

13th CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session .)

'04 JUL -6 P12:01

SENATE

RECEIVED BY:

S. BILL NO. 1396

INTRODUCED BY SENATOR RALPH G. RECTO

EXPLANATORY NOTE

This bill seeks to grant the Fiscal Incentives Review Board (FIRB) the sole authority to approve all applications for fiscal privileges to prevent the practice of some investors who 'shop' for tax perks much to the detriment of the country's revenue collection and investment program.

This proposal empowers the FIRB to receive, process and act on applications for incentive grants involving foreign and domestic entities proposing to conduct its interests in the Philippines regardless of whether the coverage is for fiscal or non-fiscal incentives

The FIRB was created by PD 775 and subsequently amended by EO 93. Through this bill, the grant of tax privileges will be institutionalized thereby creating a national body/lead agency responsible for all grants of fiscal and non-fiscal privileges of domestic and foreign entities seeking fiscal and non-fiscal privileges to foreign and domestic entities in the Philippines.

The enactment of this bill shall rationalize the grant of fiscal privileges such as tax and duty exemptions or subsidy availment thereby cutting back on loss of revenues due the government because of non-payment of proper taxes.

The authority to grant fiscal incentives is vested to Board of Investments (BOI), Philippine Economic Zone Authority (PEZA), Subic Bay Metropolitan Authority (SBMA), and Clark Special Economic Zone (CSEZ). Unscrupulous investors 'shop' around these agencies to get the best package of tax perks available thereby putting into disadvantage local investors who are precluded or not qualified to avail of tax privileges.

The Department of Finance reported that in 1999, revenues foregone from fiscal incentives are estimated at Php 124.47 B. The bulk of these are revenues under special investment incentives laws to investors estimated at Php 104.92 B and Php 86.55 B or 70% of the estimated Php 124.47 B of this revenue forgone is accounted for by importations of PEZA pursuant to RA No. 7916.

After all, it is the policy of the State to maintain a stable and market-responsive incentives regime to encourage private investors.

In view of the foregoing, immediate approval of this measure is earnestly recommended.


RALPH G. RECTO

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S. BILL NO. 1396

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AN ACT

GRANTING THE FISCAL INCENTIVES REVIEW BOARD (FIRB) THE SOLE AUTHORITY TO APPROVE ALL APPLICATIONS FOR TAX INCENTIVES AND SUBSIDIES, THEREBY AMENDING PRESIDENTIAL DECREE NO. 776 AS AMENDED BY EXECUTIVE ORDER NO. 93 SERIES OF 1986 AND FOR OTHER PURPOSES

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

1 **SECTION 1.** The Fiscal Incentives Review Board (FIRB) created under Presidential
2 Decree No. 776, as amended by Executive Order No. 93, series of 1986, is hereby
3 granted sole authority to approve all applications for tax incentives and subsidies granted
4 to national government agencies and government owned and controlled corporations; tax
5 incentives on merit goods such as, but not limited to, senior citizens, disabled persons,
6 education for poor but deserving students, campus journalism, dual training system,
7 breastfeeding, *manlilikha ng bayan*, adopt-a-school program, inventors, promotion of
8 sports, labor unions, and Veterans Federation of the Philippines; and fiscal incentives
9 granted under the following:

- 10 (a) the 1987 Constitution;
- 11 (b) international treaties or agreements entered into by the Philippine
12 government;
- 13 (c) the National Internal Revenue Code, as amended;
- 14 (d) the Tariff and Customs Code, as amended;
- 15 (e) the Local Government Code, as amended;
- 16 (f) the Omnibus Investments Code of 1987, as amended;

- 1 (g) Presidential Decree No.538, creating the Philippine Veterans Industrial
2 Development Corporation (PHIVIDEC);
3 (h) Special Economic Zone Act of 1995 as amended by Republic Act
4 No.8748;
5 (i) Bases Conversion Act of 1992;
6 (j) The Comprehensive Agrarian Reform Program (CARP);
7 (k) The Clean Air Act of 1999;
8 (l) The Ecological Solid Waste Management Act of 2000, and
9 (m) Other special laws.

10
11 **SEC. 2.** The Fiscal Incentives Review Board shall submit an annual report
12 to Congress detailing the costs and benefits of the fiscal incentives granted during the
13 preceding year to the national economy and to make the necessary recommendation
14 for the withdrawal, modification, revocation, or suspension of the enforceability of
15 any of the above cited statutory subsidies or tax exemptions, except those granted by
16 the Constitution, for reasons of compatibility with the national government's declared
17 economic policies.

18 **SEC.3.** To effectively carry out the objectives of this Act, the Fiscal
19 Incentives Review Board (FIRB) created under Presidential Decree No. 776, as
20 amended by Executive Order No. 93, series of 1986, shall be reorganized and shall be
21 composed of representatives from the following government agencies:

- 22 (a) Department of Finance;
23 (b) Department of Trade and Industry;
24 (c) National Economic Development Authority;
25 (d) Board of Investments;
26 (e) Bureau of Customs;
27 (f) Bureau of Internal Revenue;
28 (g) National Tax Research Center;
29 (h) Philippine Economic Zone Authority;

- 1 (i) Subic Bay Metropolitan Authority;
2 (j) Clark Development Corporation;and
3 (k) Other special economic zone authorities.

4 The Fiscal Incentives Review Board shall be headed in a permanent
5 capacity by the representative of the Department of Finance who shall
6 hold the rank of an undersecretary.

7
8 **SEC. 4. Appropriations.** - In addition to the current appropriations of
9 the Fiscal Incentives Review Board, such amount as may be necessary for the
10 implementation of this Act shall be charged against the appropriations for the Department
11 of Finance under the current General Appropriations Act. Thereafter, the amount of Five
12 Million Pesos (P5,000,000,000.00) shall be included in the General Appropriations Act.

13
14 **SEC. 5. Implementing Rules and Regulations.** - The Department of
15 Finance shall issue the necessary rules and regulations for the effective implementation of
16 this Act.

17 **SEC. 6. Repealing Clause.** - All laws orders, decrees, rules and
18 regulations which are inconsistent with or contrary to the provision of this Act are hereby
19 amended or repealed accordingly.

20
21 **SEC. 7. Effectivity.** - This Act shall take effect fifteen (15) days after its
22 complete publication in at least two (2) newspapers of general circulation.

23 **Approved,**

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