

[AS REPORTED FROM THE LOCAL BILLS COMMITTEE]

House of Representatives, 23 October 1956

Words struck out by Local Bills Committee are shown in italics within bold round brackets or in roman enclosed in panel; words inserted are shown in black within bold square brackets or in roman with rule down side.

Hon. Mr Goosman

WAIKATO VALLEY AUTHORITY

ANALYSIS

Title	10. Expenses of administration
1. Short Title	11. Waikato Valley Authority to operate mainly through local Councils
2. Interpretation	12. Powers of local Councils
3. Waikato Valley and constituent districts	13. Appropriation of money
4. Constitution of Waikato Valley Authority	14. Authority to furnish reports
5. Authority to be a body corporate	15. Provision for dissolution of Authority
6. Elections of members of Authority	16. Power of Authority to terminate or assign contracts
7. Deputy members	17. Bylaws
8. Meetings of Authority	18. Administration of Act
9. Powers, etc., of Authority and Minister	19. Regulations Schedules

A BILL INTITULED

5 **An Act to make provision for the control of the waters which drain into and form the Waikato River and its tributaries, and for the protection of property from damage by floods and matters related thereto within the catchment area for those waters**

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

10 **1. Short Title**—This Act may be cited as the Waikato Valley Authority Act 1956.

2. Interpretation—(1) In this Act, unless the context otherwise requires,—

“Financial year” means a period of twelve months ending with the thirty-first day of March;

“Local Council” means the Council of a constituent district that is represented on the Authority: 5

“Local Drainage and River Boards” means the Drainage and River Boards whose districts are wholly or partly within the Valley:

“Minister” means the Minister of Works: 10

“Waikato Valley Authority” or “Authority” means the Waikato Valley Authority constituted under this Act:

“Waikato Valley” or “Valley” means all the land that lies within the catchment area of the Waikato River and its tributaries. 15

(2) Unless the context otherwise requires, expressions used in this Act shall have the same meanings as they have in the Soil Conservation and Rivers Control Act 1941.

3. Waikato Valley and constituent districts—(1) For the purposes of this Act the Waikato Valley shall comprise all the land that lies within the catchment area of the Waikato River and its tributaries. 20

(2) The Minister may from time to time, by notice in the *Gazette*, describe the boundaries of the whole or any part of the Valley. In the absence of proof to the contrary, a copy of a *Gazette* containing any such notice shall be sufficient evidence that all land that is inside the boundaries described in the notice is included within the Valley. 25

(3) Where the whole or any part of the district, as for the time being constituted, comprising any county, city, borough, or town district forms part of the Waikato Valley, so much of that district as for the time being forms part of the Valley shall be a constituent district of the Valley.

(4) For all of the purposes of this Act other than the election of representatives, each of the constituent districts in a combined district shall be a separate constituent district, but the districts of the local Drainage Boards and local River Boards shall not as such be constituent districts. 35

4. Constitution of Waikato Valley Authority—(1) For the purposes of giving effect to the provisions of this Act, there is hereby constituted an Authority to be known as the Waikato Valley Authority. 40

(2) The Authority shall consist of the following members:

- (a) One member to be elected to represent so much of the County of Franklin as lies within the Valley:
- 5 (b) One member to be elected to represent so much of the County of Raglan as lies within the Valley:
- (c) One member to be elected to represent so much of the County of Waipa as lies within the Valley:
- (d) Two members to be elected to represent so much of the county of Waikato as lies within the Valley:
- 10 (e) One member to be elected to represent the combined district comprising so much of the counties of Otorohanga and Waitomo as lies within the Valley:
- (f) One member to be elected to represent the combined district comprising so much of the counties of Piako and Matamata as lies within the Valley:
- 15 (g) One member to be elected to represent the City of Hamilton:
- (h) One member to be elected to represent the combined district of the boroughs of Cambridge, Ngarua-wahia, Huntly, and Tuakau, and the town district of Leamington:
- 20 (i) One member to be elected to represent the combined district of the boroughs of Te Awamutu, Te Kuiti, and Otorohanga:
- 25 (j) One member to be elected to represent the local Drainage and River Boards:

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- 30 (k) Five members, of whom the Minister shall appoint one to represent the Ministry of Works, one to represent the Department of Lands and Survey, one to represent the Department of Agriculture, one to represent the New Zealand Forest Service, and one to represent the State Hydro-electric Department:

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- 35 (kk) Two members, of whom the Minister shall appoint one to represent the Ministry of Works, and one to represent the State Hydro-electric Department:

- (l) Such other member or members (if any) as may from time to time be specified in any Orders in Council made under subsection *three* of this section.
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(3) The Governor-General may from time to time, by Order in Council made on the advice of the Minister given on the recommendation of the Authority, make provision for any other constituent district of the Valley to be represented on

the Authority either separately or as part of a then existing combined district or of a combined district created by the Order in Council. Any provision so made shall be in accordance with any agreement between the Authority and the local authorities of that constituent district and of any combined district of which it is proposed to become part, or in the absence of any such agreement, any such provision shall have regard to population, valuation of land, extent of works proposed, extent of contribution towards administration and other costs, and such other factors as the Governor-General thinks reasonable.

5. Authority to be a body corporate—The Waikato Valley Authority shall be a body corporate having, subject to the provisions of this Act, perpetual succession and a common seal, with power to purchase, take, hold, and transfer property real and personal, to sue and be sued in any Court, and to do and suffer all other acts and things which a body corporate may lawfully do and suffer.

6. Elections of members of Authority—(1) No person shall be elected as a member of the Authority unless he is a member of the Council or of one of the Councils or Boards by which he is elected.

(2) Every elected member of the Authority shall be elected by the members of the Council or Councils of the constituent district or combined district which he represents on the Authority or by the Boards which he so represents, by such means as they may in each case determine:

Provided that if the local Councils of a combined district, or the local Drainage and River Boards, fail to agree as to the arrangements for election, the arrangements shall be in accordance with regulations made in that behalf under this Act by the Governor-General in Council.

(3) All such elections shall be held within one month after the day appointed for holding the ordinary general election of the members of the local Councils, at a time and place appointed by the outgoing principal local Council or Board or by the outgoing Council, as the case may be, or (if it fails in any case, or in respect of the first elections) by its Returning Officer. For the purposes of this subsection the Governor-General may from time to time select and appoint one of the local Councils of each combined district and one of the local Drainage and River Boards to be the principal local Council or Board, as the case may be.

(4) Subject to the provisions of this Act, every elected member of the Authority shall hold office for a term of three years, and may from time to time be re-elected, and shall remain in office until his successor comes into office.

5 (5) Every member of the Authority other than an elected member shall hold office during the pleasure of the Minister, but may from time to time be reappointed.

7. **Deputy members**—A deputy for each member of the Authority may in the same manner be elected or appointed
10 to act for that member at any meeting of the Authority or of any Committee thereof which that member is unable to attend. Every deputy when so acting shall for all purposes be deemed to be the member for whom he acts.

8. **Meetings of Authority**—(1) The first meeting of the
15 Authority shall be held at such time and place as the Minister by notice in the *Gazette* appoints.

(2) At any meeting of the Authority (*twelve*) [ten] members shall form a quorum.

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20 (3) No person other than an elected member or his deputy shall vote upon the chairmanship or deputy chairmanship of the Authority.

9. **Powers, etc., of Authority and Minister**—(1) Except as expressly provided in this Act, in respect of the Waikato
25 Valley—

(a) The Authority shall have all of the functions, powers, authorities, immunities, duties, and liabilities of a Catchment Board under the Soil Conservation and Rivers Control Act 1941:

30 (b) The Minister shall have all the functions, powers, authorities, immunities, duties, and liabilities of the Soil Conservation and Rivers Control Council under the Soil Conservation and Rivers Control Act 1941.

(2) Subject to the express provisions of this Act and with
35 the exceptions set forth in the *First Schedule* to this Act—

(a) The provisions of the Soil Conservation and Rivers Control Act 1941 shall apply in respect of the Authority as if it were a Catchment Board, and in respect of the Minister as if he were the Soil Conservation and Rivers Control Council:
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- (b) References in the said provisions of that Act to a Catchment Board shall be construed as references to the Authority:
- (c) References in the said provisions of that Act to a catchment district shall be construed as references to the Valley: 5
- (d) References in the said provisions of that Act to a constituent district or a combined district shall be read as references to a constituent district or a combined district constituted by or under this Act: 10
- (e) References in the said provisions of that Act to the Soil Conservation and Rivers Control Council shall be read as references to the Minister, notwithstanding that there may be other express provision for reference of the same matter to the Minister. 15
- (3) In the application of section ninety-four of the Soil Conservation and Rivers Control Act 1941 to the Authority, subsection two of section eighty-seven of that Act shall be read as if the references to three farthings in the pound were references to a penny half penny in the pound. 20

10. Expenses of administration—(1) The general expenses of administration incurred by the Authority and the costs of making reports in respect of matters affecting the Valley shall be provided as to two-thirds by the local Councils of the constituent districts, and as to one-third from money appropriated by Parliament for the purpose out of the Electric Supply Account established under section eight of the State Supply of Electrical Energy Act 1917. 25

(2) The sum to be so provided in respect of each of the first seven financial years after the constitution of the Authority shall not exceed eighteen thousand pounds: 30

Provided that the whole or any part of the amount by which the total sum levied under this section in respect of any of those years is less than eighteen thousand pounds may in a subsequent year be levied by the Authority and expended for the same purpose in addition to the sum of eighteen thousand pounds levied for that subsequent year. 35

(3) The sum to be paid in each year under this section by the local Councils shall be apportioned between them so that each shall pay the percentage thereof specified in the *Second Schedule to this Act*. 40

(4) Every local Council shall pay to the Authority the amount levied upon it by the Authority in respect of any year on such date and by such instalments as may be agreed upon, but failing agreement, in one sum on the first day of April of that year.

(5) If any local Council fails to pay any money payable by it to the Authority as aforesaid within two months after the date on which the payment becomes due, the amount payable shall be increased by interest, calculated from the expiration of the said period of two months until the date of payment, at the current minimum overdraft rate charged by trading banks for business purposes.

(6) The amount required to be paid by each local Council under this section may be collected or paid by it under the provisions of sections ninety-two, ninety-six, ninety-seven, and one hundred of the Soil Conservation and Rivers Control Act 1941 as if that amount had to be provided by a rate of the required amount which by special order was directed by the Authority to be made and levied on the land under the jurisdiction of the Council within the Valley:

Provided that, notwithstanding any requirement of its constituting enactment, each local Council may increase the amount which it collects under this section by the reasonable costs, expenses, and remuneration which by section ninety-eight of the Soil Conservation and Rivers Control Act 1941 it is authorised to retain.

11. Waikato Valley Authority to operate mainly through local Councils—(1) It shall be the general policy and function of the Authority, so far as the local Councils are willing and able to undertake and finance the necessary works, to confine its activities to the co-ordination and general direction of each undertaking within the Valley; and it shall be the function of each local Council so far as it is able, to finance, organise, and execute all such works within its district as the Authority shall direct, with or without subsidy by the Authority, as the Authority may determine:

Provided that—

(a) Dredging and other works for maintaining and improving the beds and channels of the Waikato and Waipa Rivers, but not including the removal of trees from the banks thereof, will be a direct responsibility of the Authority except where otherwise agreed:

(b) Nothing in this subsection shall prevent the Authority from undertaking any work or restrict the powers conferred on the Authority by section *nine* of this Act.

(2) In furtherance of the policy mentioned in subsection *one* of this section in any case where two or more local Councils are affected by the same works, the Authority shall inform each of them what constitutes the works, what part of the works it proposes that each local Council should construct and maintain, what estimates of cost are available, and how it proposes that the costs of construction and maintenance shall be borne; and after hearing any representations any of them wish to make in the matter, the Authority shall determine how the execution and maintenance of the work and the cost of each shall be shared between the local Councils. Every provision of any such determination shall be subject to variation by the Authority or by agreement in writing between all of the local Councils affected by the variation of that provision; and the determination, subject to any such variation, shall have effect according to its tenor and be enforceable by any of the local Councils affected and by the Authority.

(3) In making any determination under subsection *two* of this section, regard shall be had to the location of the works in relation to the district of each local Council, the benefit (if any) which will accrue from those works within the district of each local Council, the facility with which each local Council could undertake the work or maintenance, and such other factors as the Authority may deem relevant.

(4) In respect of all works that affect more than one constituent district or which although affecting only one constituent district require more than the general guidance from the Authority that is provided for by the administration levy, it shall be the duty of the Authority to record the incidence of work and apportion the cost thereof between the local Councils in such manner as the Authority thinks equitable having regard to the interests and responsibilities of all constituent districts.

12. Powers of local Councils—(1) Subject to the provisions of this section, for the purpose of giving effect to any directions of the Authority in respect of the construction, maintenance, control, or cost of any work which lies within the powers of the Authority or of otherwise fulfilling the functions of the Authority, each local Council shall have and may exercise of its own motion and in its own name, under the direction of the Authority, all of the powers, authorities, duties, and liabilities which the Authority has and may exercise under the Soil Conservation and Rivers Control Act 1941.

(2) A local Council shall not proceed in the construction or maintenance of any works in exercise of the powers and authorities conferred by subsection *one* of this section except pursuant to a direction given under a resolution of the Authority expressly referring to the particular work or function or kind of work or function; and every notice, document, and statement issued in connection with the exercise of any power, authority, duty, or liability of the local Council under this section shall include express reference to the direction of the Authority under which the local Council is proceeding.

(3) Where any such direction is given to any local Council pursuant to a resolution of the Authority, that direction shall, unless otherwise expressly stated, be deemed to be a direction by the Authority that the local Council shall exercise all incidental powers under subsection *one* of this section that are necessary for the classification of lands, the raising of finance, the payment and receipt of subsidies, the acquisition of lands, and other matters necessary for or incidental to the complete execution of the works authorised by the Authority under this Act.

(4) Notwithstanding the provisions of this section, the exercise of the powers or of any of the powers conferred by this section on any local Council shall at all times be subject to review and veto by the Authority upon any of the following grounds, namely—

- (a) That they conflict with the policy of the Authority generally observed or intended to be observed elsewhere in the Valley:
- (b) That the desired result can be obtained by other means with less expense, disturbance, or interference with private or public interests.

(5) Where the work or function proposed to be undertaken by a local Council under this section may affect any work or function of any other local authority other than a local Council, the Authority shall, before the work is commenced, afford that local authority reasonable opportunity of studying the implications of the proposal and recommending an alternative proposal to the Authority. 5

13. Appropriation of money—All money expended or advanced by the Minister under this Act shall be paid out of money appropriated by Parliament for the purpose as if it were appropriated for the purpose of section thirty-one of the Soil Conservation and Rivers Control Act 1941. 10

14. Authority to furnish reports—(1) The Authority shall at least once in every year report to each local Council and the Minister upon its activities and income and expenditure during the preceding financial year and its proposals in these respects for the current or forthcoming financial year. 15

(2) In the year nineteen hundred and sixty-two, the Authority shall provide a report upon its income expenditure and works programme and progress generally from its first meeting until the thirty-first day of March nineteen hundred and sixty-two showing clearly— 20

(a) What has been initiated and what has been accomplished under this Act and generally what parts of the Valley have been affected thereby: 25

(b) What works are proposed, and where; and what are the estimates of cost thereof and the benefits anticipated therefrom.

(3) Not later than the thirtieth day of June nineteen hundred and sixty-two, not less than five copies of the last-mentioned report shall be supplied to each local Council and Government Department represented on the Authority. 30

15. Provision for dissolution of Authority—(1) The provisions of the Local Government Commission Act 1953 shall apply in respect of the reorganisation of the Valley, and of the abolition or other reorganisation of the district of any local Drainage Board or any local River Board, and of the dissolution or other reorganisation of the Authority or of any local Drainage Board or local River Board: 35

Provided that—

- 5 (a) A request to the Local Government Commission to consider a proposal that a reorganisation scheme be prepared affecting the whole of the Valley or the Authority may be made only during the financial year ending with the thirty-first day of March, nineteen hundred and sixty-three, and only by the local Councils of not less than four counties and two boroughs:
- 10 (b) In the case of the local Drainage Boards and local River Boards, a request to the Local Government Commission may be made by the Authority pursuant to a resolution in that behalf to which the consent of the Minister has been given:
- 15 Provided that nothing in this paragraph shall restrict the operation of the Local Government Commission Act 1953.
- (2) In the event of the dissolution of the Authority—
- 20 (a) Each permanent asset of the Authority that is in the district of any local Council, and the debts, contracts, liabilities, engagements, and responsibilities of the Authority in respect of that asset and district and of the completion and maintenance of works undertaken by the Authority in that district, shall vest (without further transfer or assignment) in that local Council or, if the reorganisation scheme so provides, in a local Drainage Board or local River Board or in the Minister:
- 25 Provided that no reorganisation scheme shall provide for any debt, contract, liability, engagement, or responsibility to vest in the Minister without his consent:
- 30 (b) The Authority shall before its dissolution furnish to the Council or Board or Minister concerned as aforesaid all plans, specifications, conditions of contract, contracts (complete or otherwise), invoices, accounts, receipts, and other records and details in its possession relative to works undertaken by the Authority, including in particular in the case of each local Council details of any uncompleted contracts or projects and other known and then existing obligations of the Authority within the district of that local Council.
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(3) For the purpose of giving effect to any contract, liability, engagement, or responsibility vested in it under subsection *two* of this section in respect of the completion and maintenance of works partly constructed or completed by or by direction of the Authority, each local Council, local Drainage Board, and local River Board shall have and may continue to exercise the powers and be subject to the duties and liabilities of the Authority under this Act in respect of that work, and shall be entitled to receive directly such contributions including subsidies and other payments in respect of the work as would have been payable to the Authority whether by the Government or any local authority or person:

Provided that every such power and contribution shall be subject to the same conditions (if any) as would have applied in the same circumstances if the Authority had sought to exercise the power or to receive the contribution.

16. Power of Authority to terminate or assign contracts—

(1) Every contract made by the Authority before the thirty-first day of March nineteen hundred and sixty-three under section eighty-one or section one hundred and twenty-two of the Soil Conservation and Rivers Control Act 1941 shall specify whether or not it is subject to the right of the Authority to terminate or assign it at such time as may be convenient to the Authority, if the Authority is to be dissolved under the provisions of section *fifteen* of this Act.

(2) In their application to the Authority sections eighty-one and one hundred and twenty-two of the Soil Conservation and Rivers Control Act 1941 shall be read and construed subject to the provisions of this section.

17. Bylaws—A copy of every bylaw proposed to be made by the Authority shall be forwarded to the Minister not less than two months before it is made.

18. Administration of Act—(1) Where in accordance with this Act any decision of a judicial nature is required to be made by the Minister, he may appoint one or more impartial persons to hear the parties and make a report and recommendation to him; and for that purpose the persons so appointed shall have all of the powers of a Commission of Inquiry under the Commissions of Inquiry Act 1908.

(2) Any other administrative inquiry or investigation under this Act may be made on the Minister's behalf by the Commissioner of Works or his deputy or by any other officer or officers in the Government service appointed by him either generally or for the particular inquiry.

19. Regulations—(1) The Governor-General may from time to time, by Order in Council, make all such regulations as may be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

10 (2) Nothing in this section shall prevent the making of regulations under any provision of the Soil Conservation and Rivers Control Act 1941 which applies to the Authority or the Valley.

15 (3) All regulations made under this section shall be laid before Parliament within twenty-eight days after the date of the making thereof if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the date of the commencement of the next ensuing session.

SCHEDULES

FIRST SCHEDULE

Section 9 (2)

PROVISIONS OF THE SOIL CONSERVATION AND RIVERS CONTROL ACT 1941 THAT ARE NOT APPLICABLE TO THE WAIKATO VALLEY OR TO THE WAIKATO VALLEY AUTHORITY, ETC.

- (a) Of Part I, sections 12 to 15, 21 to 25, and paragraphs (a) to (d) of section 30 (1):
 - (b) Of Part II, sections 34 to 37:
 - (c) Of Part III, sections 40 to 42, 44 to 51, and 53:
 - (d) Of Part IV, sections 60 (3) and 64:
 - (e) Of Part V, ~~(sections 84 to 87)~~ [sections 84, 85, 86 (except subsection (1A)), 87,] and section 102 so far as it provides for indirect benefit in a classification of land:
 - (f) Of Part VIII, section 150 (3).
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Section 10 (3)

*SECOND SCHEDULE*PERCENTAGES OF GENERAL EXPENSES OF ADMINISTRATION AND COSTS
OF REPORTS TO BE PAID BY INDIVIDUAL LOCAL COUNCILS

Franklin County Council	12·71
Waikato County Council	24·79
Piako County Council	0·83
Raglan County Council	18·96
Waipa County Council	14·58
Otorohanga County Council	5·42
Matamata County Council	2·29
Waitomo County Council	1·25
Hamilton City Council	9·17
Cambridge Borough Council	1·04
Leamington Town Council	0·29
Tuakau Borough Council	0·42
Huntly Borough Council	2·5
Ngaruawahia Borough Council	0·63
Te Awamutu Borough Council	2·21
Otorohanga Borough Council	1·25
Te Kuiti Borough Council	1·66