

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

'04 JUN 30 P3:38

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S E N A T E

S. No. 280

Introduced by Senator S. R. Osmeña III

EXPLANATORY NOTE

Music is part of our cultural heritage. Artistic blood run through the veins of each and every Filipino. Through the years, our very own musical composers, singers and singing groups have taken center stage in the international music scene, earning world wide recognition for themselves and for the country.

However, foreign music has continued to dominate the Philippine music industry. Greater exposure to and preference for foreign music made Original Pilipino Music (OPM) a mere second choice among the people. Because of this it became necessary for the President to issue Executive Order No. 255, requiring radio stations to play a minimum of four (4) original Pilipino musical composition per hour. Despite this order, the airtime ratio is still favorable to foreign music.

This condition should be reversed. This bill intends to bring about a broader access by our people to their own music. It aims to make the market relatively more favorable to OPM. The objective is to provide a greater impetus to the musical creativity and excellent performance of our own composers, artists and performers.

The approval of this measure for the development and appreciation of Filipino music is urgently needed.

S. Osmeña III
SERGIO OSMEÑA III
Senator

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**AN ACT
TO PROMOTE THE DEVELOPMENT OF THE PHILIPPINE MUSIC INDUSTRY,
AND FOR OTHER PURPOSES**

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

1 **SECTION 1. Title.** -- This Act shall be known as the "**Music Industry**
2 **Development Act of 2004.**"

3 **Sec. 2. Declaration of Policy.** -- In consonance with the constitutional
4 mandate to conserve, promote, and popularize the nation's historical and cultural
5 heritage and resources as well as its artistic creations, it is hereby declared to be
6 the policy of the State to develop and enhance the musical creativity of the
7 Filipino; to promote and cultivate the development of Filipino music; and to
8 encourage and support the promotion and propagation of Filipino music here and
9 abroad.

10 In adherence to such policies, this Act shall have the following objectives:

11 (a) To identify, develop, protect and promote Filipino musical talent, be it
12 in composition, rendition, or production;

13 (b) To provide opportunities for the appropriate training and professional
14 development of the musically talented;

15 (c) To provide adequate mechanisms and support for the development
16 and protection of the Filipino music industry; and

1 (d) To popularize and promote Filipino music in the country and abroad.

2 **Sec. 3. Definition of Terms. --**

3 (1) Original Pilipino Music (OPM) -- refers to any musical composition
4 with or without lyrics, originally created by a Filipino, whether the lyrics
5 be in Pilipino, English or other foreign languages, or any other
6 Philippine dialect.

7 (2) Performers -- refer to actors, singers, musicians, dancers, and other
8 persons who act, sing deliver, declaim, play in, or otherwise perform in
9 any musical work / field.

10 (3) Musical Score -- refers to any exclusively visual fixation of sound for
11 renditions, sound recording, or broadcasting.

12 (4) Sound Recording -- refers to any exclusively aural fixation of sound of
13 a performance or a recording.

14 (5) *Producer of Sound Records* -- refers to the person who, or the legal
15 entity which first fixes the performance or recording.

16 (6) Publication -- refers to the issue or offering to the public of copies of a
17 sound recording or a musical score in reasonable quantity.

18 (7) Reproduction -- refers to the making of a copy or copies of a
19 recording or a musical score.

20 (8) Broadcasting Organization -- refers to proprietorships duly authorized
21 to engage in broadcasting.

22 (9) Broadcasting -- refers to the transmission for public reception of
23 sounds or of images and sounds.

24 (10) Rights of the compose refer to:

25 (a) Performance -- the broadcasting of musical works be it live or
26 recorded.

27 (b) Mechanical -- refers to disc and tape reproduction of musical
28 works.

1 (c) Synchronization -- the coordination between musical works
2 and visual images in motion pictures, television shows and
3 advertising commercials.

4 (d) Printing -- the publication of works in musical or vocal
5 arrangement.

6 **Sec. 4. *Musical Industry Development Council.*** -- To achieve the
7 objectives of this Act. There is hereby created a Music Industry Development
8 Council, hereinafter referred to as the Council.

9 The Council shall have the following powers and functions:

10 (a) To stimulate and promote the creation and rendition of good music by
11 means of grants, loans and other forms of assistance to qualified
12 persons and institutions applying therefor;

13 (b) To encourage and facilitate the organization of clubs and societies
14 throughout the Philippines for the promotion and popularization of
15 Filipino music through media;

16 (c) To encourage the development of plans and programs, whether by the
17 private or government sectors, for the identification, selection, training
18 and support of musically gifted children;

19 (d) To devise a system of payment of royalties to Filipino musicians that
20 will guarantee Filipino musicians a minimum amount of royalty that will
21 adequately compensate him or her for the work;

22 (e) To promote the rights and privileges of the Filipino artists performing in
23 the country, giving priority to local artists over foreign performers;

24 (f) To monitor, mediate or arbitrate in the following cases, in accordance
25 with guidelines it shall formulate:

26 1) Infringement of copyright and neighboring rights of whatever
27 nature or character;

28 2) Controversies arising out of royalty rates, license schemes,
29 compulsory licenses and relations between and among

1 intellectual property creators, users, publishers, collecting
2 societies, performers, producers of sound recordings and
3 broadcasting organizations;

4 3) Controversies involving intellectual property in music, its
5 assignment or transfer, or those involving licenses, whether
6 exclusive or non-exclusive;

7 (g) To accept donations, grants or contributions and to undertake fund-
8 raising activities and administer the funds solicited thereat, for the
9 attainment of the objectives of this Act;

10 (h) To submit an annual report of its activities as well as recommendations
11 to the Department of Education, Culture and Sports (DECS).

12 **Sec. 5. Board of Directors.** -- There shall be a Board of Directors
13 composed of nine (9) members who, as far as practicable, should come from
14 recognized associations in the music industry representing the following:
15 composers, arrangers, singers, instrumentalists, conductors and producers of
16 sound recordings.

17 The Board shall also have as one of its members, a director of a reputable
18 music school, a music patron and a representative from the Department of
19 Education, Culture and Sports (DECS).

20 The Chairman of the Board shall be elected by the members from among
21 themselves.

22 The first members of the Board shall be appointed by the President with
23 the following staggered terms: three (3) for a term of two (2) years; three (3) for a
24 term of three (3) years; and three (3) for a term of four (4) years from the date
25 they qualify and assume office.

26 Their successors shall be appointed by the President for a uniform term of
27 six (6) years, except that any person elected by the Board to fill a vacancy in the
28 Board shall serve only for the unexpired term of the member whom he or she
29 succeeds.

1 Each member shall, for each day of meeting actually attended by him,
2 receive from the general fund of the Council a *per diem* of not more than Five
3 hundred pesos (P500.00) and in no case shall the total *per diems* per month
4 exceed One thousand five hundred pesos (P1,500.00).

5 **Sec. 6. Equity.** -- Equity or the preferential right of local performers over
6 foreign performers, shall be given to local performers, producers of sound
7 recordings, and all others involved in the music industry.

8 An equity fee chargeable to the foreign performer / worker per show, from
9 the lead artists down to the minor workers, shall be in such amount as may be
10 determined by the Council: *Provided*, That it shall not be applied to the following:

- 11 (a) classical artists;
- 12 (b) those who perform under a cultural exchange program;
- 13 (c) those who are sponsored or sent by counterpart cultural organizations;
- 14 (d) those who perform for the benefit of organizations of Filipino artists;
- 15 (e) those who waive their regular fees or perform without fees; and
- 16 (f) Filipino artists who have acquired foreign citizenship.

17 The income from equity collections of the Council shall be constituted into
18 a Fund which shall be administered and managed by the Council in accordance
19 with rules and regulations duly adopted by it.

20 The Fund shall be utilized primarily for the benefit of local performers.

21 **Sec. 7. Taxation of Foreign Recordings.** -- The Council shall have the
22 authority to impose reasonable taxes on foreign musical recordings, the
23 proceeds of which shall go to the Fund.

24 **Sec.8. Promotion and Popularization of Filipino Music.** -- All radio
25 stations shall allot at least sixty percent (60%) of airtime to Filipino musical
26 compositions, including background music, in every clockhour of a program with
27 a musical format.

1 All musical / variety / cultural programs in all TV stations shall also allot at
2 least sixty percent (60%) of airtime to Filipino compositions, including
3 background music, for every clockhour of showtime / airtime.

4 All advertisements with music format over radio and TV stations shall
5 likewise allot at least seventy-five percent (75%) of airtime to Filipino
6 compositions.

7 All background music of Filipino films shall allot at least seventy-five
8 percent (75%) of playtime to Filipino music.

9 All public places shall be required to play at least sixty percent (60%) of
10 Filipino music for every clockhour. These public places are specified as follows:

- 11 (a) Moviehouses -- during screening intervals;
- 12 (b) Parks / Plazas -- music played through their public address systems;
- 13 (c) Hotels and other lodging places, restaurants -- piped-in music or
14 entertainment fare;
- 15 (d) Shopping Malls -- music played through their public address systems,
16 in shows and entertainment fare;
- 17 (e) Public transportation by air, land and sea -- piped-in music and
18 recordings played;
- 19 (f) Government offices and buildings -- piped-in music;
- 20 (g) Schools, colleges, universities -- music played through their public
21 address systems, in school programs, shows, or ceremonies.

22 **Sec. 9. Enforcement and Implementation.** -- The enforcement and
23 implementation of the above mentioned provision shall be performed by
24 government agencies such as the Department of Education, Culture and Sports
25 (DECS), in coordination with the Department of Transportation and
26 Communications (DOTC), *Kapisanan ng mga Broadcasters ng Pilipinas (KBP)*,
27 the Department of Interior and Local Government (DILG), volunteer groups, civic
28 organizations and deputized police agencies.

1 **Sec. 10. Penalties.** -- In case of violation, the punishment or penalty is
2 as follows:

3 (a) Any franchise holder or operator / owner of a radio / TV station which
4 fails to play at least sixty percent (60%) OPM during airtime shall be
5 fined in the amount of Twenty thousand pesos (P20,000.00) per
6 violation.

7 (b) After due hearing, the appropriate government agency shall cancel the
8 Certificate of Registration and Authority to operate any radio / TV
9 station in the event of three (3) repeated violations.

10 **Sec.11. Government Incentives.** -- To develop the music industry, the
11 following incentives are provided:

12 (a) Formation of regional recording studios -- Regional recording studios
13 administered by the Council shall be established to provide equal
14 access to recording studios.

15 (b) Tax relief -- The following tax incentives shall be imposed:

16 1) Taxes on imported musical instruments, as long as they do not
17 compete with local counterparts of the same quality, shall be
18 reduced to fifty percent (50%);

19 2) Taxes on imported musical equipment needed for recordings and /
20 or live performances, as long as they do not compete with local
21 counterparts of the same quality, shall be reduced by fifty percent
22 (50%);

23 3) Taxes on raw materials used in recording, whether it be local or
24 imported, shall be reduced by twenty percent (20%).

25 (c) Grants/ Awards / Scholarships -- Scholarship grants shall be created
26 for both amateur and professional singers / musicians in order to
27 further develop their capabilities.

28 Musical awards shall be given annually to both amateur and professional
29 singers / artists / performers and all other music-related performances and jobs,

1 at the provincial, regional and national levels, to be called the "*Parangal sa*
2 *Musikang Pilipino.*"

3 The Council, in coordination with agencies and entities involved in the
4 promotion of Filipino music, shall organize these annual events.

5 **Sec. 12. *Promotions and Marketing.*** -- There shall be created a
6 Promotions and Marketing Bureau of the Council for promotion and marketing of
7 talents both locally and internationally. It shall closely coordinate with the
8 Department of Foreign Affairs and the Department of Tourism for the purpose.

9 The Bureau's main functions are as follows:

10 (a) To determine, adopt and implement the best possible means for the
11 Filipino performers to penetrate the international market;

12 (b) To disseminate to all Filipino performers information on national and
13 international competitions, including the mechanics and processes
14 involved in achieving national and international success;

15 (c) To develop mechanisms whereby tourists and other foreigners are
16 exposed to Filipino music and musical performances;

17 (d) To coordinate with the various producers, agents, talent directors both
18 in the local and international market.

19 **Sec. 13. *Tax Exemption.*** -- All donations, contributions, subsidies or
20 aids which may be made to the Council shall be considered allowable deductions
21 from the income of the donors or grantors for income tax purposes.

22 **Sec. 14. *Appropriations.*** -- Out of any funds in the National Treasury
23 not otherwise appropriated, the sum of Five million pesos (P5,000,000.00) is
24 hereby appropriated as aid to the Council for its initial expenses. Thereafter, the
25 Council shall submit a proposed annual budget for inclusion in the annual
26 General Appropriations Act.

27 **Sec. 15. *Repealing Clause.*** -- All existing laws, decrees, executive
28 orders, and rules and regulations or parts thereof inconsistent with the provisions
29 of this Act are hereby repealed or modified accordingly.

1 **Sec. 16. Separability Clause.** -- In any part, section or provision of this
2 Act shall be held unconstitutional or invalid, other parts or provisions hereof
3 which are not affected thereby shall continue to be in full force and effect.

4 **Sec. 17. Effectivity.** -- This Act shall take effect fifteen (15) days after its
5 publication in at least two (2) newspapers of general circulation.

Approved,