

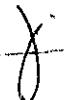
SIXTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)

Senate
Office of the Secretary

15 MAR 11 P 6:40

SENATE

S.B. No. 2690

RECEIVED BY: 

Introduced by **Senator JOSEPH VICTOR G. EJERCITO**

**AN ACT PROMOTING THE REVITALIZATION, REHABILITATION AND
MODERNIZATION OF THE PHILIPPINE NATIONAL RAILWAYS, AMENDING
FOR THE PURPOSE CERTAIN PROVISIONS OF R.A. NO. 4156 ENTITLED
"AN ACT CREATING THE PHILIPPINE NATIONAL RAILWAYS,
PRESCRIBING ITS POWERS, FUNCTIONS AND DUTIES, AND PROVIDING
FOR THE NECESSARY FUNDS FOR ITS OPERATION**

EXPLANATORY NOTE

On June 20 1964, Republic Act No. 4156 entitled, "An Act Creating the Philippine National Railways, Prescribing its Powers, Functions and Duties, and providing for the Necessary Funds for its Operation" was approved. The said law described PNR as a corporation which serves as the instrumentality of the government in providing a nation-wide railroad and transportation system.

On June 16, 2014 or four days before the expiration of PNR's corporate life, Republic Act 10638 was approved, which extended PNR's corporate existence for another 50 years? However, despite the grant of extension on its corporate life, the PNR is said to run a "loss leader" operation, that is, the more trips the train runs, the more losses it incur. This can be attributed to its purely manual operations as well as its aged and obsolete train system equipment and facilities, resulting to poor operating potentials and high leakage rate.

For instance, for the first half of 2014, PNR suffered a cash deficit of Php85,464,170.00 which translated to a monthly loss of Php13,244,028.00 while transporting 12,240,498 passengers on its Tutuban to Sta. Rosa/Mamatic commuter line and Naga/Sipocot Commuter Line.¹

This bill seeks to amend certain provisions of Republic Act No. 4156 in order to adopt with the country's present circumstances by institutionalizing the revitalization, rehabilitation and modernization of the Philippine National Railways.

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



JOSEPH VICTOR EJERCITO

¹Data from Philippine National Railways

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FOR THE NECESSARY FUNDS FOR ITS OPERATION**

1 *Be it enacted by the Senate and House of Representatives of the Philippines in*
2 *Congress assembled.*

3
4 **SECTION 1.** Section 3 of Republic Act Four thousand One Hundred Fifty Six,
5 as amended by Republic Act Six Thousand Six Hundred Sixty Six and
6 Presidential Decree Seven Hundred Forty One is hereby replaced to read as
7 follows:

8
9 "SEC. 3. AUTHORIZED CAPITAL STOCK OF THE PHILIPPINE
10 NATIONAL RAILWAYS. THE AUTHORIZED CAPITAL STOCK OF
11 THE PHILIPPINE NATIONAL RAILWAYS SHALL BE FIFTY BILLION
12 PESOS DIVIDED INTO THREE MILLION ONE HUNDRED
13 THIRTEEN THOUSAND COMMON SHARES ALL WITH PAR VALUE
14 OF TWO HUNDRED PESOS EACH, WHICH SHALL INCLUDE THE
15 PRESENT AUTHORIZED CAPITALIZATION OF THE PHILIPPINE
16 NATIONAL RAILWAYS: PROVIDED, THAT THE INCREASE IN THE
17 AUTHORIZED CAPITAL SHALL BE FULLY SUBSCRIBED BY THE
18 GOVERNMENT: PROVIDED FURTHER, THAT ALL EXISTING
19 LONG TERM OBLIGATIONS OF THE PHILIPPINE NATIONAL
20 RAILWAYS TO THE GOVERNMENT OF THE PHILIPPINES
21 INCLUDING ITS AGENCIES OR INSTRUMENTALITIES AS WELL
22 AS ITS TAX OBLIGATION TO ANY LOCAL GOVERNMENT UNIT
23 SHALL BE CONVERTED INTO CAPITAL STOCKS OF THE
24 PHILIPPINE NATIONAL RAILWAYS AND MADE A PART OF THE
25 SUBSCRIPTION: PROVIDED, STILL FURTHER, THAT THE
26 INCREASE IN AUTHORIZED CAPITAL STOCK HEREIN PROVIDED
27 IS DISTINCT AND SHALL NOT PREJUDICE THE ANNUAL
28 APPROPRIATION PROVIDED IN THE YEARLY GAA. THE AMOUNT
29 RAISE BY VIRTUE OF THE INCREASE IN THE AUTHORIZED
30 CAPITAL STOCK, IN ADDITION TO THE EXISTING SINKING FUND
31 OF THE PNR ESTABLISHED FROM ITS EXISTENCE, SHALL BE
32 USED FOR THE CONSTRUCTION OF NEW RAILROAD LINE AND
33 WHENEVER ECONOMICALLY AND TECHNICALLY FEASIBLE,
34 THE REHABILITATION AND/OR MODERNIZATION OF MOST OF

1 THE ENTIRE RAILWAY SYSTEM OF PNR THROUGHOUT THE
2 COUNTRY.

3
4 **SECTION 2.** A new subsection, Section 2-E, shall be inserted to read as
5 follows:

6
7 "SEC. 2-E. THE PHILIPPINE NATIONAL RAILWAYS SHALL BE
8 ALLOWED TO ENTER INTO A JOINT VENTURE WITH A
9 QUALIFIED PRIVATE SECTOR PARTNER, PARTICULARLY AND
10 EXCLUSIVELY FOR THE PURPOSE OF OPERATIONS AND
11 MAINTENANCE SUBJECT TO THE APPROVAL OF THE BOARD,
12 WITH AT LEAST TWO-THIRDS (2/3) VOTE, IN A MEETING
13 CALLED FOR THE PURPOSE. PROVIDED, THAT SUCH PLANS
14 AND/PROGRAMS OF ENTERING TO A JOINT VENTURE WERE
15 CONSISTENT WITH THE OVERALL OBJECTIVES OF THE
16 CORPORATION AS RECOMMENDED BY THE GENERAL
17 MANAGER, PROVIDED FINALLY, THAT THE PROCUREMENT
18 PROCEDURE SHALL COMPLY WITH THE EXISTING
19 GOVERNMENT PROCUREMENT LAW. IN ANY EVENT THAT
20 INCREASE IN FARE RESULTED BY REASON OF THE
21 PRIVATIZATION OF PNR'S OPERATIONS AND MAINTENANCE,
22 THE INCREMENTAL INCREASE IN VALUE BETWEEN THE REAL
23 FARE AND NOMINAL FARE SHALL BE SUBSIDIZED AND PAID
24 FOR BY THE PHILIPPINE GOVERNMENT AND SHALL BE
25 COVERED BY YEARLY AUTOMATIC APPROPRIATIONS PROVIDED
26 IN THE GENERAL APPROPRIATIONS ACT."

27
28 **SECTION 3.** A new subsection, Section 2-F, shall be inserted to read as
29 follows:

30
31 "SEC. 2-F. TO DEPUTIZE AND/OR OBLIGATE LGU'S TO
32 ENFORCE AND IMPLEMENT, IN COLLABORATION WITH THE
33 GOVERNMENT CORPORATE COUNCIL (GCC), THE RESTORATION
34 OF PNR'S RIGHT-OF-WAY SO AS TO RETURN THE LAND
35 AROUND THE STATIONS AND RESTORATION OF PNR'S RIGHTS
36 TO USE. IN PROCESS, REWARDING THE LGU'S FOR THEIR
37 EFFORT AND PENALIZING LGU'S FOR THEIR REFUSAL OR
38 INABILITY TO IMPLEMENT THE RESTORATION OF PNR'S
39 RIGHTFUL USE AND POSSESSION OF LAND ON THE RIGHT-OF-
40 WAY AND AROUND STATIONS SHALL BE THE BASIC POLICY
41 FOR ENFORCEMENT."

42
43 **SECTION 4.** A new subsection, Section 2-G, shall be inserted to read as
44 follows:

45
46 "SEC 2-G. TO PENALIZE CRIMINALLY AND/OR CIVILLY ANY
47 PERSON(S)' INTERFERENCE WITH THE FREE FLOW,
48 UNHAMPERED USE, AND PASSAGE OF PNR TRAINS ALONG
49 THEIR LEGAL RIGHT OF WAY (TRACKS, BRIDGES, TURNOUTS,
50 INTERCONNECTIONS, AND ALL ASSOCIATED LINKAGES), SUCH
51 AS DISREGARDING SIGNALS AND TRAIN CROSSINGS
52 DANGEROUSLY ON THE PATH OF ONCOMING TRAINS, PLACING
53 DEAD BODIES ALONG OR ON TOP OF THE TRACKS AND ITS
54 LINKAGES, WHETHER AS A CONSEQUENCE OF A CRIME OR
55 NOT, SLEEPING, PLAYING ON, IDLING ON RAILROAD TRACKS
56 AND ITS LINKAGES, PLACING BOULDERS OR OBJECTS THAT

1 OBSTRUCT, THROWING OBJECTS AT PASSING TRAINS, AND
2 SIMILAR ACTS OF DESTRUCTION AND OBSTRUCTION.
3 COMMITTING OR ATTEMPTING TO COMMIT SUICIDE ALONG
4 THE RAILROAD TRACKS AND ITS LINKAGES, BUILDING
5 STRUCTURES-PERMANENT OR OTHERWISE ALONG THE PNR
6 LEGAL RIGHT-OF-WAY AND/OR REFUSING TO VACATE THE
7 SAME UPON DEMAND. IF SUCH ACT(S) CAUSES OR HAS
8 POTENTIAL TO CAUSE, OR RESULT IN DEATH OR INJURY TO
9 PERSONS AND/OR DAMAGE TO PROPERTY/IES SUCH
10 PARTY/IES WHO, WITH INTENT TO CAUSE, OR ACTUALLY
11 CAUSED SUCH INTERFERENCE, OBSTRUCTION, WHETHER OR
12 NOT RESULTING IN INJURY OR DEATH, DAMAGE TO PNR
13 TRAINS, TRACKS, LINKAGES, AND/OR PNR PROPERTY, SHALL
14 BE HELD CRIMINALLY AND CIVILLY LIABLE BY PNR. DEVOID OF
15 ANY EVIDENCE TO THE CONTRARY, PNR IS PRESUMPTIVELY
16 ABSOLVED FROM CRIMINAL AND CIVIL LIABILITY.”
17

18 **SECTION 5.** Section 3-A of Republic Act Four thousand One hundred Fifty Six,
19 as amended is hereby amended to read as follows:
20

21 Sec. 3-A. Foreign Loans. The PHILIPPINE NATIONAL
22 RAILWAYS[Corporation] is hereby authorized to contract loans,
23 credits and indebtedness IN DOMESTIC CURRENCYOR in any
24 convertible foreign currency, or capital goods from foreign
25 governments, their agencies instrumentalities or financial
26 institutions, or any governmental national or international
27 financial institutions or firms extending supplier’s credit, deferred
28 payment arrangements or other funds sources, or to issue bonds,
29 [the total outstanding amounts of which, exclusive of interests,
30 shall not exceed two hundred million United States dollars or the
31 equivalent thereof and other currencies,] on such terms and
32 conditions as it shall deem appropriate for the accomplishment of
33 its purposes and to enter into and execute agreements and other
34 documents specifying such terms and conditions.
35

36 The President of the Philippines, through the Secretary of
37 Finance, is hereby authorized to guarantee, absolutely and
38 unconditionally, as primary obligor and not as surety merely, in
39 the name and on behalf of the Republic of the Philippines, the
40 payment of the loans, credits, indebtedness and bonds issued [up
41 to the amount herein authorized,]which shall be over and above
42 the amount which the President of the Philippines is authorized to
43 guarantee under Republic Act Numbered Sixty-One Hundred and
44 Forty-Two as amended, as well as the performance of all or any of
45 the obligations undertaken by the Corporation in the territory of
46 the Republic of the Philippines pursuant to loan agreements
47 entered into with foreign governments or any international
48 financial institutions or fund sources.
49

50 The loans, credits and indebtedness contracted under this
51 subsection and the payment of the principal, interest and other
52 charges thereon, as well as the importation of machinery,
53 equipment, materials, supplies and services, by the Corporation,
54 paid from the proceeds of any loan, credit or indebtedness incurred
55 under this Act, shall also be exempted from all charges and
56 restrictions previously and presently imposed, and to be imposed

1 by the Republic of the Philippines, or any of its agencies and
2 political subdivisions.
3

4 **SECTION 6.** Section 9 of Republic Act Numbered Four thousand One Hundred
5 and Fifty-Six as amended by Republic Act Numbered Sixty-Three Hundred and
6 Sixty-Six and PD 741 is hereby amended to read as follows:
7

8 "Sec. 9. Managing Head. The Management of the Corporation shall
9 be vested in the General Manager who shall be appointed by the
10 President of the Philippines. He shall possess technical competence
11 in management preferably in railroad transport management, have
12 demonstrated executive ability, and be of good moral character. He
13 shall hold office for a term of SIX (6) [eight (8)] years.
14

15 In the performance of his functions, he shall be assisted by
16 Assistant General Managers who shall be appointed by him with
17 the approval of the Board of Directors and the President.
18

19 **SECTION 7.**Section 12 of Republic Act Four thousand One hundred Fifty Six,
20 as amended is hereby amended to read as follows:
21

22 Sec. 12. Exemption from taxes, duties, [and] port charges or dues
23 AND customs bonds [and port charges]. The PHILIPPINE
24 NATIONAL RAILWAYS [Corporation] is hereby exempt from
25 payment of all taxes of any kind [every name] and nature.
26 INCLUDING THOSE IMPOSED BY municipal, city, provincial or
27 national upon its capital stock, franchise, right of way, earnings,
28 and all property owned or operated by it and all import duties on
29 all railway materials, rolling stocks, spare parts, supplies and
30 equipment imported in the Philippines for and/or by the said
31 corporation, and this exemption shall extend to wharfage dues,
32 storage charges, arrastre, and shipside charges, and special duties
33 on such importations, and other port charges upon the carrying
34 vessels whose entire cargo consists of materials for the
35 construction of its projects and rehabilitation of its lines, facilities
36 and to such proportion of the prescribed port charges on other
37 vessels as the tonnage of materials for such constructions or
38 equipment may bear to the tonnage of the entire cargo of the
39 vessel; and such exemption shall further extend to the filing of
40 general importer's and general documentary bonds and warehouse
41 bonds for the operation of its warehouses, whether general bonded
42 warehouses or general order store.
43

44 NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAWS TO
45 THE CONTRARY, THE EXEMPTION FROM TAXES, DUTIES AND
46 PORT CHARGES OR DUES, CUSTOMS BONDS PORT CHARGES
47 ENJOYED BY THE PHILIPPINE NATIONAL RAILWAYS AS
48 PROVIDED FOR IN SECTION 12 OF REPUBLIC ACT FOUR
49 THOUSAND ONE HUNDRED FIFTY SIX AS AMENDED BY RA 6366
50 AND PD 741 IS HEREBY REAFFIRMED
51

52 **SECTION 8. Separability Clause.** – If any portion or provision of this Act is
53 declared unconstitutional or invalid, the other provisions hereof not affected
54 thereby shall remain valid and effective.
55

1 **SECTION 9.Repealing Clause.** – All laws, executive orders, presidential
2 decrees, presidential proclamations, rules and regulations or parts thereof
3 inconsistent with the provisions of this Act are hereby repealed or modified
4 accordingly.

5
6 **SECTION 10.Effectivity.** – This Act shall take effect fifteen (15) days after its
7 publication in the Official Gazette or in a newspaper of general circulation.

8
9
10
11 Approved,