

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



Senate
Office of the Secretary

76 JAN 25 P 3:48

SENATE
S. B. No. 3095

RECEIVED BY: *J*

Introduced by Senator Aquilino "Koko" Pimentel III

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

EXPLANATORY NOTE

This bill seeks to create the Mindanao Railways Corporation (MRC) as a means to hasten the development of the island of Mindanao.

The collective experience of Japan, Canada, the United States of America and most of Europe shows how railroad networks have spurred and sped up the national development. In these nations, railroads opened up vast land areas for human settlement and made it possible to transport tremendous number of people and huge volume of goods at the lowest cost. The influx of people into areas previously unsettled, the easy mobility of the populace, and the availability of goods and services needed for civilized life means higher productivity of the land and its people.

A railroad network crisscrossing Mindanao will considerably shorten the travel time between Zamboanga and my hometown, Cagayan de Oro, or Davao and Cagayan de Oro. That will, in turn, mean a reduction of the travel cost for the people and for the transportation cost of the goods whose end destination is the Visayas or Luzon, or beyond our northern shores, or vice versa.

We must benefit from the experience of other countries whose railway systems up to today provide people and goods the cheapest and fastest way of mass transit movement.

Considering all the foregoing, approval of this bill is earnestly sought.


AQUILINO "KOKO" PIMENTEL III

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

1 **SECTION 1. *Statement of Policy.*** – The Mindanao Railways
2 Corporation, being a factor for socio-economic development and
3 growth, shall be a part of the infrastructure program of the government
4 and as such, shall remain in and under government ownership during its
5 corporate existence. The Mindanao Railways Corporation must be
6 administered with the view of serving the interests of the public by
7 providing them the maximum of service and, while aiming at its greatest
8 utility by the public, the viability of its operation must be ensured so that
9 services can be rendered at the minimum passenger and freight prices
10 possible.

11 **SECTION 2. *Name, Duration, and Domicile.*** – A corporation to
12 serve as the instrumentality of the Government of the Philippines in
13 providing a railroad and transportation system for the whole island of
14 Mindanao is hereby created, to be known as the Mindanao Railways
15 Corporation, shall exist for a term of fifty (50) years from the date of
16 approval of this Act. It shall have its main office in Cagayan de Oro
17 City and shall have such branches and agencies within the Philippines as
18 may be necessary for the proper conduct of its business. This

19 Corporation shall be an attached agency of the Department of
20 Transportation and Communication (DOTC).

21 **SECTION 3. *General Powers.*** – The Corporation shall have the
22 following general powers:

23 a) To exercise the right of eminent domain whenever necessary for
24 the attainment of its objectives;

25 b) To borrow money and contract loans, credits, or indebtedness
26 from domestic or foreign sources for the furtherance of its goals and
27 objectives;

28 c) To do all such other things and to transact all such business
29 directly or indirectly necessary, incidental or conducive to the attainment
30 of the purpose of the corporation; and

31 d) Generally, to exercise all powers of a corporation under Batas
32 Pambansa Blg. 68 otherwise known as “The Corporation Code of the
33 Philippines,” as amended.

34 **SECTION 4. *Purposes and Specific Powers.*** - The Corporation
35 shall have the following purposes and specific powers:

36 a) To own or operate railroad trainways, subways, bus lines,
37 trucklines, or other kinds of land transportation, vessels, and pipelines,
38 for the purpose of transporting, for consideration, passengers, mails, and
39 property between any point in Mindanao; and

40 b) As an auxiliary to its main purpose, to own and/or operate
41 powerhouses, hotels, restaurants, terminals, warehouses, timber
42 concessions, coal mines, iron and other mineral properties, and to
43 manufacture rolling stocks, equipment, tools, and other appliances; to
44 construct and operate in connection with its railroad lines, toll viaducts,
45 toll tunnels, and the like.

46 **SECTION 5. *Authorized Capital Stock of the Corporation.*** –
47 The authorized capital stock of the Corporation shall be One Hundred
48 Billion Pesos (P100,000,000,000.00) divided into Five Hundred Million
49 (500,000,000) common shares all with par value of Two Hundred Pesos
50 (P200.00), which shall be fully subscribed by the National Government
51 and other government institutions, corporations, instrumentalities, and
52 agencies, whether national or local, within the framework of their
53 respective charters, twenty percent of which or Twenty Billion Pesos
54 (P20,000,000,000.00) shall be initially paid-up and the balance shall be

55 paid from a continuing annual appropriation of not less than Two Billion
56 Pesos (P2,000,000,000.00) which is hereby appropriated out of any
57 funds in the National Treasury not otherwise appropriated. The said
58 amount shall be programmed and released by the Department of Budget
59 and Management in accordance with the schedule of cash requirements
60 to be prepared and submitted by the Mindanao Railways Corporation;
61 Provided, that this continuing annual appropriation of Two Billion Pesos
62 (P2,000,000,000.00) and the programming and release thereof shall
63 remain in force until the authorized capital subscribed by the
64 Government shall have been paid in full.

65 **SECTION 6. Loans.** – The Mindanao Railways Corporation is
66 hereby authorized to contract loans, credits and indebtedness in any
67 domestic or convertible foreign currency, or capital goods, from foreign
68 governments, their agencies, instrumentalities or financial institutions, or
69 any non-governmental national or international financial institutions or
70 firms extending suppliers credit deferred payment arrangement or other
71 fund sources, or to issue bonds, on such terms and conditions as it shall
72 deem appropriate for the accomplishment of its purpose and to enter into
73 and execute documents and other documents specifying such terms and
74 conditions.

75 The President of the Philippines, through the Secretary of Finance,
76 is hereby authorized to guarantee, absolutely and unconditionally, as
77 primary obligor and not as surety merely, in the name and on behalf of
78 the Republic of the Philippines, the payment of the loans, credits,
79 indebtedness and bond issued, which shall be over and above the amount
80 which the President of the Philippines is authorized to guarantee under
81 *Republic Act No. 6142* as amended, as well as the performance of all or
82 any of the obligations undertaken by the Corporation in the territory of
83 the Republic of the Philippines pursuant to loan agreements entered into
84 with foreign governments or any international financial institutions or
85 fund sources.

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

94 **SECTION 7. *Board of Directors, Composition, and Appointment.***

95 – The corporate powers of the Corporation shall be vested in and
96 exercised by the Board of Directors, hereinafter referred to as the
97 “Board”, composed of a Chairman to be appointed by the President; the
98 Undersecretary of Planning and Infrastructure Projects of the DOTC as
99 Co-Chairman; the General Manager of the Corporation who shall be its
100 Vice-Chairman; the Secretary of Finance; the Deputy Director-General
101 for Investment Programming of the National Economic and
102 Development Authority; an Undersecretary of the Office of the
103 Executive Secretary, Office of the President; and three (3) other
104 members to be appointed by the President.

105 The appointive members of the Board, who need not be stockholders of
106 the Corporation, shall be persons of good moral character, competent,
107 and experienced in one or more of the following fields: transport
108 planning, engineering, economics, management, finance, corporate law,
109 or marketing.

110 The Chairman and the three appointive members of the Board shall
111 serve for a period of six years; Provided, That in the initial
112 appointments, one member shall be appointed for a term of two years,
113 one member for four years, and one member for six years; Provided,
114 further, That their successors shall be appointed for a term of six years
115 except that any person appointed to fill a vacancy shall only serve for the
116 unexpired term of the member succeeded.

117 The officials next in rank to the ex-officio members of the Board, as
118 designated by them, shall serve as alternate members. They shall attend
119 the meetings of the Board whenever their principals are absent or the
120 said positions are vacant and shall receive the same benefits and
121 privileges as their principals.

122 For actual attendance of Regular or Special Board meetings, or Board
123 Committee meetings, the members of the Board shall receive a per diem,
124 to be determined by the Governance Commission for Government
125 Owned or Controlled Corporations (GCG).

126 All necessary expenses of the members of the Board to attend Board and
127 other meetings and to discharge their official duties, within the limits
128 allowable by the GCG, shall be paid directly by the Corporation in the
129 form of cash advance or reimbursement.

130 **SECTION 8. *Qualifications of Appointive Members of the Board.***

131 – The appointive members of the Board of Directors shall be Filipino

132 citizens, at least 35 years of age at the time of their appointments, and
133 holders of degrees in the field of transport planning, engineering,
134 economics, management, finance, marketing, law, or related courses,
135 with preference for those with masteral degrees in such fields or
136 experience in railway management and operations for at least five (5)
137 years. All such officials must be residents of Mindanao for at least five
138 (5) years prior to their respective appointments.

139 **SECTION 9. *Powers and Duties of the Board of Directors.*** – The
140 Board of Directors shall have the following powers and duties:

141 a) To prescribe, amend, or repeal by-laws, rules and regulations,
142 or policies governing the manner in which the general business of the
143 Corporation may be exercised;

144 b) To fix the compensation of the General Manager and Assistant
145 General Managers, subject to the approval of the GCG, and to appoint
146 and fix the compensation of the other officers of the Corporation;

147 c) To approve, the annual and/or such supplemental budgets of the
148 Corporation;

149 d) By a two-thirds vote of all members, to recommend to the
150 President the suspension or removal for cause of the General Manager or
151 Assistant General Manager(s);

152 e) Upon recommendation of the General Manager, to approve the
153 appointment of all officials of the Corporation from the rank of division
154 head and above;

155 f) Subject to the provisions of applicable laws and regulations, and
156 upon recommendation of the General Manager, to reorganize the
157 Corporation, determine its staffing pattern, or define the functions and
158 duties of organization units and personnel; and

159 g) To expropriate, with rightful compensation, the necessary “right
160 of way” needed by the Corporation to acquire, maintain, and/or expand
161 its track lines.

162 **SECTION 10. *Suspension and Removal of Directors.*** – Any
163 member of the Board may, for cause, be suspended or removed by the
164 President of the Philippines.

165 **SECTION 11. *Prohibition for Board Members.*** – No Chairman or
166 member of the Board of Directors of the Corporation shall at the same

167 time serve in the Corporation in any capacity whatsoever other than as
168 Chairman or member thereof, unless otherwise authorized by law.

169 **SECTION 12. *Managing Head.*** – The management of the
170 Corporation shall be vested in the General Manager who shall be
171 appointed by the President of the Philippines upon the recommendation
172 of the Board. He shall possess technical competence in management,
173 preferably in railroad transport management, have demonstrated
174 executive ability, and be of good moral character. He shall hold office
175 for a term of eight (8) years.

176 In the performance of his functions, he shall be assisted by Assistant
177 General Managers who shall be appointed by him with the approval of
178 the Board and the President.

179 **SECTION 13. *Powers and Duties of the General Manager.*** – The
180 General Manager shall have the following powers and duties:

181 a) To direct and manage the affairs and business of the
182 Corporation on behalf of the Board, subject to the policies, rules, and
183 regulations established by the Board;

184 b) To sit in all meetings of the Board as Vice-Chairman, and
185 participate in its deliberations, with the right to vote, and to preside in
186 any meeting for or in the absence of the Chairman;

187 c) To recommend to the Board short-and-long range plans and
188 programs consistent with the overall objectives of the Corporation;

189 d) To submit and recommend consolidated annual budget and
190 propose capital and other supplemental budgets to the Board;

191 e) To appoint officials and employees below the rank of a division
192 head and to suspend or otherwise discipline for cause, all subordinate
193 officials and employees of the Corporation; Provided, however, That in
194 the case of removal for cause, approval of the Board shall be necessary;

195 f) To recommend to the Board such changes in the organizational
196 structure and staffing pattern of the Corporation as may be necessary to
197 carry out its functions effectively;

198 g) To submit to the Office of the President of the Philippines and
199 to the Congress of the Philippines, through the Board of Directors,
200 within sixty (60) days after the close of each fiscal year, an annual report

201 on the operations of the Corporation or such other reports as may be
202 required; and

203 e) To perform such other duties as may be assigned to him by the
204 Board of Directors from time to time.

205 **SECTION 14. *Appointment and Promotion of Personnel.*** – In the
206 appointment and promotion of officers and employees of the
207 Corporation, merit and efficiency shall serve as basis, and no political
208 test or qualification shall be prescribed and considered for such
209 appointments or promotions.

210 **SECTION 15. *Exemption from Taxes, Duties, Port Charges or***
211 ***Dues, and Customs Bonds.*** – The Mindanao Railways Corporation is
212 hereby exempt from payment of all taxes of any kind and nature,
213 including those imposed by municipal, city, provincial, or national
214 governments, upon its capital stock, franchise, right of way, earnings,
215 and all other property owned or operated by it in relation to its principal
216 and auxiliary purposes, and all import duties on all railways materials,
217 rolling stocks, spare parts, supplies and equipment imported in the
218 Philippines for and/or by the said Corporation and this exemption shall
219 extend to wharfage dues, storage charges, arrastre, and shipside charges,
220 and special duties on such importations, and other port charges upon the
221 carrying vessels whose entire cargo consists of materials for the
222 construction of its projects or rehabilitation of its lines, facilities, and to
223 such proportion of the prescribed port charges on other vessels as the
224 tonnage of materials for such construction or equipment may bear to the
225 tonnage of the entire cargo of the vessel; and such exemption shall
226 further extend to the filing of general importer's and general
227 documentary bonds and warehouse bonds for the operation of its
228 warehouses, whether general bonded warehouses or general order store.
229 These exemptions shall extend to the Value-Added Tax (VAT),
230 Expanded Value-Added Tax (E-VAT), or any subsequent VAT laws.

231 **SECTION 16. *Audit Personnel and Report.*** –

232 a) Personnel – The Commission on Audit shall appoint a
233 representative who shall be the Auditor of the Corporation, and the
234 necessary personnel to assist said representative in the performance of
235 his duties. The number and salaries of the Auditor and said personnel
236 shall be determined by the Commission on Audit, subject to
237 appropriation by the Board of Directors. In case of disagreement, the
238 matter shall be submitted to the President of the Philippines whose

239 decision shall be final. Said salaries and all other expenses of
240 maintaining the Auditor's office shall be paid by the Corporation.

241 b) Report – The financial transactions of the Corporation shall be
242 audited in accordance with law, administrative regulations and the
243 principles and procedures applicable to commercial corporate
244 transactions. A report of audit of each fiscal year, by the representative
245 of the Commission on Audit, through the latter, to be Board of Directors
246 of the Corporation, and copies thereof shall be furnished the President of
247 the Philippines, the Secretary of Transportation and Communications
248 and the Presiding Officers of the two Houses of Congress. The report
249 shall set forth the scope of the audit and shall include a statement of
250 assets and liabilities, capital and surplus or deficit; a statement and
251 surplus or deficit analysis; statement of income and expenses; a
252 statement of sources and application of funds; and such comments and
253 information as may be necessary, together with such recommendations
254 with respect thereto as may be advisable, including a report of any
255 impairment of capital noted in the audit. The report also shows
256 specifically any program, expenditures or other financial transaction or
257 undertaking observed in the course of the audit, which in the opinion of
258 the Auditor, has been carried on or made without authority of law.

259 **SECTION 17. *Legal Department.*** – Any provisions of law or
260 executive order to the contrary notwithstanding, the Corporation shall
261 have its own Legal Department, which shall handle all legal matters
262 affecting the Corporation; Provided, That the Office of the Government
263 Corporate Counsel shall provide assistance and supervision in the
264 handling of court cases of the Corporation.

265 **SECTION 18. *Exemption from Regulation.*** – The Mindanao
266 Railways Corporation shall not be subject to the authority and
267 supervision of the Land Transportation Franchising and Regulatory
268 Board or any similar regulatory body.

269 **SECTION 19. *Liquidation.*** – When its term or period of
270 existence has expired in accordance with the provision of this Act. The
271 Corporation shall nevertheless, continue as a body corporate for three
272 years after the time of its dissolution for the purpose of prosecuting and
273 defending suits by or against it and of enabling it gradually to settle and
274 close its affairs, to dispose of and convey its properties, but not for the
275 purpose of continuing the business for which it was established. In order
276 to carry out its liquidation, upon the dissolution of the Corporation, a
277 Board of Liquidators shall be appointed by the President to take charge
278 of winding up its corporate affairs and effecting its liquidation.

279 **SECTION 20. *Reversion of General Funds.*** – All funds resulting
280 from dissolution and liquidation of the Corporation as herein provided
281 shall revert to the general funds of the Government.

282 **SECTION 21. *Separability Clause.*** – In the event any provision
283 of this act or the application of such provision to any person or
284 circumstances is declared unconstitutional, the remainder of this Act or
285 the application of said provision to other persons or circumstances shall
286 not be affected thereby.

287 **SECTION 22. *Repeal or Modifications.*** – The provisions of
288 Republic Act No. 4156, as amended, creating the Philippine National
289 Railways and all Acts, Executive Orders, and Proclamations or parts
290 thereof inconsistent with any of the provisions of this Act, are hereby
291 repealed or modified accordingly.

292 **SECTION 23. *Effectivity.*** – This Act shall take effect upon its
293 publication in a newspaper of general circulation.

294 *Approved,*