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SENATE
S. No. 2461

RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The government owes its taxpayers the guaranty that all its expenditures of public funds will redound to their maximum benefit without incurring any redundant or superfluous costs.

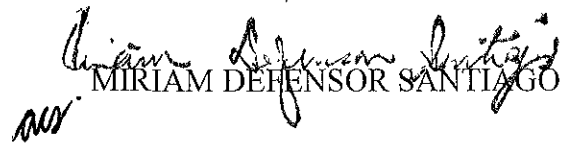
The prevailing system induces contractors to come up with projects that meet only the barest of criteria because their obsolescence promotes the possibility of another contract. The contractor will see its future profits emanating from projects that have lasted only for the duration of the warranty period.

Under this situation, the general public will be prejudiced twice: First, when their right to the continued and uninterrupted use of the infrastructure is interrupted; and second, when the public funds are again used for the repairs, maintenance works and/or replacement of infrastructures that did not meet its nominal life expectancy.

This bill seeks to correct this unwarranted situation by raising the standards in the construction of all public infrastructures. Under this proposed legislation, the contractor's strict observance to plans and specifications assures him of maximizing profits. No additional costs will accrue on his part if the project he finished is compliant with established government standards. The contractor's profits thus depend largely on the quality of their work. Conversely, the more expenses for repairs, maintenance and replacement of the infrastructure projects, the less profit for the contractors.

Accordingly, both the public as well as the contractors mutually benefit from this proposal as proper construction of the project will assure them of maximizing profits and in turn the public continuously uses the infrastructure without the unnecessary delay and inconvenience caused by faulty and defective infrastructure.

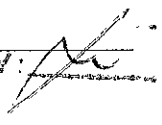
This bill was originally filed by President Benigno S. Aquino III during the Fourteenth Congress.


MIRIAM DEFENSOR SANTIAGO

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10 AUG 31 P2:31

SENATE
S. No. 2461

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Introduced by Senator Miriam Defensor Santiago

1 AN ACT
2 REQUIRING THE REGULAR MAINTENANCE AND PRESERVATION OF
3 ALL PUBLIC INFRASTRUCTURES, ESTABLISHING MECHANISMS
4 FOR ITS IMPLEMENTATION

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

5 SECTION 1. *Short Title.* – This Act shall be known as the “Public Works Reform Act.”

6 SECTION 2. *Declaration of Policy.* – It is the policy of the State to ensure the continued
7 and uninterrupted use of all public infrastructures in order to promote the best interests of the
8 general public. Towards this end, the State shall establish an effective mechanism for the
9 efficient maintenance and preservation of all public infrastructures and when demanded by the
10 situation, provide for the immediate replacement of the public infrastructure with the end in view
11 of maximizing its utility at no extra costs.

12 SECTION 3. *Definition of Terms.* – For purposes of this Act:

13 (a) “Public Infrastructure” refers to any infrastructure built or constructed through public
14 funds.

15 (b) “Maintenance works” refer to any work necessary to keep the infrastructure in
16 conformity to the prescribed design and performance standards, plans and specifications.

17 (c) “Regular and Periodic Inspection” refers to the systematic and regular examination of
18 the public infrastructure which shall not be less than twice (2) a year to be conducted by the
19 Bureau of Maintenance (or the “Bureau”) of the Department of Public Works and Highways
20 (DPWH) for purposes of determining the state and condition of the infrastructure versus the
21 plans, specifications and intended lifespan of the infrastructure.

1 (d) "Contractor" refers to any private entity awarded or contracted to perform any public
2 infrastructure project.

3 (e) "Proponent" refers to any agency of the National Government, its departments,
4 bureaus, offices and agencies including government owned and controlled corporations and
5 Local Government Units undertaking any public infrastructure project whether through bidding
6 or any other modes allowed by law.

7 SECTION 4. *Conditions for the award of an infrastructure project.* – In addition to the
8 legal requirements on contractors awarded any public infrastructure project, the following
9 conditions shall be included in any contract or agreement covering the construction of any public
10 infrastructure. That:

11 (a) The contractor shall undertake all necessary repair, maintenance and preservation
12 works on the infrastructure or when determined by the Bureau to replace the same at its expense
13 and within the time period herein provided.

14 (b) The contractor shall post a performance bond, in such amount as determined by the
15 DPWH in consultation with the proponent to be sufficient to cover any repair, maintenance for
16 the entire life of the infrastructure as well as the possible replacement thereof and such bond
17 shall be renewed annually. The bond shall be secured from a bonding company of good standing
18 as certified by the Insurance Commission and duly accredited by the DPWH .and shall remain in
19 effect during the projected life of the infrastructure.

20 SECTION 5. *Regular and Periodic Inspection.* – The Bureau of Maintenance shall
21 conduct a regular and periodic inspection of the public infrastructure or whenever requested by
22 the proponent. The result of the inspection shall be in the form of a written report and shall be
23 available to the public.

24 SECTION 6. *Contested Report.* – In the event the report of the Bureau is contested by
25 either or both the Proponent and the Contractor, the Bureau of Maintenance may conduct another
26 inspection in their presence. The findings of the Bureau shall be appealable to the Secretary of
27 the DPWH within fifteen (15) days from the issuance or receipt of the findings. The Secretary of

1 the DPWH shall render a decision within thirty (30) days from receipt of the appeal which shall
2 be final and executory.

3 SECTION 7. *Repair, Maintenance and Replacement.* – All necessary repairs,
4 maintenance and preservation works including the replacement of the infrastructure shall
5 commence within a reasonable time as determined by the Bureau or the Secretary of the DPWH
6 but in no case beyond thirty (30) days from notice to the contractor to do any of the above
7 undertakings. Unless, for reasons of force majeure or fortuitous event and an extension is
8 requested by the contractor and approved by the Bureau or the Secretary of the DPWH, all works
9 required to be done shall be completed within the period set by the Bureau or the Secretary of the
10 DPWH. A schedule of work and timetable shall be issued by the Bureau or the Secretary of the
11 DPWH to prevent unwarranted disruption or inconvenience to the general public.

12 SECTION 8. *Penalties.* – Unjustified failure by commence and complete the necessary
13 repairs, the contractor to maintenance and preservation works or its replacement within the
14 periods specified in Section 7 above shall be sufficient grounds for the immediate forfeiture by
15 the Bureau of the performance bond in favor of the proponent. The proceeds thereof shall be
16 earmarked by the proponent for the repair, maintenance and replacement of the infrastructure
17 project for which the bond was posted.

18 Additionally, any and/or all of the Contractors officers as well as their assigns and
19 transferees, shall be permanently disqualified from undertaking any public infrastructure projects
20 without prejudice to any other actions that may be instituted against them individually or
21 solidarily under existing laws.

22 SEC. 9. *Implementing Rules and Regulations.* – A committee composed of one (1)
23 representative each from the DPWH who will act as the chairman, the Department of Interior and
24 Local Governments (DILG), the Department of Finance (DOF) and the National Economic and
25 Development Authority (NEDA) shall within sixty (60) days from the effectivity of this Act,
26 formulate and prescribe the necessary rules and regulations to implement and carry out the
27 provisions of this Act.

1 SECTION 10. *Separability Clause.* – If any provision of this Act shall be declared
2 unconstitutional, the other provision not affected thereby shall remain in full force and effect.

3 SECTION 11. *Repealing Clause.* – All laws, decrees, issuances, orders, rules and
4 regulations, or parts thereof inconsistent with this Act are hereby repealed or amended
5 accordingly.

6 SECTION 12. *Effectivity.* – This Act shall take effect fifteen (15) days after its
7 publication in at least two (2) newspapers of general circulation.

Approved,