering the same to the principal office registry of the Agency. |
| Restriction on execution against the Agency's property | 140. In any action or suit against the Agency, no execution or attachment of property in the nature thereof shall be issued against the Agency's water and sewerage works, treatment plants or other infrastructure such as office buildings, equipment, machinery, tools and operational vehicles of the Agency without the consent of the Attorney General. |

Personal Immunity of Members, Agents, etc

141. No Member of the Board, agent, officer or other employee of the Agency, or Member of any committee appointed by the Board under this law shall be personally liable for an act or negligence, carried out in the course of the execution of official duty.

PART XVI

TARABA STATE RURAL WATER SUPPLY AND SANITATION AGENCY

Establishment of the Agency

142. (1) There is hereby established for the state an Agency to be known as The Taraba State Rural Water Supply and Sanitation Agency (hereinafter referred to as “RUWASSA”)

(2) The Agency shall have power to acquire, hold and dispose of any property movable or immovable as maybe directed by the State Government.

(3) RUWASSA shall have jurisdiction to ensure provision of water and sanitation services to communities in the rural water sector of the State.

(4) The Agency shall be subject to any regulations made by the TAWASREC in respect of any of the provision of this Law and may alter, vary or withdraw any function of the Agency.

Objectives and Functions of the Agency

143. (1.) The principal objective of Agency shall be:

(a) Do all things necessary to provide water supply and sanitation services to the rural areas falling under its jurisdiction except where:

(i). A person provides such services solely for that person’s own used or

(ii). A community owned water supply organization, provided such services is for a defined area within the Agency’s area of jurisdiction;

(b) Ascertain, prepare and maintain a comprehensive inventory of Rural Water Supply and Sanitation facilities throughout the State;

(c) Monitor the implementation of rural water supply and sanitation projects;

(d) Maintain and make to public available information on the Rural Water Supply and Sanitation Services; and import of such services;

(e) In collaboration with relevant Institutions develop incentive programs for rural water supply and sanitation services;

(f) Facilitate an inter-sectorial or rural water supply and sanitation services;

(g) Promote community led total sanitation (CLTS) and set standard for the construction of SANPLAT pour flush, VIP latrines and other sanitation facilities;

(h) Device guarding for the participation of local government and communities in rural water supply and sanitation;

(i) Implement rural water supply and sanitation services in line with national policy on rural water supply;

(j) Promote, device and innovative low cost options for the rural communities;

(k) Sensitize local governments to contribute to finance and WASH monitory, evaluation and research programme;

- (l) Ensure the establishment of local government area Rural Water Supply, Sanitation and Hygiene (WASH) department/Units and Water Sanitation and Hygiene Committees (WASHCOMS) in rural communities;
- (m) In consultation with other organizations, develop a cost sharing formula for the implementation of rural water supply and sanitation projects;
- (n) Sensitize local governments to contribute to and finance WASH monitoring, evaluation and Research programme within their areas of jurisdiction of the Agency;
- (o) Conduct research for the development of innovations in water and sanitation processes and technologies;
- (p) Promote water, sanitation and hygiene information management systems (WASHIMS);
- (q) Support communities to establish WASHCOM for operation and maintenance of water facilities;
- (r) Promote Rural Water, Sanitation and Hygiene data acquisition and management;
- (s) Liaise with the Federal Government Ministries, Agencies and relevant Ministries in the State in the design and implementation of Programmes and Projects in the area of rural water supply, Environmental Sanitation, Hygiene Education in Communities, Schools, Health centers, Maintenance and provision of rural infrastructure in population less than 5,000;
- (t) Compile and maintain a State-wide Inventory of Water and Environmental Sources including condition, type of Pump and source;
- (u) Prepare annual report on rural water, sanitation and hygiene service delivery and dissemination of same to stakeholders;
- (v) Promote Rural Water, Sanitation and Hygiene data acquisition and management;
- (w) Forward annual water quality reports to the Taraba State Ministry of Health surveillance agency/department and TAWASREC;
- (x) Ensure Water Supply facilities are equipped with minimum standard laboratory and test kit to carry out routine water quality control;
- (y) Ensure results of internal routine water quality control shall be made available to Ministry of Water Resources, TAWASREC and Ministry of Health;
- (z) Design and implement a Water Safety Plan that includes all measures undertaken to achieve NSDWQ; and an) Facilitate the access of all water facilities to Drinking Water Quality Surveillance inspectors in rural areas.

Composition of the Board
of the Agency

144. There is hereby established a 'Board' for RUWASSA which shall consist of the following members:

- (1.) A Chairperson.
- (2.) A representative of Bureau for Local Government and Chieftaincy Affairs.
- (3.) Six ex-officio member which shall include:
 - (i). The representative of Ministry in charge of Water Resources in the State;
 - (ii). The representative of Ministry of Health;
 - (iii). The representative of Ministry of Rural Development;
 - (iv) The representative of Ministry of Urban Development;

- (v). The representative of the State Chapter of Water Sanitation and Hygiene Committee (WASHCOM);
 - (vi). The representative of Ministry of Women Affairs;
 - (vii). The representative of the Ministry of Finance
 - (viii). The General Manager of the Agency.
- (4) The Chairperson and other members of the Board shall be appointed by the Governor, shall serve as part-time members of the Board.
- (5) In the appointment of members, the Governor shall take into consideration Gender Equity and Social Inclusion (GESI) in WASH decisions in State.
- (6) The appointment of-the Board shall be made in such a manner as to recognize the diversity of the people of the state.

Tenure of office of Board Members

145. A member other than the General Manager shall hold office for a term of 4 years and shall be eligible for reappointment for another term of 4 years only.

Remuneration of Members

146. A Board member shall be paid allowances subject to such terms and conditions as the Executive Governor may approve from time to time.

Vacation of Office

147. The office of members shall become vacant if the person:

- (a) Has completed his tenure of office;
- (b) Resigns his appointment by writing and addressed to the Executive Governor;
- (c) Has without permission is absent from three consecutive meetings of the Board;
- (d) Is adjudged to be bankrupt;
- (e) Has been convicted for an offense involving dishonesty;
- (f) Has been found incapacitated due to infirmity of body or mind;
- (g) appointment has been revoked by the Governor.

Proceedings of the Board

148. (1) Where on any occasion the Board is desirous of obtaining the advice of any person upon any matter, the Board can co-opt such person to be a member of such meeting or meetings as the Board may decide;

(2) Any person so co-opted shall have the rights and privileges of a member except voting rights.

Validity of Proceedings

149. The validity of any proceedings of the Board shall not be affected by any vacancy in the membership or any defect in the appointment of a member or by reason that a person not entitled so to do, has taken a part in such proceedings.

Meetings

150. At any meeting of the Board the Chairman shall preside and in event the chairman is absent or unable to preside, the members present shall appoint one of them to preside.

Quorum **151.** (1). At any meeting of the Board two thirds of members shall form a quorum.
(2). The Board may make standing orders to prescribe its own procedure and the conduct of its meeting and amend, vary such standing orders.
(3). The Board may, subject to such conditions as it may approve establish such committees as it deem necessary for the purpose of performing any of its functions under this Law.
(4). The decision or resolution of any committee established pursuant to sub-section (2) of this section shall not have any effect unless it has been approved by the Board.

Chief Executive **152.** (1). Terms of appointment of all Staff of the Agency shall be pursuant to a Performance based Employment Contract
(2). There shall be a General Manager for the Agency who shall be appointed by the Governor through a competitive and transparent recruitment process carried out by the Board pursuant to an advertisement for such vacancy.
(3). The person appointed shall have a minimum of University degree and ten (10) years' experience in the field of water supply and sanitation and shall hold office on such terms and conditions as may be specified in his instrument of appointment.
(4). The General Manager shall:
(a) Be the Chief Executive and Accounting officer of the Agency;
(b) Be responsible for carrying out the policy of the Agency and for the general management of its day to day business;
(c) Carryout such functions as the Board may from time to time direct;
(d) Report to the Board of the Agency.

Secretary of the Agency **153.** There Shall be a Secretary for the Agency who shall:
(1) Be a Civil servant not below Grade level 15;
(2) Be responsible for the Administration and Finance;
(3) Keep proper records of the Boards and management committee proceedings and perform such functions as the Agency may from time to time direct;
(4) Report to the General Manager.

General Staff **154.** (1) The Civil Service Commission shall have the power to recruit such number of staff and other employees as it may from time to time require in the discharge of its functions under this law;
(2) The Civil Service Commission shall determine generally the terms and Conditions of Service of the staff and other employees which shall include:
(a) Conditions for the appointment, promotion, termination and dismissal of staff and other employees; and
(b) Procedures for appeals by employees against dismissal or termination or other disciplinary measures:

PROVIDED that until such conditions of service are made, any instrument relating to the conditions of service in the Public Service of the State shall be applicable, with such modifications as may be necessary, to Staff and employees of the Agency.

(3) The Agency shall determine the salaries and emoluments of the staff and other employees of the Agency.

(4) Staff and other employees of the Agency shall be entitled to pensions, gratuities and other retirement benefits as prescribed under the National Pension Act.

(5) Without prejudice to the provisions of subsection (4) of this section nothing in this Law shall prevent the appointment of any person to any office on terms which preclude the grant of pension, gratuity or other retirement benefits with respect to that office.

Composition of the
Management of the Agency

155. (1) There shall be for the Agency a body to be known as the Management Committee.

(2). The Committee shall consist of a Chairman who shall be the General Manager of the Agency (3). The Directors of all the departments shall constitute the members of the committee and report to the General Manager.

Organizational Structure
of the Agency

156. (1) The agency shall be divided into the following departments namely:

(a) Administration;

(b) Finance, account and supply;

(c) Planning, monitoring and evaluation;

(d) Sanitation and hygiene promotion;

(e) Maintenance and workshop;

(f) Water supply;

(g) Quality control; and

(f) Local Government WASH coordination.

(2) Departments established under subsection (1) shall be headed by a director.

FINANCIAL PROVISION FOR RURAL WATER SUPPLY AND SANITATION

Finance Provision

157. (1) The sources of funds for the Agency shall be:

(i). State Government revenue and budget allocations;

(ii). The water levies or water charges payable to it by each customer using the water scheme;

(iii). Any monies that may be payable by members under its constitution;

(iv). Any money that the agency may obtain with approval of the commissioner responsible for water resource;

(v). any such sums as may be set aside by local government authority as a percentage from their revenue or allocation for rural water supply and community organizations on projects; and

(vi). Any monies that may be contributed by respective Local Government Areas to finance construction of new schemes.

- (2) The Agency shall be obliged to keep proper and audited book of account and prepare records in relation to them in form approved by the Auditor - General of the State.
- (3) The books of account kept under subsection (1) shall within three months after the end of each financial year, be audited by the Auditor - General of the state or designated officers appointed by Auditor-General.
- (4) The financial year of the Agency shall be the same as the financial year of the state.

PART XVII

DUTIES OF LOCAL GOVERNMENT AUTHORITIES IN RESPECT OF RURAL WATER SUPPLY, SANITATION SERVICES AND COMMUNITY ORGANIZATIONS

Local Coordination

- 158.** The local government authorities in the area of jurisdiction, shall make payment for purposes of:
- (a) Compensating all parties having claims on the land for all damages sustained by them as consequences of execution, expansion or rehabilitation of water works carried out by or on behalf of rural community or community organization through or their land; and
 - (b) Meeting part of the costs incurred by community owned water supply organizations in the major rehabilitation and expansions of water schemes and payment for costs service rendered. Cooperation by Local Government Authorities.

Collaboration with WSSPs

- 159.** The Local Government Authorities shall collaborate with the Water Supply and Sanitation Service Providers in exercising any of following duties:
- (a) Facilitating the acquisition by all water organizations, developing water schemes and obtaining certificate of land title prior to the commencement of schemes;
 - (b) Mobilizing rural communities and provide technical and financial support in the implementation of water developments programmes;
 - (c) Implementing defined regulatory roles and approve bye -laws to protect water sources, community organization and service providers;
 - (d) Mobilizing revenues for the purpose of supporting development, cooperation and maintenance of water schemes of the rural community;
 - (e) Facilitate and encouraging the communities to construct, maintain and control of water points and sanitation facilities in any household and or within the community organization area;
 - (f) Promoting efficient water used, pollution control and taking measures for the conservation and protection of water sources, water works, streams, rivers, springs, and other water sources within its area; and
 - (g) Promoting registration of rural and community organization in other to facilitate ownership of water schemes to them.

Financing and Support

- 160.** (1) Local government authorities shall collaborate with the Agency and community organizations in the provision of water supply and sanitation services under this law.

- (2) The assistance may be in the form of grants, loans, or subsidies necessary subject to such terms and conditions.
- (3) Prior to giving any financial assistance, the local government authority must take into account all relevant consideration including:
 - (a) The need for equity;
 - (b) Transparency;
 - (c) The purpose of the financial assistance; and
 - (d) The financial position of the recipient.
- (4) Any community organizations shall be required to meet the costs of operation and maintenance of its water supply system or systems from its own resources and make contribution in cash or in kind to its capital costs.
- (5) The community organizations requesting financial support shall be required to demonstrate:
 - (a). Ability to sustain water schemes; and
 - (b). Willingness to pay a portion of the capital costs of the water scheme.

PART XVIII:

DUTIES OF COMMUNITY ORGANIZATIONS IN RESPECT OF RURAL WATER SUPPLY AND SANITATION SERVICES.

Rights to form an Association

- 161.** (1) Inhabitants or any group of persons living in a geographically defined area may establish by agreement of majority of members of a community to form a Community Organization.
- (2) A community organization established under subsection (1) shall for the purpose of this law as may be prescribed in any law including:
- (i). A water consumer association;
 - (ii). A water trust;
 - (iii). A cooperative society;
 - (iv). A company;
 - (v). A Non-governmental organization; and
 - (vi). Any other body as may approve by the commissioner.
- (3) Notwithstanding the provision of subsection (2), a community owned water supply organization established, shall be formed in accordance with the Constitution of Federal Republic of Nigeria, Nigerian Company and Allied Matters Act (2010) or memorandum of agreement.
- (4) The community organization shall in that capacity have perpetual succession and common seal and shall have power, in and by its cooperate name, sue and sued and in the exercise and performance of its functions and powers to do and permit all such things as may lawfully be done or permitted by anybody cooperate in furtherance of objectives under this law.

Roles and Responsibilities

- 162.** A community organization established under section 161 of this law shall, subject to the terms of this law, have the powers and responsibilities in its area of jurisdiction to:

- (1) Own movable and immovable properties including public taps and water works;
- (2) Manage, operate and maintain public taps and or water works and provide an adequate and safe supply of water to its customers;
- (3) Make rules for the use of public taps and or water works by consumers;
- (4) With the approval of the Regulator install meters for the purpose measuring the amount of water supplied to a public tap or customer;
- (5) Limit the access of any persons from the water source, public tap or from suppliers from water works who are not complying with the rules regulations or the constitutions of the organization or the Regulator;
- (6) Consult and cooperate with village/District heads or any other institution responsible for land to plan and control the used of land in the immediate vicinity of the water permit and or water works;
- (7) Do such other thing or enter in to any transaction which, in the opinion of the community is necessary in carrying out its obligations under this law.

Registration of
Community Organization

163. (1) The proposed members of a community organization shall prepare a constitution of memorandum of Agreement substantially in the form set out in the schedule and submit such Constitution or memorandum of agreement to the local government Authority for approval.

(2) Open request of a community or group of water consumers intending to establish an association, the local government authority shall provide assistance in formulating the constitution or memorandum of Agreement.

(3) A Board of committee as appropriate shall be the executive organ of the community organization and shall be elected and have the powers as set out in the Constitution or memorandum of agreement prepare under section (1).

Administration

164. (1) Upon approval of the constitution or memorandum of Agreement prepare under section 163 of this law, the community organization establish under the provisions of any other law in accordance with laid down procedure shall be registered.

(2) With effect from the date of registration the community organization shall be responsible for the water supply and sanitation system or systems to which it was established.

(3) With effect from the date of registration all water consumers within the area of community organization shall be required to pay such charges as may levied for provision of water supply and sanitation services.

Enforcement of objectives

165. (1) A community organization may, arrange for the exercise of powers and performance of its functions by one or more agents to be known as service providers.

(2) Such arrangement shall be reduced to a written agreement between the community organization and the service provider the terms of which, any amendment of which, shall be approved by the local government authority.

PART XIX

CONTROL OF ABSTRACTION AND PROTECTION OF THE ENVIRONMENT

Control of abstraction and prevention of wastewater in certain areas

166. Control of abstraction and prevention of wastewater in certain areas:

- (1) Special measures for the conservation of water in any area within the State shall be enforced in the public interest, whether for the protection of water supplies to the public or for the protection of water supplies used for industrial or other purposes:
- (2) Subject to the provisions of this section, no person shall, in any area to which this section applies:
 - (a) Construct any well, borehole, or other works for the purpose of abstracting underground water; or
 - (b) Extend any existing well, borehole or other works for the purpose of abstracting additional quantities of underground water;
 - (c) Abstract water from any river, dam or lake; and
 - (d) construct any works capable of providing water in excess of one thousand gallons a day, unless he has obtained in accordance with regulations made under this section, a license from the Taraba State Agency for Water, Sanitation Regulation and Control.
- (3) The foregoing sub-section (2) of this section shall not apply to:
 - (a) the construction or extension of any well, borehole or other work by any individual for the purpose of abstracting water solely and to the extent necessary for the supply of water for the domestic purposes of his household;
 - (b) The construction or extension of any well, borehole or other work, if that construction or extension is expressly authorized by any enactment.
- (4) The Taraba State Agency for Water, Sanitation Regulation and Control in collaboration with Taraba State Environmental Protection Agency shall make regulations for carrying out of any or all of the provisions of this section.

PART XX

OFFENCES

Injury, Pollution, etc.

167. Any person who willfully or negligently:

- (a) Damages waterworks, public fountains, services or meters; or
- (b) Unlawfully draws off, diverts or takes water from the same, or from any streams or waters by which any waterworks are supplied; or
- (c) pollutes any such water or allows any foul liquid, gas or other noxious or injurious matter to enter into any waterworks, river, lake, stream or any services connected therewith, shall be guilty of an offence and shall be liable on conviction to imprisonment for twelve months or to a fine of not less than five hundred thousand naira or to both such fine and imprisonment, in addition to a penalty of fifty thousand naira for each day whilst the offence continues.

Waste and altering service

168. (1) Any person who willfully or negligently misuses or wastes, or causes, or allows to be misused or waste any water passing into, through, upon or under any tenement from any waterworks shall be guilty of

an offence and shall be liable on conviction to imprisonment for one month or to a fine of fifty thousand naira or to both.

(2) Any person who unlawfully, alters, or causes, or permits to be altered, or connects or re -connects any service without the consent of the Agency or Corporation or contrary to any regulations made under this law, shall be guilty of an offence and shall be liable on conviction to imprisonment for six months or to a fine of fifty thousand naira, or to both.

(3) Any person who unlawfully, taps, damages, destroys or causes to be destroyed any mains or central network of pipes belonging to the corporation shall be guilty of an offence and shall be liable on conviction to imprisonment for seven years, or a minimum fine of one million naira, or to both.

Fraudulent measurement

169. (1) any person who:

(a) Alters, or causes or permits to be altered, any service with intent to avoid the accurate measurement or register of water by means of any meter, or to obtain a greater supply of water than he is entitled to, or to avoid payment therefore; or

(b) Willfully or negligently damages any meter, Shall be guilty of an offence and shall be liable on conviction to imprisonment for three months or to a fine of fifty thousand naira or to both; and

(2) Any service so altered or meter so damaged shall be replaced or repaired by the Corporation or Agency at the expense of such person, and the cost of replacing or repairing any such service or meter shall be recovered upon the order of a court in the same manner as any penalty may be recovered upon conviction.

Foul accumulation of earth,
etc.

170. (1) any person who:

(a) Owns or occupies any premises puts, allows to be put, or to remain, or to accumulate;

(b) Fails to remove or to cause to be removed or to take such steps as may be necessary to prevent;

(c) Upon notice in writing from the Regulator, any foul, noisome or injurious matters or any earth deposit; or excavated material in such manner or place that it may be washed, fall, or be carried into any waterworks or river or the gathering grounds thereof, shall be guilty of an offence and shall be liable on conviction to imprisonment for one year, or to a fine of five hundred thousand naira, or to both, and in respect of any period during which such matter, earth, deposit or excavated material is allowed to remain after notice in writing from the Regulator requiring the same to be removed, to a penalty of fifty thousand naira for each day whilst the offence continues.

(2) Any person who constructs or erects any building or structure on any piece of land acquired for the use of the Corporation or marked for the construction and passage of pipeline shall be guilty of an offence and shall be liable on conviction to a fine of Two Hundred and Fifty Thousand Naira.

Bathing, washing, etc.

171. Any person who:

(a) Bathes in any part of any source /waterworks or;

(b) washes, throws or causes to enter therein, any horse, dog, goat, pig, other animal, or any bird, or any clothes, material or thing; and or

(c) Wrongfully opens or closes any lock, cock, valve, sluice or manhole belonging to any waterworks, shall be guilty of an offence and shall be liable on conviction to imprisonment for six months or to a fine of fifty thousand naira, or to both such fine and imprisonment.

Penalty for inciting any person to refuse to pay rates or charges

172. Any person who, without unlawfully:

- (a) incites any person to refuse to pay any rate or charge payable by him by virtue of this Law, or any regulations made thereunder, or having effect as so made; or
- (b) incites or assists any person to misrepresent in anyway his ratable capacity or any information material to the assessment of or rating upon any tenements of which he is owner or occupier, shall be guilty of an offence and shall be liable on conviction to a fine of ten thousand naira or to imprisonment for six months or to both such fine and imprisonment.

Penalty for discharge of industrial and chemical waste

173. Any person who willfully or negligently:

- (a) Discharges industrial waste; or
- (b) Dumps chemical waste, petroleum products or prohibited substance or pollutes any waterworks, public place, public fountain, lake or river, shall be guilty of an offence and shall be liable on conviction to a fine of not less than five million Naira or imprisonment of five years.

Prohibition of improper disposal or accumulation of foul, noisome or injurious matters or any earth, polythene, deposit or excavated material

174. Any person who:

- (1) Occupies or own by him or his servants, puts, allows to be put, or to remain, or to accumulate,
- (2) Fails to remove or to cause to be removed or to take such steps as may be necessary to prevent any foul, noisome or injurious matters or any earth, polythene ,deposit or excavated material in such manner or place that it may be washed, fall, or be carried into any river, drainage, road or the gathering grounds thereof, shall be guilty of an offence and shall be liable on conviction to imprisonment for one year, or to a fine of five hundred thousand naira, or to both.

Penalty for non-compliance with audit reports

175. Any person who fails to comply with a requirement of an auditor under sections 24, 25, 88 and 89 of this law commits an offence and shall be liable on conviction to a fine of fifty thousand Naira or to imprisonment of six months or both.

General Offences.

Contravention of Section 34

176. Any offence committed against the provisions of this Law for which no penalty is expressly provided for shall:

- (a) Be punishable by a fine not less than Two Hundred Thousand Naira; or
- (b) Imprisonment for a term not exceeding three years or both.

Contravention of Section relating to financial audit

177. Any Board member who contravenes section 71 of this law commits an offence and is liable on conviction to a fine of N100, 000 or two years' imprisonment or both.

Abstraction without license **178.** Any person who abstracts water from any surface or underground sources in excess of four thousand liters per day without a license shall be guilty of an offence and shall be liable on conviction to a fine of two hundred thousand naira or to imprisonment for two years or to both such fine and imprisonment.

Repeal **179.** The Taraba State Water Board Law, Cap 142, Laws of Taraba State 1997 Rural Water and Sanitation Agency Law, Laws of Taraba State No. 7 of 2016 and any other Law or Instrument connected therewith are hereby repealed.

**SCHEDULE ONE:
TARABA STATE WATER AND SANITATION SECTOR PPP GUIDELINE.
INCEPTION:**

1. When a WASH public service institution contracts for goods or services, it must do so in accordance with:
 - a) A system which is fair, equitable, transparent, competitive and cost- effective.”
 - b) The administrative action on a PPP procurement process must be in accordance with the law and prescribed procedures.
 - c) Accountability, responsiveness and openness in the WASH public service Institution decision making
 - d) All bidders at each stage of a procurement process must have an equal chance of competing for the contract, and no action taken by the government may prejudice their competitiveness.
2. The WASH public service Institution may enter into a service delivery agreement with a community-based organization or other non-governmental organization or a Private Party.
3. The Private Party performs a WASH service function for or on behalf of the WASH public service Institution or acquires the management or use of the public utility property for its own commercial purpose; or both.
4. The Private Party assumes substantial financial, technical and operational risks in connection with:
 - a) The design, financing, building and operation;
 - b) The performance of the WASH public service Institution function ;
 - c) The management or use of the WASH public service Institution property.
5. The Private Party receives a benefit from performing the public utility function, or from using the public utility property or both, by:
 - i. Consideration to be paid or given by the WASH public service Institution or a divisional entity under the sole or shared control of the public utility.
 - ii. Charges or fees to be collected by the Private Party from users or customers of a service provided by them.
 - iii. A combination of the benefits referred to in sub paragraph (i) and (ii).
6. (1) Affordability limits, value-for —money considerations and risks profile of the project will determine a PPP projects financing structure and sources of funding.
(2) A typical PPP finance structure must:
 - a) Involve some capital contribution by the WASH public service Institution to the initial costs of the project or;
 - b) Wholly funded through corporate finance or;
 - c) A combination of funds and private equity.
7. As soon as the WASH public service Institution begins a project that may be a PPP, the Managing Director/Chief Accounting Officer must:

- i. In writing notify the State Executive Council and the Taraba State Agency for Water Sanitation Services, Regulation and Control, together with information on the expertise within the WASH public service Institution to comply with that section of this law.
 - ii. If requested to do so by the State Executive Council or the Regulator, appoint a person with appropriate skills and expertise, either from within or outside the WASH public service Institution, as the adviser to assist and advise the institution on the preparation and procurement of the PPP agreement.
8. (1) The PPP project cycle must enable the three regulatory tests of affordability, value for money and risk transfer to be applied at every stage of preparing for, procuring and managing a PPP agreement.
- (2) The Regulator must set out four distinct phases to the project cycle which are:
- a) Inception
 - b) Feasibility study
 - c) Procurement
 - d) PPP Contract Management
- (3) The WASH public service Institution must apply these tests throughout, and the views and recommendations of the State Executive council and Regulator must be solicited before such Institution publicly invite bids and prior to the execution of any PPP agreement.

FEASIBILITY STUDY

9. To determine whether an external mechanism, including a PPP, is in the best interest of the WASH public service Institution, the Managing Director and /Chief Accounting Officer must undertake a feasibility study that:
- (1) Explains the strategic and operational benefits of the proposed mechanism, including a PPP, for the public utility institution in terms of its objectives.
 - (2) Describes in specific terms:
 - a) The nature of the private parties' role in the PPP;
 - b) The extent to which this role, both legally and by nature, can be performed by a Private Party;
 - c) Describes how the proposed agreement will:
 - i. Provide value for money to the WASH public service Institution;
 - ii. Be affordable for the WASH public service Institution;
 - iii. Transfer appropriate technical, operational and financial risks to the Private Party;
 - iv. Impact on revenue flows and its current and future budgets.
 - (3) Takes into account all relevant information
 - (4) Explains the capacity of the WASH public service Institution to effectively monitor, manage and enforce the agreement.
10. When the feasibility study is completed, the Managing Director/Chief Accounting Officer must present the feasibility study report, with all relevant documents, to the Regulator who shall transmit to the State Executive Council for its approval to continue with the proposed PPP within 60 days.

PROCUREMENT:

11. (1) Prior to issuing any bid documentation, the Managing Director/Chief Accounting Officer of the WASH public service Institution must solicit the views and recommendations of the Regulator and the State Executive Council.
- (2) All bidders at each stage of a procurement process must have an equal chance of competing for the contract, and no action taken by the government may prejudice their competitiveness
12. Each administrative action in a PPP procurement process must be in accordance with the law and prescribed procedures, there must be accountability, responsiveness and openness in decision making.

13. (1) After evaluation of the bids, but prior to appointing the preferred bidder, the Managing Director/Chief Accounting Officer must solicit the view and recommendation of the Regulator in terms of:
 - a) The proposed terms and conditions of the draft PPP agreement,
 - b) The plan for the effective management of the agreement after its conclusion,
 - c) The preferred bidder's competency to enter into the agreement,
 - d) The preferred bidder's capacity to comply with the obligations of the agreement(2) 60 days prior to signing of contract the Regulator must pass resolution authorizing execution of PPP contract as stated in Clause 10.
14. In addition to the requirement under Clause 9(2) of this Schedule, a PPP agreement between the WASH public service Institution and a Private Party must:
 - a) Confer effective power on the WASH public service Institution,
 - b) Provide for management and enforcement of the agreement,
 - c) Impose financial management duties on the Private Party, including transparent processes relating to internal financial control, budgeting, accountability and reporting,
 - d) Provide for the termination of the agreement if the Private Party:
 - i. Fails to comply with terms or conditions of the agreement
 - ii. Deliberately provides incorrect or misleading information to the WASH public service Institution,
 - e) Restrain the Private Party, for the full period of the agreement, from offering otherwise than in accordance with the agreement an employment, consultancy or other contract to a person:
 - i. Who is an official of the WASH public service Institution or a government entity under the sole or shared control of the public Institution;
 - ii. Who was such an official at any time during a period of one year before the offer is made.
 - f) Restrain the Private Party, for a period of three years from offering an employment, consultancy or other contract to an employee of the government directly involved in the negotiation of the agreement.
 - g) Comply with clause 15(e) under this schedule.
15. Only the Managing Director /Chief Accounting Officer of a public utility may sign a PPP agreement on behalf of the WASH public service Institution.
16. The Managing Director/Chief Accounting Officer may not sign a PPP agreement unless Section 15(a) to (g) has been complied with.

PPP CONTRACT MANAGEMENT

17. The Managing Director/Chief Accounting Officer of the WASH public service Institution that is a party to a PPP agreement is responsible for ensuring that the PPP agreement is properly implemented, managed, enforced, and reported on including ensuring that the WASH public service Institution has contract management and monitoring capacity.
18. A PPP agreement may be amended by the parties, but only after:
 - i. The reasons for the proposed amendment have been tabled in the State Executive Council.
 - ii. The amendment is consistent with the basic essentials of the PPP Project.

SCHEDULE TWO

MISCELLANEOUS AND TRANSITIONAL PROVISIONS.

- I. The statutory functions, rights, obligations and liabilities of the Taraba State Water Supply Agency as they relate to the supply of water in the State existing before the commencement of this law, under an

y contract or instrument, whether in Law or In equity, shall by virtue of this law and without further assurance, is hereby vested in the Taraba State Water and Sewerage Corporation or in any other Agency that may be created thereafter.

2. Any such contract or instrument mentioned in subsection (1) of this section, shall be of same force and effect against or in favour of the Corporation and shall be enforceable by the Corporation as if it existed before the commencement of this law and the Corporation shall be subject to all obligations and liabilities to which the Water Board existing before the commencement of this law was subject, and all persons shall have the same rights, powers and remedies against the Corporation as they had against the previous Water Board.
3. Any proceedings or cause of action pending or existing immediately before the commencement of this law, by or against the Taraba State Water Supply Agency in respect of any right, interest, obligation or liability may be continued or as the case may be, commenced by or against the Corporation and any determination of a court, tribunal or other Authority or person may be enforced by or against the Corporation to the same extent that such proceedings or cause of action or determination might have been continued, commenced or enforced against the Taraba State Water Supply Agency.
4. Any person who immediately before the coming into force of this law was the holder of any office in the Taraba State Water Supply Agency or a Staff before the commencement of this law whose services are no longer required by the Corporation upon the conduct of a Staff Needs Assessment for the effective performance of its functions in accordance with this law shall be redeployed to the State Civil Service.

**SCHEDULE
FORM A
(SECTION 2)**

This printed impression has been compared by me with the Law which has passed the Taraba State House of Assembly and found by me to be a true and correctly printed copy of the said Law.



[Handwritten signature]

.....
Clerk of the House of Assembly

Name: MELLAH K. ORNGU (P)

**FORM B
SECTION 4(1)**

Assented to by me this 19th day of DECEMBER 2019.

[Handwritten signature]
.....
Executive Governor

Name: DARUS DICKSON ISHAKU

**FORM C
SECTION 4(2)**

Assent withheld by me this day of 2019.

.....
Executive Governor

Name:

**FORM D
SECTION 4(3)**

Passed again by the Taraba State House of Assembly by two thirds majority this day of 2019.

.....
Speaker

Name: