

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

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SENATE

RECEIVED BY: 

S. NO. 22

Introduced by Senator Juan M. Flavier

EXPLANATORY NOTE

This bill seeks the establishment of the Mindanao Railways Corporation as a deliberate effort of the present government to hasten the development of the Mindanao region.

The Mindanao Railways Corporation, if created, will serve as a government instrumentality in providing railroad and transportation system for the whole island of Mindanao. The people from the South and traders from all over the land who have difficulties traveling and transporting their goods within and outside the island will be benefited. A railroad network crisscrossing Mindanao will considerably shorten the distance and/or travel of the people or the goods whose destination is the Visayas or Luzon, not to mention the opportunity to trade and transport huge volume of goods at the lowest cost.

The experience of Japan, Canada, the United States and most of Europe whose railroad networks have enhanced national development, is sufficient encouragement for the railroad system in the South.

The establishment of said Corporation will spearhead Mindanao's economic take-off and become at par with the more developed transportation of Luzon and Visayas.

In view of the foregoing, approval of this bill is thus requested.


JUAN M. FLAVIER
Senator

SENATE

S. NO. 22

Introduced by Senator Flavier

AN ACT
CREATING THE MINDANAO RAILWAYS CORPORATION PRESCRIBING ITS
POWERS, FUNCTIONS AND DUTIES, AND PROVIDING FOR THE
NECESSARY FUNDS FOR ITS OPERATION

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

SECTION 1. Name, Duration and Domicile. -- A Corporation to serve as the instrumentality of the Government of the Philippines in providing a railroad and transportation system for the whole island of Mindanao is hereby created, to be known as the Mindanao Railways Corporation, which for the purpose of this Act, shall be called the Corporation. The Corporation shall exist for a term of fifty (50) years from the date of approval of this Act. It shall have its main office in Cagayan de Oro City, and shall have such branches and agencies within or outside the Philippines, as may be necessary for the proper conduct of its business.

SEC. 2. Purposes and Specific Powers. -- The Corporation shall have the following purposes and specific powers:

- a) To own or operate railroads, tramways, and other kinds of land transportation, vessels and pipelines, for the purpose of transporting for consideration, passengers, mails and property between any points in Mindanao; and
- b) As an auxiliary to its main purpose, to own and/or operate powerhouses, hotels, restaurants, terminals, warehouses, timber

concessions, coal mines, iron and other mineral properties and to manufacture rolling stocks, equipment, tools and other appliances, to construct and operate in connection with its railroad lines, toll viaducts, toll tunnels and the like.

SEC. 3. General Powers. – The Corporation shall have the following general powers.

- a) To do all such other things and to transact all such business directly or indirectly, incidental or conducive to the attainment of the purpose of the corporation; and
- b) Generally, to exercise all powers of a corporation under the Corporation Law;
- c) To exercise the power of eminent domain.

SEC. 4. Authorized Capital Stock of the Corporation. – The Authorized Capital Stock of the Corporation shall be Ten billion pesos (P10,000,000,000.00), divided into Ten million pesos (P10,000,000.00) shares at par value shares of One thousand pesos (P1,000.00) each, which shall be fully subscribed by the Philippine Government, twenty percent (20%) of which or Two billion pesos (P2,000,000,000.00) shall be initially paid-up and the balance shall be paid from a continuing annual appropriation of not less than Two hundred million pesos (P200,000,000.00) which is hereby appropriated, out of any funds in the National Treasury not otherwise appropriated. The said amount shall be programmed and released by the Budget Commission in accordance with the schedule of cash requirements to be prepared and submitted by the Mindanao Railways Corporation: *Provided*, That this continuing annual appropriation of Two billion pesos (P2,000,000,000.00) and the programming and release thereof shall remain in force until the authorized capital subscribed by the Government shall have been paid in full.

SEC. 5. Loans. -- The Corporation is hereby authorized to contract loans, credits, and indebtedness in any domestic or convertible foreign currency,

or their capital goods, from foreign governments, their agencies, instrumentalities or financial institutions, or any non-governmental national or international institutions or firms extending suppliers credit deferred payment arrangement or other fund sources, or to issue bonds, the total outstanding amount of which, exclusive of interests, shall not exceed Five hundred million United States dollars (\$500,000,000.00) or the equivalent thereof in other currencies; on such terms and conditions as it shall deem appropriate for the accomplishment of its purpose and to enter into and execute documents and other documents and other documents specifying such terms and conditions.

The President of the Philippines, through the Secretary of Finance, is hereby authorized to guarantee, in the name and on behalf of the Republic of the Philippines, the payment of the loans, credits, indebtedness and bonds issued up to the amount herein authorized which shall be over and above the amount which the President of the Philippines is authorized to guarantee under Republic Act Numbered Sixty-One Hundred and Forty-Two (R.A. 6142) as amended, as well as the performance of all or any of the obligation undertaken by the Corporation in the territory of the Republic of the Philippines pursuant to loan agreements entered into with foreign governments or any international financial institution of fund sources.

The loans, credits and indebtedness contracted under this Section and the payment of the principal, interest and other charges thereon, as well as the importation of machinery, equipment, materials, supplies, and services, by the Corporation, paid from the proceeds of any loan, credit or indebtedness incurred under this Act, shall also be exempted from all charges and restrictions previously and presently imposed and to be imposed by the Republic of the Philippines, or any of its agencies and political subdivisions.

SEC. 6. Board of Directors, Composition and Appointment. -- The corporate power of the Corporation shall be vested in and exercised by a Board of Directors consisting of a chairman, vice-chairman and nine (9) members who

shall be appointed by the President of the Philippines, with the consent of the Commission on Appointments. Their terms of office shall be six (6) years from the date they qualify and assume office, except that any person chosen to fill a vacancy shall serve only for the unexpired term of the member whom he succeeds: *Provided*, That the first appointed members of the Board shall be divided to serve as designated by the President in their appointments for terms of two (2), four (4) and six (6) years, respectively. For actual attendance of Board meetings, each such members shall receive a *per diem* of One thousand pesos (P.1,000.00). The Board meetings may not exceed four (4) times a month.

SEC. 7. Qualification of Board Members. -- The Chairman, Vice-Chairman, and the members of the Board of Directors of the Corporation shall be Filipino citizens, at least thirty-five (35) years of age at the time of their appointments and holders of degrees in the field of engineering, economics, business management and related courses. In addition, a masteral degree in the same field and/or experience in railway management and operations for at least five (5) years is preferable. Majority of such officials must be residents of Mindanao for at least five (5) years prior to the appointments.

SEC. 8. Powers and Duties of the Board of Directors. -- The Board of Directors shall have the following powers and duties:

- a) To prescribe, amend and repeal by laws, rules and regulations governing the manner in which the general business of corporation may be exercised, including provisions for the formation of such committee or committees as the Board of Directors may deem necessary to facilitate its business.
- b) To appoint and fix the compensation of the General Manager, subject to the approval of the President of the Philippines, and to appoint and fix the compensation of the other officers of the Corporation. The Board by a majority vote of all the members may, for cause, and with

the President of the Philippines suspend and/or remove the General Manager.

- c) To approve the annual and/or such supplemental budgets of the Corporation which may be submitted to it by the General Manager from time to time.
- d) To enter into contract with any duly prequalified private contractor for the financing, construction, operation and maintenance of any financially viable infrastructure facilities through the Build Operate and Transfer or Build and Transfer scheme, as provided for by law.

SEC. 9. Suspension and Removal of Directors. -- Any member of the Board of Directors may, for cause, be suspended or removed by the President of the Philippines.

SEC. 10. Prohibition for Board Members. -- No Chairman or member of the Board of Directors of the Corporation shall serve in the Corporation in any capacity whatsoever other than as Chairman or member thereof, unless otherwise authorized by law.

SEC. 11. Managing Head. -- The management of the Corporation shall be vested in the General Manager, who shall possess technical competence in Railroad Management, hold office for a term of six (6) years without reappointment and who shall be removable for cause. He shall be appointed by the President of the Philippines, with the consent of the Commission of Appointments.

SEC. 12. Powers and Duties of the General Manager. -- The General Manager shall have the following powers and duties:

- a) To direct and manage the affairs and business of the Corporation on behalf of the Board of Directors, and subject to its control and supervision;

- b) To sit in all meetings of the Board of Directors as Vice-Chairman, and participate in its deliberations, with the right to vote and to preside any meetings for or in the absence of the Chairman;
- c) To submit within sixty (60) days after the close of each fiscal year an annual report, through the Board of Directors, to the Office of the President of the Philippines and the Congress of the Philippines;
- d) To appoint and fix the number and the salaries, with the approval of the Board of Directors, of such subordinate personnel as may be necessary for the proper discharge of the duties and functions of the Corporation, and with the approval of the Board of Directors, to remove, suspend, or otherwise discipline, for cause, any subordinate employee of the Corporation; and
- e) To perform such other duties as may be assigned to him by the Board of Directors from time to time.

SEC. 13. Appointment and Promotion of Personnel. -- The provision of Civil Service Law shall govern in the appointment and promotion of officers and employees of the Corporation.

SEC. 14. Exemption from Taxes, Duties and Port Charges. -- The Corporation is hereby exempt from payment of all taxes of every name and nature – municipal, city, provincial, or national – upon its capital stock, franchisees, right of way, earnings, and all other property owned and operated by it and all duties, all railways materials, supplies and equipment imported in the Philippines for and/or by the said Corporation, and this exemption shall extend to port charges upon vessels whose entire cargo consists of materials for the construction of the prescribed port charges on other vessels as the tonnage of materials for such constructions or equipment may bear to the tonnage of the entire cargo of the vessel.

SEC. 15. Audit Personnel and Report. –

- a) Personnel -- The Commission on Audit shall appoint a representative who shall be the Auditor of the Corporation, and the necessary personnel to assist said representative in the performance of his duties. The number and salaries of the Auditors and said personnel shall be determined by the Commission on Audit, subject to appropriation by the Board of Directors. In case of disagreement, the matter shall be submitted to the President of the Philippines whose decision shall be final. Said salaries and all other expenses of maintaining the Auditor's office shall be paid by the Corporation.
- b) Report – The financial transactions of the Corporation shall be audited in accordance with law, administrative regulations and the principles and procedures applicable to commercial corporate transaction. A report of audit for each fiscal year, by the representative of the Commission on Audit, through the latter, to the Board of the Corporation, and copies thereof shall be furnished the President of the Philippines, the Secretary of Transportation and Communications and the Presiding Officers of the two Houses of Congress. The report shall set forth the scope of the audit and shall include a statement of assets and liabilities, capital and surplus or deficit; a statement and surplus or deficit analysis; statement of income and expenses; a statement of sources and application of funds; and such comments and information as may be necessary, together with such recommendations with respect thereto as may be advisable, including a report of any impairment of capital noted in the Audit. The report also shows specifically any program, expenditures or other financial transaction or undertaking observed in the course of audit, which in the opinion of the Auditor, has been carried on or made without authority of law.

SEC. 16. Legal Counsel. -- The Corporation shall have its own legal department, the chief and members of which shall be appointed by the Board of Directors.

SEC. 17. Exemption from the Land Transportation Commission Act. -- The Corporation shall not be subject to the authority and supervision of the Land Transportation Commission.

SEC. 18. Liquidation. -- When its term or period of existence has expired in accordance with the provision of this Act, the Corporation shall nevertheless, continue as a body corporate for three (3) years after the time of its dissolution for the purpose of prosecuting and defending suits by or against it and of enabling it gradually to settle and close its affairs, to dispose of any convey its properties, but not for the purpose of continuing the business for which it was established. In order to carry out its liquidation, upon the dissolution of the Corporation, a Board of Liquidators shall be appointed by the President to take charge of winding up its corporate affairs and affecting its liquidation.

SEC. 19. Strikes during National Emergency. -- The provisions of law to the contrary notwithstanding, in cases of national emergency, or when in the opinion of the President of the Philippines, the national security or interest is in imminent danger, employees and laborers of the corporation shall not strike for the purpose of securing changes or modification in their terms and conditions of employment during the period of emergency.

SEC. 20. Reversion of General Funds. -- All funds resulting from dissolution and liquidation of the Corporation as herein provided shall revert to the general funds of the Government.

SEC. 21. Applicability of the Corporation Law. -- The provisions of the Corporation Law which are not inconsistent with the provisions of this Act, shall be applicable to the corporation created hereby.

SEC. 22. Repeal or Modification. -- The provisions of Republic Act No. 4156, as amended, creating the Philippine National Railways, and all acts,

executive orders, administrative orders, and proclamation or parts thereof inconsistent with any of the provision of this Act, are hereby repealed or modified accordingly.

SEC. 23. Separability Clause. -- In the event any provision of this Act or application of such provision to any person or circumstances is declared unconstitutional, the remainder of this Act or the application of said provision to other persons or circumstances shall not be affected thereby.

SEC. 24. Effectivity. -- This Act shall take effect upon its approval.

Approved,