

SENATE

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S.B. No. **3147**

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Introduced by Senator Juan Ponce Enrile

**EXPLANATORY NOTE**

Congress enacted the *Electric Power Industry Reform Act (EPIRA)* in 2001 with the end goal of establishing a more competitive and responsible electricity industry which shall hopefully, in turn, provide better services to the public at affordable and competitive prices. To achieve this goal, the law provided for the restructuring and deregulation of the power industry.

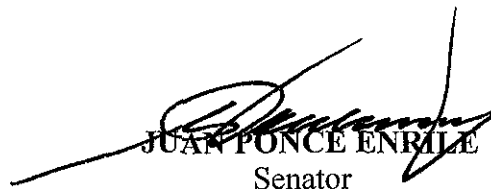
However, five years after the passage of EPIRA, it became evident that some provisions of the law could not be properly enforced which, contrary to the objectives of the law, led to a constant rise in the cost of electricity that is more burdensome on the part of the consumers.

In addition, taxes paid by industry players in the power sector became unreasonable that it encouraged an unabated transfer of the burden of what are properly costs of doing business to the consumers. Prior to the enactment of Republic Act 9337, which further amended the National Internal Revenue Code (NIRC), electric, gas and water utilities were subject to a franchise tax at the rate of two percent (2%) on gross receipts under Section 119 of the NIRC, as amended. The amendments embodied in RA 9337 removed electric utilities from the franchise tax regime and subjected the same to the twelve percent (12%) value added tax.

Under present system, however, where the power industry players are required to pay ordinary income tax as well as the 12%-VAT, consumers are placed at a disadvantage as the energy companies simply passed on the cost of paying these taxes onto the end-users.

This bill therefore seeks to revert to the previous system where franchise tax is being required of distribution utilities not only to allow the industry players to enjoy a more equitable tax regime. More importantly, the imposition of a franchise tax which is directly absorbed by the franchisee will free the consumers from shouldering additional pass on charges.

In view of the foregoing, the immediate passage of the bill is earnestly sought.

  
JUAN PONCE ENRILE  
Senator

SENATE

9 APR -1 10 145

S. B. No. 3147

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AN ACT

**IMPOSING A UNIFORM FRANCHISE TAX ON DISTRIBUTION UTILITIES ENJOYING LEGISLATIVE FRANCHISE IN LIEU OF ANY AND ALL TAXES COLLECTED BY THE GOVERNMENT WITH THE END IN VIEW OF REDUCING THE COST OF ELECTRICITY BORNE BY CONSUMERS**

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

1           **SECTION 1.** Declaration of Policy. - It is hereby declared the policy of the State  
2 to promote the public interest by ensuring the affordability and steady supply of electricity  
3 to the end-users.

4           **SEC. 2.** Franchise Tax On Distribution Utility Grantee. - Distribution utilities shall  
5 pay a franchise tax equivalent to three percent (3%) of a distribution utility's Gross  
6 Distribution Income derived from the distribution business granted under the Distribution  
7 Utility's legislative franchise. Said tax shall be in lieu of all taxes, such as income tax,  
8 value added tax, business taxes, licenses, and any and all taxes, duties, fees, and charges of  
9 any kind, nature or description levied, established or collected by any government  
10 authority whatsoever, whether local or national, on its franchise, rights, privileges, receipts  
11 wheeling charges, revenues and profits and upon its machineries, equipment, supplies,  
12 meters, poles, wires, transformers, insulators, capacitors, transportation equipment,  
13 substations, facilities, and all other real and personal property actually used or intended for  
14 use by the Distribution Utility to provide electric power distribution services to the  
15 consumers: *Provided*, That the Distribution Utility Grantee, its successor or assigns, shall  
16 be liable to pay the same taxes on its real estate, buildings and other real property not  
17 actually used nor intended to provide distribution services under its franchise to distribute  
18 electric power, as other persons or corporations are now or hereafter may be required by law  
19 to pay.

1           **SEC. 3. Gross Distribution Income.** – Gross Distribution Income shall mean gross  
2 income derived by a Distribution Utility from all its income less all transmission and  
3 generation charges on the distributed electricity which are passed on to the consumers and  
4 excluding all universal charges imposed under Republic Act No. 9136 as well as charges  
5 determined by Energy Regulatory Commission to be passed on to the consumers.

6           **SEC. 4. Repealing Clause.** All laws, acts, decrees, executive orders, including the  
7 relevant provisions of the National Internal Revenue Code, as amended, the Local  
8 Government Code, as amended or parts thereof which are contrary to and inconsistent with  
9 this Act are hereby repealed, amended or modified accordingly.

10           **SEC. 5. Implementing Rules and Regulations.** – The Secretary of Finance, in  
11 consultation with the Secretary of Energy, shall promulgate and publish the necessary rules  
12 and regulations within thirty (30) days for the effective enforcement of the provisions of  
13 this Act.

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

16           *Approved,*