

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

OFFICE OF THE SECRETARY

04 JUN 30 P5:23

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S E N A T E

S. No. 426

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Introduced by Senator S. R. Osmeña III

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**EXPLANATORY NOTE**

The accepted paradigm for market economies is that so long as conditions for free competition are satisfied, markets for goods and services, populated by private businesses pursuing the profit motive are the most efficient mechanism for the allocation of resources.


One of the exceptions to this paradigm is the case of public goods and services, where market competition fails to deliver optimum results - hence government intervention is justified, and political processes must substitute for the market process for optimum results.

In the Philippines, Commonwealth Act No. 146, otherwise known as the Public Service Act serves as the framework for the award by the government of contracts to private enterprises for the provision of public goods and services.

Since the passage of the Public Service Act, the Philippine economy has grown and developed, and certain areas have evolved to allow for market mechanisms that work, even without government intervention. This bill seeks to amend the Public Service Act to delist such areas from the coverage of the law.

The government will be better off disengaging itself from areas where its presence has become redundant and unnecessary. This will free scarce government resources for more urgent applications, thereby reducing the pressure on the fiscal deficit. It will also allow the economy to tap private sector innovativeness and vigor in increasing areas where market competition has become feasible.

In view of the foregoing, early passage of this bill is earnestly requested.

  
**SERGIO OSMEÑA III**  
Senator

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SENATE

S. No. 426

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Introduced by Senator S. R. Osmena III

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AN ACT  
DEREGULATING CERTAIN PUBLIC SERVICES, AMENDING FOR THE  
PURPOSE COMMONWEALTH ACT NO. 146, AS AMENDED, AND FOR  
OTHER PURPOSES

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

1       SECTION 1. *Statement of Policy on Public Services.* - Public Services  
2 are essential services rendered to the general public for a fee by one or a limited  
3 number of enterprises in specific area. Government is responsible for ensuring  
4 that these services are rendered adequately, extensively, and continuously, and  
5 fairly. Wherever private enterprise is able to render the public services  
6 satisfactorily, government shall encourage private enterprises to do so.

7       Franchises to render specific public services may be extended to one or a  
8 limited number of private enterprises in a specified service area, if necessary to  
9 encourage private enterprises to render such public service. The best qualified  
10 and most capable to render such public service shall be selected in the required  
11 number from among competing applicants. Such franchises have the effect of  
12 limiting normal competition in rendering the public service, and are therefore  
13 subjected to regulation by the designated agency of government.

14       Continuing review is required of the public services presently franchises  
15 by government to determine whether the public interest is better served by

1 releasing these public services from the franchising requirement, and/or by  
2 subjecting them to full or limited price competition.

3 Pursuant to the above policy, this Act revises the definition of "public  
4 service" in order to deregulate certain activities, and allows regulatory agencies  
5 to impose maximum fee or charge ceilings in addition to their authority to fix  
6 definite.

7 SEC. 2. To carry out the purposes of this Act, Section 13 (b), Section 14  
8 and Section 16 (c) of Commonwealth Act No. 146, as amended, otherwise  
9 known as the Public Service Law, are hereby further amended to read as follows:

10 "SECTION 13(b). The term public service "includes every person  
11 that now or hereafter may own, operate, manage, or control in the  
12 Philippines, for hire or compensation, with general [or limited] clientele,  
13 whether permanent, occasional or accidental, and done for general  
14 business purposes, any common carrier, railroad, street railway, traction  
15 railway, subway motor vehicle, either for freight or passenger, or both with  
16 or without fixed route and whatever maybe its classification, freight or  
17 carrier service of any class [express service] steamboat, or steamship line,  
18 pontines, ferries, and water craft, engaged in the transportation of  
19 passengers or freight or both shipyard, marine railway, marine repair  
20 shop, wharf or dock ice, [ice-plant, canal, ice-refrigeration plant, canal,  
21 irrigation system,] gas, electric light, heat and power, water supply and  
22 power, [petroleum] sewerage systems, wire or wireless communication  
23 systems, wire or wireless broadcasting stations and other similar public  
24 services: *Provide, however,* That a person engaged in agriculture, not  
25 otherwise a public service, who owns a motor vehicle and uses it  
26 personally and/or enters into a special contract whereby said motor  
27 vehicle is offered for hire or compensation to a third party or third parties  
28 engaged in agriculture, not itself or themselves a public service, for  
29 operation by the latter for a limited time and for a specific purpose directly

1 connected with the cultivation of his or their farm, the transportation,  
2 processing, and marketing of agricultural products of such third party or  
3 third parties shall not be considered as operating a public service for the  
4 purpose of this Act."

5 "SECTION 14. The following are exempted from the provisions of  
6 this preceding section:

7 (a) Warehouse[;] , INCLUDING COLD STORAGE PLANTS;

8 (b) Vehicles drawn by animals and bancas moved by oar or sail,  
9 and tugboats and lighters;

10 (c) Airships within the Philippines except as regards the fixing of  
11 their maximum rates on freight and passengers;

12 (d) Radio companies except with respect to the fixing of rates;

13 (e) Public Services owned or operated by any instrumentality of  
14 the National Government or by government-owned or controlled  
15 corporation, except with respect to the fixing of rates."

16 "SECTION 16 (c ). To fix and determine, OR TO FIX MAXIMUM  
17 CEILINGS OF, individual or joint rates, toll, charges, classifications, or  
18 schedules thereof, as well as commutation, mileage, kilometrage, and  
19 other special rates which shall be imposed, observed, and followed  
20 thereafter any public service: *Provided*, That the Commission may, in its  
21 discretion, approved rates proposed by public services provisionally and  
22 without necessity of any hearing; but it shall call a hearing thereon within  
23 thirty (30) days thereafter, upon publication and notice to the concerns  
24 operating in the territory affected: *Provided, further*, That in case the public  
25 service equipment of an operator is used principally or secondarily for the  
26 promotion of a private business, the net profits of said private business  
27 shall be considered in relation with the public service of such operator for  
28 the purpose of fixing the rates."

1           SEC. 3. All laws, acts, executive orders, rules and regulations and other  
2 issuance inconsistent with this Act are hereby repealed or modified accordingly.

3           SEC. 4. This Act shall take effect fifteen (15) days after its publication in  
4 at least two (2) newspapers of general circulation.

Approved,