



REPUBLIC OF THE PHILIPPINES
Senate
Pasay City

Journal

SESSION NO. 57
Tuesday, February 1, 2011

FIFTEENTH CONGRESS
FIRST REGULAR SESSION

SESSION NO. 57
Tuesday, February 1, 2011

CALL TO ORDER

At 3:33 p.m., the Senate President Pro Tempore, Hon. Jinggoy Ejercito Estrada, called the session to order.

PRAYER

Sen. Ralph G. Recto led the prayer, to wit:

Almighty God,

We thank You for the blessings we continue to receive and share with our family, colleagues and friends.

We thank You as we celebrate each day with new beginnings, challenges and opportunities.

We are thankful for Your guidance during the most trying times of our lives and for not letting us go astray.

For the wealth and talents that You have bestowed upon this nation, we thank You, dear God.

For our failings as Your children, we seek Your mercy and forgiveness.

As Your people's public servants, we ask for humility, strength and enlightenment.

With Your guiding hands, we resolve to correct the shortcomings of the past in order to re-chart the destiny of our nation.

Panginoon, taimtim Po kaming lumalapit para sa Inyong pagpapala, proteksyon at gabay.

Humihingi Po kami ng lakas para sa mahihina at pinanghihinaan ng loob, lunas sa may karamdaman, pagkain sa mga nagugutom, kapayapaan sa mga nananalig, at pag-asa sa mga sumusuko.

Tulungan Nyo Po kaming harapin ang bawat hamon at pagsubok na dumarating sa aming bayan.

Patuloy kaming dumadalangin para sa kapayapaan upang huwag maghari ang karahasan at kaguluhan sa buong mundo.

Nawa'y laging maghari ang pagmamahalan, pagbibigayan at pagkaka-unawaan sa puso naming lahat.

Ang lahat ng ito ay hinihingi namin sa Pangalan Ninyo, aming Panginoon.

Amen.

ROLL CALL

Upon direction of the Chair, the Secretary of Senate, Atty. Emma Lirio-Reyes, called the roll, to which the following senators responded:

Arroyo, J. P.	Legarda, L.
Cayetano, A. P. C. S.	Marcos Jr., F. R.
Cayetano, P. S.	Osmeña III, S. R.
Defensor Santiago, M.	Recto, R. G.
Drilon, F. M.	Revilla Jr., R. B.
Ejercito Estrada, J.	Sotto III, V. C.
Enrile, J. P.	Trillanes IV, A. F.
Escudero, F. J. G.	Villar, M.
Honasan, G. B.	Zubiri, J. M. F.

With 18 senators present, the Chair declared the presence of a quorum.

Senators Angara, Guingona, Lapid and Pangilinan arrived after the roll call.

Senator Lacson was absent.

APPROVAL OF THE JOURNAL

Upon motion of Senator Sotto, there being no objection, the Body dispensed with the reading of the Journal of Session No. 56 (January 31, 2011) and considered it approved.

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

At this juncture, Senator Sotto acknowledged the presence in the gallery of the following:

- The Private Secondary School Administrators Association of the Philippines, Region VI, Western Visayas, headed by its president, Pastor Esequel Guanzon;
- Northwestern Visayan Colleges of Kalibo, Aklan;
- Colegio dela Purisima, Concepcion, Roxas City; and
- The Catholic College of Kalibo, Aklan.

Senate President Pro Tempore Ejercito Estrada welcomed the guests to the Senate.

REFERENCE OF BUSINESS

The Secretary of the Senate read the following matters and the Chair made the corresponding referrals:

BILLS ON FIRST READING

Senate Bill No. 2666, entitled

AN ACT AUTHORIZING THE *PUNONG BARANGAY* TO ADMINISTER THE OATH OF OFFICE OF ANY GOVERNMENT OFFICIAL, INCLUDING THE PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES, AMENDING FOR THE PURPOSE SECTION 41 OF EXECUTIVE ORDER NO. 292

OTHERWISE KNOWN AS THE ADMINISTRATIVE CODE OF 1987

Introduced by Senator Escudero

To the Committees on Local Government; and Constitutional Amendments, Revision of Codes and Laws

Senate Bill No. 2667, entitled

AN ACT INSTITUTIONALIZING AND FURTHER DEVELOPING "117" AS THE NATIONWIDE EMERGENCY ASSISTANCE TELEPHONE NUMBER FOR PUBLIC SAFETY AND SECURITY AND FOR OTHER PURPOSES

Introduced by Senator Zubiri

To the Committees on Public Order and Dangerous Drugs; Local Government; and Finance

Senate Bill No. 2668, entitled

AN ACT AMENDING ARTICLE 355 OF ACT NO. 3815, OTHERWISE KNOWN AS THE REVISED PENAL CODE OF THE PHILIPPINES, AS AMENDED

Introduced by Senator Villar

To the Committees on Public Information and Mass Media; and Constitutional Amendments, Revision of Codes and Laws

RESOLUTIONS

Proposed Senate Resolution No. 355, entitled

RESOLUTION DIRECTING THE COMMITTEE ON YOUTH, WOMEN AND FAMILY RELATIONS OR ANY APPROPRIATE COMMITTEE/S TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE HIGH INCIDENCE OF HUMAN TRAFFICKING INVOLVING YOUNG WOMEN AND CHILDREN AND THE REPORT THAT THE PHILIPPINES IS STILL ON UNITED STATES' "TIER 2" HUMAN TRAFFICKING WATCH LIST

Introduced by Senator Villar

To the Committees on Youth, Women and Family Relations; and Foreign Relations

Proposed Senate Resolution No. 356, entitled

RESOLUTION DIRECTING THE COMMITTEES ON ECONOMIC AFFAIRS; LABOR, EMPLOYMENT AND HUMAN RESOURCES DEVELOPMENT; AND YOUTH, WOMEN AND FAMILY RELATIONS TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION ON THE POLICY OF THE GOVERNMENT AS REGARDS YOUTH EMPOWERMENT AND RURAL DEVELOPMENT

Introduced by Senator Villar

To the Committees on Labor, Employment and Human Resources Development; and Youth, Women and Family Relations

Proposed Senate Resolution No. 357, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE RECENT SCIENTIFIC FINDINGS ON THE HEALTH THREATS THAT FACE THE SOUTHEAST ASIAN REGION

Introduced by Senator Defensor Santiago

To the Committee on Health and Demography

Proposed Senate Resolution No. 358, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE CREATION OF QUALITY JOBS WITH A STRONGER LINK BETWEEN PRODUCTIVITY GROWTH AND WAGE GROWTH

Introduced by Senator Defensor Santiago

To the Committees on Labor, Employment and Human Resources Development; and Youth, Women and Family Relations

Proposed Senate Resolution No. 359, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE CONTINUED PREVALENCE OF THE WORST FORMS OF CHILD LABOR AND THE URGENT NEED FOR PROACTIVE ENFORCEMENT OF OUR EXISTING LAWS TO CURB THESE LABOR ABUSES

Introduced by Senator Defensor Santiago

To the Committees on Labor, Employment and Human Resources Development; and Youth, Women and Family Relations

Proposed Senate Resolution No. 360, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE NEED TO INCREASE THE PENALTIES UNDER ARTICLE 316 OF THE PENAL CODE, PENALIZING ANY PERSON WHO, PRETENDING TO BE OWNER OF ANY REAL PROPERTY, SHALL CONVEY, SELL, ENCUMBER OR MORTGAGE THE SAME TO ANOTHER

Introduced by Senator Defensor Santiago

To the Committee on Constitutional Amendments, Revision of Codes and Laws

COMMITTEE REPORT NO. 15 ON SENATE BILL NO. 2640 (Continuation)

Upon motion of Senator Sotto, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 2640 (Committee Report No. 15), entitled

AN ACT TO PROMOTE FINANCIAL VIABILITY AND FISCAL DISCIPLINE IN GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS AND TO STRENGTHEN THE ROLE

OF THE STATE IN ITS GOVERNANCE AND MANAGEMENT TO MAKE THEM MORE RESPONSIVE TO THE NEEDS OF PUBLIC INTEREST AND FOR OTHER PURPOSES.

Senator Sotto stated that the parliamentary status was still the period of interpellations.

Thereupon, the Chair recognized Senator Drilon, Sponsor of the measure, and Senator Angara for his interpellation.

SUSPENSION OF SESSION

Upon motion of Senator Sotto, the Chair suspended the session.

It was 3:41 p.m.

RESUMPTION OF SESSION

At 3:48 p.m., the session was resumed.

INTERPELLATION OF SENATOR ANGARA

At the onset, Senator Angara rued that the people, as a nation, are quite casual and cavalier when it comes to caring for their assets. For instance, he lamented the way the country's precious natural and mineral resources such as timberland, mines, and marine resources were being preserved and managed, noting that they were practically being given away through lease and cheap franchises. He said that government could have done better in managing its assets were it not for the dismal performance of its corporate sector.

To the information that the government has US\$150 billion in total corporate assets, Senator Drilon confirmed, saying that it is equivalent to P5.557 trillion which is $1\frac{1}{3}$ of the national income. He said that he was also taking the word of Secretary Purisima that the government has an estimated US\$41 billion equity investment in the corporate sector. That being the case, Senator Angara commented that over the years, the government has contributed quite a substantial amount to the coffers of the corporate sector. He stressed that in other countries, such a huge investment and assets placed under government control would have yielded billions of dollars in revenues annually. Senator Drilon agreed, as he informed the Body that the Singapore

government even has a holding company called Temasek, which is responsible for generating much revenue through its well-managed corporate assets, while India has an entire department managing state-owned enterprises. He pointed out that both Singapore and India were able to utilize their assets for national development. For his part, Senator Angara said that the contribution from GOCCs — whether in dividend or in outright grant to Filipino citizens — did not have a significant impact on the society and economy.

Senator Drilon recalled that after the public became aware of the excesses in this sector, there had been efforts to suspend the salaries and perks of the governing boards of GOCCs and the Department of Finance also looked into the amount of dividends that were being remitted to the national coffers. As a result, he said that the national government received about P29 billion in dividends which is the highest remittance in years. However, he pointed out that with the assets of the GOCCs amounting to P5.557 trillion, even just half a percent return would yield approximately P27 billion in revenues. He clarified that the government would not be receiving another huge remittance similar to the recent P29 billion remittances because the bulk of the P14 billion remitted by the *Bangko Sentral ng Pilipinas* was for prior years' dividends. He agreed with Senator Angara that the Filipino people are not getting a fair return given the assets that are in the hands of the GOCCs.

Senator Angara pointed out that the recent remittance by GOCCs of P29 billion to the national government was not deliberate but was a consequence of the discovery in the course of the hearings of the Senate Finance Committee, of the enormous paychecks, bonuses and perks of GOCC executives. Senator Drilon agreed that it was an exceptional and rare instance as he assured that it would not be repeated given the reforms in the corporate sector that are proposed in the bill. In fact, he said that reforms in the governance of the GOCCs were included in the discussion in the crafting of the Medium-Term Philippine Development Plan (MTPDP) of the Aquino administration.

Senator Angara stated that the measure, which he described as a landmark legislation, would pave the way to rediscovering the country's lost treasures in the corporate sector that have been left unnoticed every time the national budget was considered.

PA AB

He hoped that the MTPDP would also look into the wastage and give-away attitude towards the country's natural and mineral resources that are being given out so cheaply and inexpensively, practically parceling out the whole country to entities.

Senator Angara believed that the value and importance of the measure would be further enhanced if the GOCCs would be classified according to their functions, applying to each class a special class of management and care of its assets, as well as different compensations and other measures. He explained that some corporations exercise sovereign functions, some proprietary functions, while others perform hybrid or both functions like LWUA which is an entity that regulates the supply, distribution and pricing of water but in the process also generates revenue which is not its primary function. Likewise, he pointed out that there are also revenue-raising corporations such as the BCDA and the National Transmission Corporation, as well as trust corporations that handle money which do not even belong to government but to their members such as the SSS, GSIS, Pag-IBIG and the Employees Compensation Commission (ECC).

Senator Drilon noted that the corporations cited by Senator Angara, which perform both proprietary and sovereign functions, are considered "government instrumentalities with corporate functions" or "government corporate entities" which the Supreme Court, in *MIAA vs. Court of Appeals*,* defined as "any instrumentality of government, which is neither a corporation nor an agency integrated within the departmental framework, but vested by law with special functions or jurisdiction, endowed with some, if not all, corporate powers, administering special funds, and enjoying operational autonomy usually through a charter."

Senator Drilon agreed with Senator Angara that different GOCCs would entail different treatment and a special set of rules, as he pointed out that there are also corporations that were created for development purposes and are not expected to generate profit or to remit dividends.

As regards compensation, Senator Drilon said that under the bill, the GCG would be authorized, with the approval of the President, to adopt a Salary Standardization and Position Classification System which would take into account the different classifications of the GOCCs.

With respect to the nomination of members to the GOCC boards, Senator Drilon said that the qualifications of the board members would be taken into account to enhance the purpose for which a particular corporation is formed. Senator Angara expressed hope that specific provisions that would promulgate the rules applicable to different corporations would be included in the bill. Senator Drilon expressed willingness to consider the proposals.

Senator Angara said that corporations such as SSS and GSIS are not expected to declare dividends in favor of the government but in favor of the members, thus, the members of their respective boards are expected to exercise a greater degree of care and diligence in handling funds that are, in the truest sense, people's money. He added that a different* rule should also apply to purely developmental corporations like the NDC that was originally conceived and established as a pioneer in setting up a business or a line of economic activity that the private sector might hesitate to venture into due to the magnitude of investment required, among other reasons. For instance, he said that the NDC spearheaded the opening up of the pineapple industry in Mindanao, of the National Steel Corporation, and of steel and shipbuilding that would have been essential in the industrialization of the country but has long since vanished.

Senator Drilon agreed that the performance of any GOCC should not be judged on the basis of whether or not they contribute pesos and centavos to the national coffers; instead, the original purpose for which the corporation was set up will be the gauge as to whether or not they are performing functions as originally contemplated. He said that, in fact, as mentioned in his sponsorship speech, many of the GOCCs unfortunately have already forgotten why they were created in the first place, and many of them have took a life of their own acting independently of the national government. He further affirmed that the NDC has had a good track record but through no fault of its own, a number of corporations, such as PNCC, were placed under its care whose objectives are alien to their original purpose. Senator Angara expressed suspicion that the NDC became the dump-it-all vehicle because of the wide charter it enjoys, and the PNCC, which is no longer a pioneering area, might have been placed under it not for economic but for other reasons.

*As corrected by Senator Drilon on February 2, 2011

*As corrected by Senator Drilon on February 2, 2011

Senator Drilon averred that while indeed the NDC was incorporated for a very valid reason and performed the functions it was designated to perform in its initial years of operation, other functions were dumped into it over the years through no fault of its own. For this reason, he said that the GCG, given reasonable standards enumerated in the bill, is mandated to review the 157 GOCCs on certain aspects, particularly in finding out whether or not they are still functioning according to their mandates; whose mandates have already expired; whose mandates are being duplicated;* and if they perform both regulatory and commercial functions.

Senator Angara likewise said that corporations performing health functions, such as the National Kidney and Transplant Institute and the Philippine Children's Medical Center, deserve a different treatment in terms of management, financing, and the degree of diligence and care demanded of its management and board.

Noting that some corporations that are supposed to be performing regulatory functions have been turning out to be money-making machines, Senator Angara asked on the standards that would govern corporations performing both sovereign as well as proprietary functions. Senator Drilon explained that corporations performing both sovereign and regulatory functions, such as the Manila International Airport Authority, Philippine Ports Authority, Mactan-Cebu International Airport Authority, and Clark International Airport Authority are called "government instrumentalities with corporate powers" or "government corporate entities," a class of corporations that shall be governed by the general rules that are outlined in the bill such as the rules on corporate opportunity, the "fit and proper rule" insofar as qualifications are concerned, including the rule requiring them to exercise the diligence of a prudent and reasonable manager in managing the affairs of the corporation. In general, he said that what is applicable to ordinary GOCCs insofar as qualifications and duties of the board members are concerned would apply to both GOCCs with purely proprietary functions and those performing both regulatory and proprietary functions.

Senator Angara pointed out that there were some entities in the list which should not be classified as regulatory like the Philippine Rice Research Institute (PRRI) which is purely a research and development (R&D) institution, and the Manila Economic and

Cultural Office (MECO) which is actually a misnomer as it was just one way of getting away with the One-China policy instead of calling it a diplomatic post. He said that the rules on good governance and on appropriating corporate opportunity should likewise be applied to them.

Senator Drilon explained that MECO is specifically covered under the bill because it collects public funds in the form of passport, visa and notarial fees in Taiwan but it is not subject to audit by the Commission on Audit and neither does it turn over funds to the national treasury. He said that its present head, former Congressman Amadeo R. Perez Jr., has already expressed willingness to submit all of these to the appropriate government agencies, realizing that the present setup cannot be justified. Additionally, Senator Drilon said that he made it a point that the function of MECO would be regularized after discovering that a member of the board, who attends a meeting once a month in Taipei, receives P1.2 million in retirement funds after serving two years or an equivalent of P600,000 per year of service.

Senator Angara suggested that government-owned and -controlled corporations should be classified in categories by way of illustrative examples and general descriptions in order to define the governing rules applicable in each category and to determine the amount of compensation, among others.

Asked to explain his statement that the governance of GOCCs must be aligned with the government's Medium-Term Philippine Development Plan (MTPDP), Senator Drilon stated that the MTPDP, which shall govern development for the next five years, sets out policies and programs where the GOCCs can play a vital role. He said that there are GOCCs that would be involved in power generation or distribution, which is part of the national development goals that can only be performed through GOCCs specially tasked by law to do so. He believed that it is very critical that the goals and objectives of the GOCCs, as well as its day-to-day operations, should be aligned with the national development plan, otherwise, there will be no sense for the GOCCs to exist.

Senator Angara pointed out that there are GOCCs which are peculiar in their nature and unique in their organization, therefore, their objectives and operations may not necessarily be aligned with the national development plan much less with the political plan. For instance, he posited that the SSS and the GSIS cannot be compelled to invest in

*As corrected by Senator Drilon on February 2, 2011

power generation because the money entrusted to them belongs to their members. Senator Drilon clarified that it is not the intention of the bill that if the national development goal is to provide adequate power, the GSIS should be compelled to invest in that area. He pointed out that the GSIS is mandated to provide adequate pension for the country's retirees, which is a social service found in the Medium-Term Development Goal of the government. Specifically, he said that since the national budget is burdened by a P36 billion annual appropriation for retirees of the Armed Forces, the GSIS, in consonance with its charter, should review how it can help the government in relieving the national budget of this burden without prejudicing the retirement rights of the retirees as well as the agency's viability.

Senator Angara stated that the GSIS, SSS, Pag-IBIG, PhilHealth and the Employees' Compensation Commission are special corporations whose funds belong to their members, and that their investment programs and policies must serve the interest of their constituents. He said that these corporations must not be burdened with anything beyond the enhancement of their members' interest. Senator Drilon agreed and* stated that should these corporations invest in power generation, for example,* this is only an investment made* because they believe that the returns on the investment would best serve the interest of its members.

He agreed that government corporations that make large amounts of money yearly like the Philippine Ports Authority (P7 billion - P8 billion), Ninoy Aquino International Airport (P3 billion - P4 billion) and Land Transportation Office, should be required to adhere to the national development* plan.

As regards the classification of the Philippine National Oil Company (PNOC), Senator Drilon replied that initially, it was a research and development entity. Senator Angara agreed that it should be a tentative classification because PNOC generates a lot of money. He pointed out that the government's share in the revenues generated by PNOC just from the Malampaya gas fields in the past years reached P70 billion. Depending on the classification of the GOCC, he said that if PNOC is to be treated as an energy corporation, for instance, questions can be raised as to how it has helped light up the country and much can be demanded from its board of directors. But he asked how these government instrumentalities

like PNOC, which were created by law and entrusted with huge trust funds, should be treated.

In response, Senator Drilon stated that by their very nature, trusts funds are subject to certain conditions and while they are not part of revenue, they earn interest that should accrue to the National Treasury. He surmised that DENR has a lot of trust funds for the development of natural resources through private entities.

At the very least, Senator Angara argued, there should be some rules of disclosure and accountability in the proposed Act even if the State cannot claim ownership of any part of the trust funds which, he emphasized, are huge hidden treasures that are not being tapped for development. Senator Drilon agreed, saying it is about time Congress took a good look into trust funds that are presently governed only by a COA circular and a GAA provision that expires yearly. He recalled that a few years ago, there was an intense fight among officials of the Philippine Retirement Authority over the depository bank where the funds of retirees were invested. He stated that there are large chunks of money in trust funds that do not belong to the public but yield substantial interest for the government.

Senator Angara stated that he sees the bill as one in a series of steps to conserve, preserve and enhance the country's untapped natural wealth that amounts to US\$150 billion of P3 trillion. He believed that if this idle resource is to be used to pursue development, government has to lay down the framework, otherwise, it would earn nothing. Precisely, he said, the rule on disclosure would allow the people to know how much money lies idle and government can leverage it, spend it, borrow against it, and generate revenues from it. He hoped that the Sponsor would agree to put a provision in the bill covering trust funds because doing so would be a step towards conserving, preserving and utilizing the country's national wealth.

At this point, Senator Angara asked to be given more time to study the handouts and the data. Senator Drilon said that he would be willing to share with Senator Angara other materials, including the charters of the 157 GOCCs.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2640

Upon motion of Senator Drilon, there being no objection, the Body suspended consideration of the bill.

*As corrected by Senator Drilon on February 2, 2011

SUSPENSION OF SESSION

Upon motion of Senator Sotto, the session was suspended.

It was 4:34 p.m.

RESUMPTION OF SESSION

At 4:34 p.m., the session was resumed.

CHANGE OF REFERRAL

Upon motion of Senator Sotto, there being no objection, the Body approved the interchange of referrals of Senate Bill No. 2618 and House Bill No. 3161 (amendments to the charter of the Philippine Public Safety College) with the Committee on Education, Arts and Culture as the primary committee and the Committee on Public Order and Dangerous Drugs as the secondary committee.


Senator Sotto clarified that the earlier referral to the Committees on Finance; and Ways and Means stand.

ADJOURNMENT OF SESSION

Upon motion of Senator Sotto, there being no objection, the President Pro Tempore declared the session adjourned until three o'clock in the afternoon of the following day.

It was 4:36 p.m.

I hereby certify to the correctness of the foregoing.


EMMA LIRIO-REYES
Secretary of the Senate

Approved on February 2, 2011