

THIRTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES
FIRST REGULAR SESSION

04 SEP 23 P5:19

SENATE
S.B. No. 1808

RECEIVED BY: _____

INTRODUCED BY SENATOR MAGSAYSAY, JR.

EXPLANATORY NOTE

The Build-Operate-Transfer (BOT) Law is the precept and doctrine on public private sector partnership infrastructure development now recognized not only in the country but in the international financial and business community. In our country, the BOT system has succeeded beyond expectations, with total investment in BOT projects-to-date estimated at \$20 billion for 85% projects covering a wide range of activities from power generation to telecommunications, port and highways, etc.

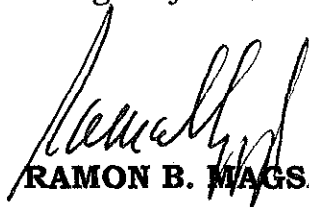
Among the economic benefit derived from BOT projects are the acceleration and spread of development to an even wider area enhancing the value of the lands or property traversed by or in the vicinity of the projects.

However, BOT investors recover their investment and returns only from fees charged from road-users, passengers and cargoes. In missionary routes, for instance, where the traffic volume has yet to build, the toll-roads would not be financially viable even if the socio-economic benefits are high. The users will have to be charged high fees which, in turn, drastically reduce the volume of activities on which the charges are imposed. At times, the project does not take off at all.

This bill amends the BOT Law to provide in the statute a system of compensation whereby the project builder or contractor could recover his investment for construction costs, maintenance and operation not solely from the road-users, passenger and cargoes, or the direct users of the project, but also from the real estates directly or indirectly benefited by the BOT project.

The scheme proposed under this bill can create investment opportunities for small businessmen, our OFWs who may be skilled craftsmen or professional and BOT projects need not necessarily be the preserve of well-funded foreign investors or builders.

Approval of this bill is, therefore urgently recommended.


RAMON B. MAGSAYSAY, JR.

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AN ACT
PROVIDING FOR A SYSTEM OF COMPENSATION TO BUILDERS AND CONTRACTORS OF BUILD-OPERATE-TRANSFER (BOT) PROJECTS WHICH ENHANCE THE VALUE OF LANDS OR PROPERTY

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

SECTION 1. It is hereby declared the policy of the State to accelerate the development of local government units and communities through the active system of reimbursement to builders or contractors of build-operate-transfer infrastructure or development projects, utilities or services as defined under Republic Act No. 7718, otherwise known as the "Amended Build-Operate-Transfer Law", from land or properties which are duly benefited.

SEC. 2. Builders or contractors of infrastructure, utilities or services which enhance the value of lands or property shall be duly compensated through a system of reimbursement as part of the overall financial repayment scheme and contractual arrangements as mutually agreed upon among the parties involved, especially those benefited, based on a percentage of the realized gain or increase in the value of the property.

SEC. 3. The value of the land or property before and after the building of the infrastructure or utilities or the rendering of services shall be determined by an accredited land appraiser and concurred in by the municipal land assessor and parties concerned. The reimbursement from land value appreciation attributable to the project shall be part of the overall financial plan and financial repayment scheme comprising toll fees, rentals, charges, and other income from project venture. This shall also be part of the financial valuation process and determination of a reasonable rate of return and capital recovery scheme of the project venture.

SEC. 4. After the increase in the value of the land or property attributable to the development has been determined, the builder, contractor or provider of the service which caused or resulted in the increase in the value of the land property shall be compensated by the land or property owner, or in case of public lands, by the local government unit or the National Government, through an equitable reimbursement based on a percentage of the realized gain or increase in value attributable to said development.

SEC. 5. The mode of payment shall either be in cash or lands or percentage of pertinent local land or realty tax collection revenues on affected properties or combination thereof as agreed upon by the (a) builder, contractor or provider of services; (b) landowner or landowners affected; and (c) local government unit represented by the local chief executive and as authorized by an ordinance or resolution of the sanggunian concerned.

SEC. 6. To initiate and conclude an agreement between the parties mentioned in the next preceding Section, the builder, contractor, or proponent shall submit his or its proposal to undertake a build-operate-transfer or build-operate-own scheme or similar contractual scheme to the Mayor in case of a municipal or city project, the Provincial project, or the concerned government agency in the case of a national project, who shall then call a meeting between and among the proponent, the landowners affected, and the punong barangay, and the members of the Sangguniang Bayan; and members of the Sangguniang Lungsod, as the case may be. In that meeting, the municipal or city mayor, governor, or the government agency concerned, shall explain the proposed infrastructure utilities or services to be put up on the lands involved, the development plan, the cost of the project and limits to deviations, financial plan, project risks and coverage, the period of construction and operations, capital recovery repayment scheme, and proposed development partnership and venture terms and conditions for the proposed proposal. The parties affected shall then review through a continuing process of consultative meetings and approve, among others: the cost of the construction, operation, and maintenance of the project; reasonable margin of profit and rate of return of the proponent the reimbursement scheme of the builder, contractor, or proponent; and other pertinent aspects of the proposal. The parties involved shall then enter into contractual agreement duly noting its terms and conditions and affixing their names and signatures to the contractual arrangement.

SEC. 7. All acts, decrees, executive orders, administrative orders, rules and regulations or parts thereof which are inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 8. This Act shall take effect fifteen (15) days after its publication in a newspaper of general circulation in the Philippines.

APPROVED,