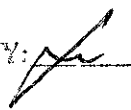




)  
)  
) 10 NOV -8 AIO 52

SENATE

RECEIVED BY: 

S.B. No 2580

---

Introduced by Senator Ralph G. Recto

---

### EXPLANATORY NOTE

The Government-Owned and Controlled Corporations (GOCCs) and Government Financial Institutions (GFIs) play key roles in economic and social development. The government enterprises participate in the production and delivery of goods and services particularly in areas where the private sector will not invest due to uncertain economic viability despite laudable social benefits.

Hence, the government corporations are accorded flexibility in its operation which is in line with the acceptable corporate standards and practices as differentiated from regular government agencies.

However, some GOCCs and GFIs have become a financial burden to the government, which has been incurring huge budget deficits in large part because of the subsidies provided to the GOCCs. Moreover, the financial viability of the GOCCs has become doubtful as can be gleaned from the meager income remitted to the national treasury despite the considerable investments of the government.

“SEC. 16 of Article XII of the Constitution provides that government owned and controlled corporations (GOCCs) should be established only by special charters in the interest of the common good and subject to the test of economic viability.

The Department of Finance (DOF) has reported the existence of at least 736 GOCCs including water districts and of which fourteen (14) are closely monitored for being heavily dependent on subsidy or advances from the national government.

The dividends remitted by the GOCCs to the national government coffers have been shrinking over the years while their combined liabilities and subsidies are steadily increasing. Subsidies for 2010 are seen to grow to P36.71 billion from the P17.439 billion provided in 2009. For the period January to June of 2010, a total of P7.466 billion in subsidies have already been extended to GOCCs and GFIs.

At least fifty-two (52) GOCCs registered losses in 2008, according to DOF data, with the National Food Authority posting the highest net loss followed by Light Rail Transit Authority, NAPOCOR, Bases Conversion Development Authority, and Metropolitan Waterworks and Sewerage System.

Accordingly, the Department of Budget and Management has been releasing subsidies to GOCCs and GFIs for years despite the fiscal deficit position. These subsidies are released to corporations including those with depleted capitalization to enable them to continue and sustain their operations.

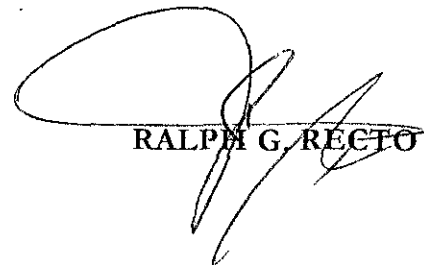
In lieu of imposing new revenue measures, the government may adopt an

expenditure reform policy, including the trimming down of the budget by not providing subsidies to losing GOCCs in order to manage the deficit. Due to its impact on the consolidated public sector financial position, the government should closely monitor the GOCCs that continuously incur substantial losses.

The State should continuously evaluate and review existing GOCCs to determine whether they satisfy the tests as enshrined in our Constitution. There is a need to improve their operations in order to promote economy and efficiency in the delivery of public services. GOCCs must answer to the common good of the people, be financially viable, provide social benefits and not unduly compete with the private sector.

This bill institutionalizes such mechanism of systematic review and evaluation of GOCCs. It directs all government corporations to prepare their respective assets and liability management guidelines that will define the parameters and limits of their financial and operational capabilities for central control and monitoring by the DOF. These guidelines shall serve as tools to anticipate, prevent and minimize certain eventualities that may adversely affect the financial condition of the corporation. The financial guidelines seek to limit borrowing, lending and guaranteeing any form of financial transaction while the operational guidelines seek to inhibit the corporation from engaging in activities outside of its defined capabilities.


In order to rationalize the government corporations, minimize impact of subsidies on the budget deficit, and promote accountability, the immediate passage of this bill is earnestly requested.



RALPH G. RECTO

SENATE

S.B. No **2580**

RECEIVED BY: 

---

Introduced by Senator Ralph G. Recto

---

AN ACT  
TO ENSURE THE ACCOUNTABILITY OF GOVERNMENT-OWNED OR  
CONTROLLED CORPORATIONS, GOVERNMENT FINANCIAL  
INSTITUTIONS, AND OTHER SIMILAR AGENCIES IN THE PUBLIC  
SECTOR BY REQUIRING THESE ENTITIES TO BE EVALUATED AND  
SUBJECTED TO THE TEST OF ECONOMIC AND FINANCIAL  
VIABILITY, CREATING A CONGRESSIONAL OVERSIGHT COMMITTEE,  
AND FOR OTHER PURPOSES

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

1        **SECTION 1. *Short Title.*** - This Act shall be known as the "Government-Owned or  
2        Controlled Corporations (GOCCs) Accountability Act".  
3

4        **SEC. 2. *Policy.*** - It is the policy of the State to create or establish Government-  
5        Owned or Controlled Corporations only in the interest of the common good and subject to  
6        the test of economic and financial viability.  
7

8        Every GOCC must be free from fraud, abuse and wastage, and must be made  
9        accountable through the effective monitoring oversight by Congress for the benefit of the  
10       people.  
11

12       It is hereby declared a national policy to require all government corporations to clearly  
13       define the parameters and/or limits of their financial and operational capabilities consistent  
14       with their established mandates and charters.  
15

16       **SEC. 3. *Government-Owned or Controlled Corporation Defined.*** - For purpose of  
17       this Act, "Government-owned or Controlled Corporation" or "GOCC" refers to a stock or  
18       non-stock corporation, performing governmental or proprietary functions directly chartered  
19       by special law or, if otherwise formed, is owned or controlled by the Government directly or  
20       indirectly through a parent or subsidiary corporation. It includes Government Financial  
21       Institutions and other similar agencies in the public sector.  
22

23       **SEC. 4. *Asset and Liability Management Guidelines.*** - The definition of the limits  
24       of the financial and operational capabilities of each GOCC shall be embodied in their  
25       respective asset and liability management guidelines which are universally accepted  
26       management tools whereby financial and operational activities are automatically confined  
27       within clearly defined limits.  
28

29       Foremost among the financial guidelines are the limits on borrowing, lending and  
30       guaranteeing any form of financial transaction, risk and/or commitment.  
31

32       Foremost among the operational guidelines are the recognition and acceptance of the  
33       limits of in-house talents and capabilities thereby inhibiting said corporation from engaging  
34       in activities outside its defined capabilities or in cases where it is necessary to engage in such  
35       transactions or activities, the mandatory requirement to tap outside talents preferably from

1 other government agencies or institutions.

2  
3 **SEC. 5. *Use of Asset and Liability Management Guidelines.*** - The Asset and  
4 Liability Management Guidelines shall be used primarily as a tool to anticipate, obviate  
5 prevent and/or minimize certain eventualities that may adversely affect the financial  
6 condition of individual corporations. As a standard requirement, however, it is seen as a vital  
7 instrument to stabilize and solidify the country's overall financial condition.

8  
9 In cases where a GOCC is under the control or supervision of a department of the  
10 National Government, adherence to these asset and liability guidelines shall be the  
11 responsibility of the department under which this corporation belongs. The department  
12 covered shall prescribe their respective policies and procedures including penalties for their  
13 violations, in order to ensure that such guidelines are strictly complied with.

14  
15 **SEC. 6. *Central Monitoring and Control by the Department of Finance.*** - The  
16 central monitoring and control of the overall financial condition of GOCCs shall be made by  
17 the Department of Finance (DOF) which shall consolidate all related figures into an annual  
18 report. Within thirty (30) days from the end of each calendar year, the DOF shall submit this  
19 annual report to the Office of the President, copy furnished the Senate and the House of  
20 Representatives.

21  
22 **SEC. 7. *Submission of GOCC Reports.*** - Every GOCC is required to submit  
23 quarterly and consolidated annual reports to Congress.

24  
25 Each quarterly report, to be submitted within thirty (30) days from the end of each  
26 calendar quarter, shall be in the form of an executive summary concerning the finances and  
27 operations of the GOCC and shall indicate any achievement and major projects. It shall  
28 include all financial reports and minutes of directors' and shareholders' meetings for the  
29 subject quarter.

30  
31 Each annual report, to be submitted within sixty (60) days from the end of each  
32 calendar or fiscal year as may be applicable, shall include the following:

- 33 (1) A consolidated executive summary;  
34 (2) A list of directors and officers;  
35 (3) A summary of the remuneration paid to directors and officers over the last year;  
36 (4) The Commission on Audit report for the last year; and  
37 (5) The audited financial statement for the last year.

38  
39 **SEC 8. *Mandatory Publication.*** - Every GOCC is required to disclose and publish in  
40 at least one (1) newspaper of general circulation within thirty (30) days from the end of each  
41 calendar or fiscal year as may be applicable the following information:

- 42 (1) Travel and hospitality expenses for directors and officers; and  
43 (2) Contracts for goods and services over one million pesos (PHp 1,000,000)

44  
45 **SEC. 9. *Creation of a Congressional Oversight Committee for GOCCs.*** - There is  
46 hereby created a Congressional Oversight Committee for GOCCs to be composed of six (6)  
47 members, with three (3) Representatives each from the Senate and the House of  
48 Representatives, and co-chaired by the Chairpersons of the Senate Committee on  
49 Government Corporations and Public Enterprises and the House Committee on  
50 Government Enterprises and Privatization.

51  
52 The Congressional Oversight Committee for GOCCs shall receive and evaluate the  
53 reports submitted by the GOCCs to Congress. It shall be the principal legislative monitoring  
54 arm and policy recommending body for all GOCCs.

55  
56 **SEC. 10. *Powers and Functions of the Congressional Oversight Committee for***  
57 ***GOCCs.*** - The Congressional Oversight Committee for GOCCs shall have the following  
58 powers and functions:

- 1
- 2 (1) Prescribe and adopt guidelines that will govern its work;
- 3
- 4 (2) Hold hearings, receive testimonies and reports pertinent to its specific concerns;
- 5
- 6 (3) Secure from any department, bureau, office, agency or instrumentality of the
- 7 Government such assistance as may be needed, including technical information
- 8 preparation and production of reports and submission of recommendations or plans
- 9 as it may require;
- 10
- 11 (4) Summon by subpoena *ad testificandum* any public or private citizen to testify before
- 12 it, or require by *subpoena duces tecum* to produce before it such records, reports or other
- 13 documents as may be necessary in the performance of its functions;
- 14
- 15 (5) Use resource persons from the public and private sectors as may be needed;
- 16
- 17 (6) Approve the budget for the Congressional Oversight Committee for GOCCs and
- 18 all disbursements therefrom, including compensation of all personnel;
- 19
- 20 (7) Organize its staff and hire and appoint employees and personnel, whether
- 21 temporary or contractual, subject to applicable laws; and
- 22
- 23 (8) Exercise all other powers necessary to attain its purposes.
- 24

25 **SEC. 11. *Conduct of Review.*** - The Congressional Oversight Committee for GOCCs  
26 shall review the quarterly and annual reports submitted by the GOCCs to Congress.  
27

28 The Congressional Oversight Committee for GOCCs may require the submission of  
29 additional pertinent corporate and commercial documents and/or the revelation of all  
30 relevant data as may be deemed necessary for the conduct of such review. Failure to submit  
31 any of the required documents or to reveal any required data shall subject the directors and  
32 officers of the concerned GOCC to appropriate administrative, civil, and criminal liability.  
33

34 The Congressional Oversight Committee for GOCCs shall review the reports,  
35 documents, and data submitted by each GOCC and shall be authorized to conduct  
36 investigations in furtherance of such review. The scope of review shall include the following:  
37

- 38 (1) Accomplishment of the set goals as may be set forth in their respective
- 39 charters or otherwise;
- 40
- 41 (2) Allocation of resources of each GOCC;
- 42
- 43 3) Instances of duplication of functions;
- 44
- 45 (4) Financial and social investment rate of returns and productivity; and
- 46
- 47 (5) Interest of the common good.
- 48

49 **SEC. 12. *Submission of Recommendations*** - The Congressional Oversight  
50 Committee on GOCCs shall submit its recommendations to the Senate and the House of  
51 Representatives, copy furnished to the Office of the President, for appropriate action. The  
52 recommendations may include the following:  
53

- 54 (1) Continued existence of and corresponding budgetary allocation for each GOCC;
- 55
- 56 (2) Termination of the existence of or budget allocation for the GOCC by either
- 57 privatization or dissolution;
- 58

- 1 (3) Merger or consolidation of GOCCs performing similar or overlapping functions;  
2  
3 (4) Restructure of the GOCCs in the Executive branch;  
4  
5 (5) Adjustment of compensation packages for directors, officers, and employees;  
6  
7 (6) Filing of appropriate civil, criminal, or administrative charges;  
8  
9 (7) Contract review or renegotiation as may be appropriate; and  
10  
11 (8) Other recommendations as may be deemed appropriate.  
12

13 **SEC. 13. *Repealing Clause.*** - All laws, decrees, orders, rules and regulations or other  
14 issuances or parts thereof inconsistent with the provisions of this Act are hereby repealed or  
15 modified accordingly.  
16

17 **SEC. 14. *Separability Clause.*** - If any portion or provision of this Act is declared  
18 unconstitutional, the remainder of this Act or any provisions not affected thereby shall  
19 remain in force and effect.  
20

21 **SECTION 15. *Effectivity Clause.*** - This Act shall take effect after fifteen (15) days  
22 following the completion of its publication either in the Official Gazette or in a newspaper  
23 of general circulation in the Philippines.  
24

25 *Approved,*