

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

'04 JUN 30 P12:03

SENATE

S. NO. 6

RECEIVED BY: 


Introduced by Senator Flavier

EXPLANATORY NOTE

The need to revitalize and strengthen our mass transit system is vital to the orderly development and continued growth of our country. At present, our national roads and highways are not sufficient to serve the needs of the traveling public. Neither are they an efficient means of traveling or transporting goods. They are congested and are often in disrepair.

Railways are proven means of travel and transporting goods. Europe, the United States and Japan are showcases of the efficiency and reliability of the system.

This bill thus seeks to create a National Railways System to provide and maintain an adequate, efficient, inexpensive, convenient public transport system responsive to the needs of our country.


JUAN M. FLAVIER
Senator

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Introduced by Senator Juan Flavio

AN ACT ACCELERATING THE DEVELOPMENT OF A NATIONAL RAILWAY SYSTEM, CREATING FOR THE PURPOSE THE NATIONAL RAILWAY AUTHORITY, PRESCRIBING ITS POWERS, FUNCTIONS AND DUTIES

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

SECTION 1. Title. – This Act shall be known as the "National Railways Act."

SEC. 2. Declaration of Policy. – It is hereby declared the policy of the State to promote, accelerate and develop an integrated national railway system to provide and maintain an adequate, efficient, inexpensive, convenient and reliable public transport system responsive to the needs of the citizenry for the socio-economic development of the country.

SEC. 3. Creation of the National Railway Authority. – There is hereby created a corporate body to be known as the National Railway Authority, hereinafter referred to as the "Authority". It shall have its principal office in the Metropolitan Manila Area, but may establish branches and agencies elsewhere within the country, as may be necessary for the proper conduct of its business and discharge of its functions. It shall be under the direct control and supervision of the Office of the President.

SEC. 4. Functions of the NRA. – The Authority shall have the following functions:

- (a) Formulate and adopt a comprehensive development plan for a national railway system with ecological and environmental standards;
- (b) Promote and encourage the active participation of the private sector, both local and international, in the development and implementation of a comprehensive development plan;
- (c) Implement or cause the implementation of the national railway plan, policies and programs according to a schedule of priorities consistent with the needs and available resources;
- (d) Control and develop, construct, operate and maintain railway facilities including parking stations and terminals for freight, goods and cargoes;
- (e) Regulate the schedule, frequency, routing and pricing of railway services; and
- (f) Call upon any government agency for such assistance as may be necessary in the discharge of its duties and functions.

SEC. 5. General Powers of the NRA. – The NRA will also have the following powers:

- (a) To have continuous succession under its corporate name;
- (b) To sue and be sued;
- (c) To adopt, alter and use a corporate seal;
- (d) To amend and real its By-Laws;
- (e) To acquire, own, hold, administer, and lease such real or personal property as it deems necessary or convenient in the transaction of its business and to lease, mortgage, sell, alienate or otherwise dispose of any such real or personal property held by it;

- (f) To enter into any obligation, assign or accept the assignment of, and to rescind any agreement or contract necessary or incidental to the proper functioning of the Authority;
- (g) To contract loans, indebtedness, and credit accommodations, in any local or convertible foreign currency, from any international financial institutions, foreign government entities, and local or foreign private commercial banks or similar institutions under terms and conditions prescribed by law, rules and regulations, and to issue commercial papers and bonds in connection therewith;
- (h) To invest its funds and other assets in such areas it may deem proper in the course of its operations;
- (i) To construct, own, lease, operate and maintain public utilities, infrastructure facilities and such auxiliary support service needed to develop and operate and maintain a national railways system;
- (j) To design, construct, maintain, and operate by itself or by delegation to, or through contractual arrangement such auxiliary infrastructure support facilities as, but not limited to, parking structures above or below ground, including the means of access;
- (k) To fix rates of railway transportation fee;
- (l) To regulate rates of fees, such as but not limited to, parking fees, portage fees and such other fees levied in relation with the use of the railway system;
- (m) To prescribe, fix and regulate the route of railway transport;
- (n) To receive donations, grants, bequests and assistance of all kinds and to utilize the same;
- (o) To exercise the right of eminent domain in the name of the Republic of the Philippines and in the acquisition of real estate by excess condemnation or escheat proceedings, including appurtenant properties. The title thereto shall be registered in the

name of the Government and thereupon all such properties shall be entrusted to the Authority as agent of the Government;

- (p) To form, establish, organize, and maintain subsidiary corporations or joint ventures formed in accordance with the Philippine Corporation Code, to encourage public and private sector participation in the development of the railway system;
- (q) To privatize any part or all of the railway system or any subsystem under the Authority, in accordance with the law;
- (r) To promulgate such rules and regulations as may be necessary to carry out the objectives of this Act; and
- (s) To perform such other powers as may be necessary to carry out the purposes of this Act.

SEC. 6. Conduct of Comprehensive Studies. – The Authority, in coordination with such other government agencies as may be necessary, shall undertake comprehensive studies for the rehabilitation and/or construction of, but not limited to, such railway lines extending from San Fernando, La Union to Laoag, Ilocos Norte to Metro Manila passing through Cagayan, Isabela, Nueva Vizcaya, Nueva Ecija and Bulacan; southline rail extension from Comun, Camalig, Albay to Matnog, Sorsogon; a Libmanan-Daet line, a railway line from Iloilo City to Roxas City in Panay, and a line from Iligan City to Cagayan de Oro City in Mindanao.

SEC. 7. Board of Directors. – The powers of the Authority shall be vested in and exercised by a Board of Directors, hereinafter referred to as the "Board", which shall be composed of seven (7) members to be appointed by the President of the Philippines.

The Chairman and three (3) members of the Board shall serve for four (4) years while the remaining three (3) members shall serve for three (3) years. Any member of the Board may be suspended or removed by the President of the

Philippines at any time for cause. In the event of a vacancy in the Board, the appointees shall serve the unexpired term of the predecessor.

No member of the Board shall be appointed unless he is a natural-born citizen of the Philippines, at least thirty-five (35) years of age, of good moral character, competent and experienced in one or more of the following fields: transport planning, engineering, economics, management, finance, corporate and transportation law, and marketing.

The Chairman of the Board shall be designated by the President from among the members of the Board.

SEC. 8. Powers and Functions of the Board. – The Board shall have the following powers and functions:

- (a) To formulate policies, plans and programs, projects, rules and regulations to carry out effectively the functions of the Authority;
- (b) To direct the management, operations and administrations of the Authority;
- (c) To create offices or positions necessary for the efficient operation of the Authority; to appoint and fix the remuneration and other emoluments of subordinate officers and personnel of the Authority in accordance with the Revised Compensation and Position Classification System, and to remove or otherwise discipline such officers/employees for cause in accordance with Civil Service Rules and Regulations;
- (d) Establish financial and operations performance targets for management as basis for evaluating and monitoring corporate performance;
- (e) To authorize such expenditures as are in the interest of the effective and efficient administration and operations of the Authority;

- (f) To exercise such other powers as may be necessary to accomplish the purposes for which the Authority was organized.

SEC. 9. Management. – The general conduct of the operations and management of the Authority shall be vested in a President who shall serve as the Chief Executive Officer primarily responsible for carrying out the program of the Authority and the policies of the Board.

The President/Chief Executive Officer must be natural-born citizen, at least thirty-five (35) years of age on the day of the appointment, of good moral character and with recognized executive ability and competence in the field of transportation, business administration, management, finance or law. She/He shall be appointed by the President of the Republic of the Philippines and shall serve for a term of six (6) years.

SEC. 10. Duties and Responsibilities of the President. – The President/Chief Executive Officer of the Authority shall have the following duties and responsibilities:

- (a) To execute, administer and implement the policies, programs, plans, guidelines, decisions, rules and regulations issued and adopted by the Board;
- (b) To direct and supervise the operations and administration of the NRA;
- (c) To determine, with the approval of the board, the staffing pattern and the number of personnel of the NRA;
- (d) To direct and supervise the preparation of the agenda for the meeting of the Board, and to submit for the consideration of the Board such policies and measures as he believes necessary to carry out the purposes and objectives of this Act;

- (e) To represent the Authority in all dealings with other offices, agencies and instrumentalities of the Government and with all persons and entities, public or private, domestic or foreign; and
- (f) To exercise such other powers and functions as the Board may assign or authorize.

SEC. 11. Public Accountability. – To ensure public accountability, the Authority shall be subject to the Audit of the Commission on Audit (COA) and shall comply with all the generally accepted accounting and auditing rules and regulations and those which it may hereafter promulgate in pursuance of its Constitutional Mandate.

SEC. 12. Merit System. – All officials and employees of the Authority shall be selected and appointed on the basis of merit and fitness in accordance with the comprehensive and progressive merit system to be established by the Authority immediately upon its organization in accordance with Civil Service law, rules and regulations. The recruitment, transfer, promotion, and dismissal of all its personnel including temporary workers shall be governed by such merit system.

SEC. 13. Prohibition Against Issuance of Restraining Orders and Preliminary Injunctions or Preliminary Mandatory Injunctions. – No court in the Philippines, except the Supreme Court, shall have the jurisdiction to issue any restraining order, preliminary injunction, or preliminary mandatory injunctions in any case, dispute, or controversy involving any contractor project involving the NRA, to prohibit any person or persons, entity or government official from proceeding with, or continuing the execution or implementation of any such contract or project, or pursuing any lawful activity necessary for the execution, implementation or operation of such contract or project.

SEC. 14. Abolition of the Philippine National Railways and the Light Rail Transit Authority. – The Philippine National Railway and the Light Rail Transit Authority are hereby abolished. Their powers and functions, balance of appropriations and all applicable funds, records, assets, and property are transferred to and absorbed by the Authority. The Authority shall succeed to all rights and assume all contracts and liabilities of the herein abolished agencies in accordance with the Auditing code and other pertinent laws, rules and regulations.

The existing qualified personnel of the Philippine National Railways and Light Rail Transit Authority covered by Civil Service law, rules and regulations shall be absorbed by the Authority. Those incumbents whose positions are not included therein or who are not reappointed shall be deemed separated from the service or retired under existing laws and regulations.

SEC. 15. Applicability of the Corporation Law. – Insofar as they are not inconsistent with this Act, the provisions of the Corporation Law shall be applicable to the operations of the Authority.

SEC. 16. Congressional Oversight Committee. – A Congressional Oversight Committee is hereby created, composed of the Chairpersons of the Committee on Public Services and the Committee on Government Corporations of the Senate and the Chairpersons of the Committee on Transportation and Communications and the Committee on Government Enterprises and Privatization of the House of Representatives and four (4) additional members from each House, to be designated by the Senate President and the Speaker of the House of Representatives, respectively. The Oversight Committee shall, among others, monitor and ensure the effective implementation of this Act.

SEC. 17. Separability Clause. – If any of the provisions of this Act is declared invalid, the provisions thereof not affected by such declaration shall remain in force and effect.

SEC. 18. Repealing Clause. – The provisions of Republic Act No. 4156, as amended, Republic Act No. 6366, Presidential Decree No. 741, Executive Order No. 603 and Executive Order No. 210, are hereby repealed. All other laws, decrees, orders, proclamations, rules and regulations or parts thereof inconsistent with any of the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 19. Effectivity Clause. – This Act shall take effect fifteen (15) days following its publication in at least two (2) newspapers of general circulation.

Approved,