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SENATE

Senate Bill No. 308

RECEIVED BY: _____



Introduced by Senator Juan Miguel F. Zubiri

**AN ACT
CREATING THE MINDANAO RAILWAYS AUTHORITY (MRA), PRESCRIBING
ITS POWERS, FUNCTIONS AND DUTIES, AMENDING FOR THE PURPOSE
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" AS AMENDED BY R. A. NO. 6366, APPROPRIATING FUNDS
THEREFOR, AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

This Bill seeks to implement the Mindanao Railways Project through the creation of a national government agency attached to the Office of the President. This agency is to be distinct and separate from the Philippine National Railways whose scope and coverage, as provided in Republic Act No. 4156, is proposed to be amended.

The Philippines, overall, is currently ranked as one of the countries with an Emerging Economy. However, the internal development of the archipelago has yet to be closely and critically assessed. The Philippines still needs to meet the distinct needs of different regions that lag behind the country's overall economic outlook in terms of infrastructural development, integration, and access to fundamental services.

Mindanao is a resource-rich geographical region of around 97,630 square kilometers. However, this is an area that greatly suffers from a lack of focused inputs of public investments. This region that is comprised of mainly rural areas and a few urban and urbanizing areas are physically hard to access from one point to another, which loses the benefits of market and public services integration existing in other geographic regions like Central Luzon and Mega Manila.

The Constitution mandates in Section 21, Art. II Declaration of Principles and State Policies that the State shall promote comprehensive rural development. The Constitution also guarantees the basic human right to travel. In fact, Republic Act No. 4156 had set aside funds for the implementation of the Mindanao Railways Project, highlighting that these mandates are still present in the economic plans of the country.

In 2017, the National Economic and Development Authority (NEDA) has initiated a Feasibility Study, crucial for the implementation of this Act. The Terms of Reference of the NEDA for the MRP declares, as follows:

"The proposed railway transport service will play a major role towards improvement of Mindanao's intra island accessibility, linkages and seamless multimodal transport networks. The island is strategically located and has potential as a major transshipment point and center of trade in the Brunei Darussalam-Indonesia-Malaysia-Philippines East ASEAN Growth Area (BIMP-EAGA) region.

Enhanced interconnectivity and linkages through passenger and freight railway transport development will further boost tourism, trade and commerce in the island; bring opportunities for the acceleration of local area development; and expansion of local markets for more efficient movement of goods and people to promote productivity and trade competitiveness."

Not diminishing the importance of the economic and material benefits that the railway system in Mindanao will bring about, the most compelling reason for it is the upliftment of the living conditions of more than 25 million people (2018). A well-planned economic development scheme will realize the peace, stability, and security of the people living in Mindanao. The development of the necessary infrastructures will give the development scheme the impetus needed. This can be realized through the enactment of the Mindanao Railways Project to be established and managed by its own Mindanao Railways Authority.

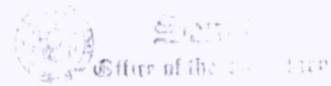
The Authority to be established shall be covered by measures that strictly ensure transparency and public accountability. This body will be under the lens of the Commission on Audit and undergo the monitoring tools of the NEDA such as Value Engineering and Value Analysis. Likewise, the funding provisions shall be guided by the laws that govern the borrowing power of the President, at the same time it mandates the Department of Budget and Management to ensure that funding requirements overcome the hurdles as generally expected for critical infrastructure programs and projects.

The Mindanao Railways Project will be among many critical infrastructures that will impress upon the broader community that our archipelago is one that is integrated physically, thus Filipinos have a high chance of being a truly united country.

In view of the foregoing, approval of this Bill is earnestly sought.



JUAN MIGUEL F. ZUBIRI



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OPERATION" AS AMENDED BY R. A. NO. 6366, APPROPRIATING FUNDS
THEREFOR, AND FOR OTHER PURPOSES**

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

CHAPTER I

TITLE, POLICY AND OBJECTIVES

SECTION 1. Short Title. -- This Act shall be known as the "Mindanao Railways
Development Act of 2019".

SEC. 2. Declaration of Policy. -- It is hereby declared the policy of the State to attain
inclusive growth and reduce poverty through infrastructure development aiming to improve the
sectoral performance of tourism, agriculture and industries; improve goods and services;
improve the quality of the environment; and increase resilience to climate change and natural
disasters, through the establishment of a sustainable transport system that is safe, efficient, and
competitive.

Further, in order to promote comprehensive rural development and assure the human
right to travel in Mindanao, the State shall (1) create a national government agency to achieve
its development goals; and (2) provide appropriations for the construction, operation and

1 maintenance of the railways system and the operative budget of the national government
2 agency to be created under this Act.

3 **SEC. 3. *Creation and Objectives.*** -- There shall be created the Mindanao Railways
4 Authority, hereinafter called the Authority, which is a national government agency attached to
5 the Department of Transportation, with the following immediate objectives:

6 a) To provide for the railways system in Mindanao connecting as vast an area as deemed
7 feasible in consideration of the Mindanao Railways Project (MRP) as mandated under the
8 Philippine National Railways Charter or Republic Act No. 4156, and, the MRP Feasibility Study as
9 an undertaking of the National Economic and Development Authority (NEDA) as Executing
10 Agency and the Department of Transportation (DOTr) as Implementing Agency and funded
11 under the General Appropriations Act;

12 b) To initiate the provisions of An Act Facilitating The Acquisition Of Right-Of-Way Site Or
13 Location For National Government Infrastructure Projects or R. A. No. 10752 upon effectivity of
14 this Act; and

15 c) To call upon all concerned National Government Agencies and Local Government Units
16 to render technical and administrative support for the implementation of the provisions of this
17 Act.

18 **CHAPTER II**
19 **NATURE, SPECIFIC AND GENERAL POWERS**

20 **SEC. 4. *Name and Domicile.*** -- To carry out the foregoing transportation policy, the
21 Mindanao Railways Authority, shall be primarily responsible for the construction, operation and
22 maintenance of a railways transportation system in Mindanao. It shall have its main office in the
23 City of Davao, and shall have such branches and agencies within or outside the Philippines as
24 may be necessary for the proper conduct of its business.

25 **SEC. 5. *Purposes and Specific Powers.***—The Mindanao Railways Authority shall have
26 the following purposes and specific powers:

1 a) To hold the assets of the Philippine National Railways, and to succeed to, or acquire,
2 maintain and operate such grants, concessions and franchises as are now held and enjoyed by
3 the PNR but limited only to those located in Mindanao among the aforementioned;

4 b) To own or operate railroads, tramways, and other kinds of land transportation, vessels
5 and pipelines, for the purpose of transporting, for consideration, passengers, goods, mail and
6 property between any points in Mindanao; and

7 c) As an auxiliary to its main purpose, to own and/or operate powerhouses, hotels,
8 restaurants, terminals and warehouses; to manufacture rolling stock, equipment, tools and other
9 appliances; and, to construct and operate toll viaducts and toll tunnels, in connection with its
10 railroad lines.

11 **SEC. 6. General Powers.**—The Authority shall have the following general powers:

12 a) To have continuous succession under its corporate name, until otherwise provided by
13 law;

14 b) prescribe, amend, and/or repeal its by-laws;

15 c) To adopt and use a seal and alter it at its pleasure;

16 d) To sue and be sued;

17 e) To contract any obligation or enter into, assign or accept the assignment of, and vary
18 or rescind any agreement, contract or obligation necessary or incidental to the proper
19 management of the Authority;

20 f) To borrow funds from any source, private or public, foreign or domestic, and to issue
21 bonds and other evidence of indebtedness, the payment of which shall be guaranteed by the
22 National Government, subject to pertinent borrowing laws;

23 g) To acquire, receive, take and hold by bequest, devise, gift, purchase or lease, either
24 absolutely or in trust for any of its purposes, from foreign and domestic sources, any assets,
25 grant or property, real or personal, subject to such limitations as are provided in existing laws;
26 to convey or dispose of such assets, grants, or properties, movable and immovable; and invest

1 and/or reinvest such proceeds and deal with and expand its assets and income in such a manner
2 as will best promote its objectives;

3 h) To improve, develop or alter any property held by it;

4 i) To carry on any business, either alone or in partnership with any other person or
5 persons;

6 j) To employ an agent or contractor or perform such things as the Authority may perform;

7 k) To exercise the right of eminent domain, whenever the Authority deems it necessary
8 for the attainment of its objectives;

9 l) To prescribe rules and regulations in the conduct of its general business as well as to
10 fix and implement the terms and conditions of its related activities;

11 m) To determine the fares payable by persons travelling on the rail system, in consultation
12 with the Department of Transportation and the NEDA;

13 n) To establish, operate, and maintain branches or field offices when required by the
14 exigencies of its business;

15 o) To determine its organizational structure and the number, positions and salaries of its
16 personnel, subject to pertinent organization and compensation law; and

17 p) To exercise such powers and perform such duties as may be necessary to carry out
18 the business and purposes for which the Authority was established or which, from time to time,
19 may be declared by the Board of Directors to be necessary, useful, incidental or auxiliary to
20 accomplish such purposes; and generally, to exercise all powers of any Authority under the
21 Corporation Code that are not inconsistent with the provisions of this Act, or with orders
22 pertaining to government corporate budgeting, organization, borrowing, or compensation.

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CHAPTER III

THE MRA BOARD OF DIRECTORS

Sec. 7. *The MRA Board of Directors.* --To carry out the purposes of this Act, the MRA shall be directed and controlled by a Board of Directors. It shall be composed of the following members:

a) Secretary of Transportation, as Chairperson;

b) MRA Administrator, as Vice-Chairperson;

c) Secretary of Finance;

d) Secretary of Economic Planning, Director General of the NEDA;

e) Secretary of Public Works and Highways; and

f) Two representatives from the private sector who shall each be selected from the members of the Philippine Institute of Civil Engineers (PICE) and the Philippine Society of Mechanical Engineers (PSME), to be appointed by the President of the Philippines who shall select from three (3) nominees submitted separately by the PICE and PSME. They shall serve a non-extendible single term of three (3) years.

The government representatives in the Board may designate their respective permanent alternates who shall be officials next-in-rank to them and their acts shall be considered the acts of their principals. In the absence of the Chairman, the Board shall elect a temporary presiding officer.

SEC. 8. *Per Diem.* --The members of the Board shall not receive any compensation but shall be provided with *per diem* at rates allowed under existing rules and regulations.

SEC. 9. *Powers and Duties of the Board of Directors.*—The Board of Directors shall have the following powers and duties:

a) To prescribe, amend and repeal, with the recommendation of the Administrator, the by-laws, rules and regulations governing the manner in which the general business of the Authority may be exercised, including provisions for the formation of such committee, or committees as the Board of Directors may deem necessary to facilitate its business;

1 b) To appoint and fix the compensation of the Administrator and of the other officers of
2 the Authority, with the approval of the President. The Board by a majority vote of all the
3 members, may, for cause, and with the approval of the President of the Philippines, suspend
4 and or remove the Administrator; and

5 c) To approve the annual and such supplemental budgets of the Authority which may be
6 submitted to it by the Administrator from time to time.

7 **SEC. 10. *Suspension and Removal of Directors.*** -- Any member of the Board of
8 Directors may be suspended or removed by the President of the Philippines.

9 **SEC. 11. *Prohibition for Board Members.*** -- No chairman or member of the Board
10 of Directors shall at the same time serve in the Authority in any capacity whatsoever other than
11 as Chairman or member thereof, unless otherwise authorized by the President of the Philippines
12 or any existing law.

13 **CHAPTER IV**

14 **THE ADMINISTRATOR**

15 **SEC. 12. *The Administrator.*** -- The management of the Authority shall be vested in
16 the Administrator.

17 **SEC. 13. *Powers and Duties of the Administrator.*** -- The Administrator shall have
18 the following powers and duties:

19 a) To direct and manage the affairs and business of the Authority on behalf of the Board
20 of Directors, and subject to its control and supervision;

21 b) To sit in all meetings of the Board of Directors, as Vice-Chairman, and participate in
22 its deliberation, with the right to vote, and to preside in meetings for or in the absence of the
23 Chairman;

24 c) To submit within sixty days after the close of each fiscal year an annual report, through
25 the Board of Directors, to the Office of the President of the Philippines and the Congress of the
26 Philippines;

1 d) To appoint and fix the number and salaries, with the approval of the Board of Directors,
2 of such subordinate personnel as may be necessary for the proper discharge of the duties and
3 functions of the Authority, and with the approval of the Board of Directors, to remove, suspend,
4 or otherwise discipline, for cause, any subordinate employee of the Authority; and

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

7 **SEC. 14. *Appointment and Promotion.*** -- In the appointment and promotion of
8 officers and employees, merit and efficiency shall serve as basis, and no political test or
9 qualification shall be prescribed and considered for such appointments or promotions. Said
10 officers and employees shall be subject to the Civil Service Law, rules and regulations.

11 **CHAPTER V**

12 **MANDATED APPROPRIATIONS**

13 **SEC. 15. *Appropriation*** To carry out the purposes of this Act , the amount of One
14 billion pesos (P1,000,000,000) is hereby authorized to be appropriated for the initial operation
15 of the Mindanao Railways Authority. Thereafter, the annual expenditures including capital
16 outlays of the Authority shall be provided in the General Appropriations Act.

18 **CHAPTER VI**

19 **TAXES, DUTIES AND CHARGES**

20 **SEC. 17. *Exemption from Taxes, Duties, Customs Bonds and Port Charges.*—**

21 The Authority is hereby exempt from payment of all national and local taxes upon its capital,
22 franchises, rights of way, earnings, and all other property owned or operated by it and of all
23 duties on all railways materials, supplies and equipment imported into the Philippines for and by
24 the Authority. This exemption shall extend to port charges upon vessels whose entire cargo
25 consists of materials for the construction or equipment of the Authority, and, on other vessels
26 to such proportion of the prescribed port charges as the tonnage of materials for such
27 constructions or equipment may bear to the tonnage of the entire cargo of the vessel; and such

1 exemption shall further extend to the filing of general importer's and general documentary bonds
2 and warehouse bonds for the operation of its warehouses, whether general bonded warehouses
3 or general order store.

4 **SEC. 18. *Tax-exempt Loans.*** -- The project and program loans to be obtained by the
5 National Government for the purposes of this Act shall be exempt from the payment of all
6 national and local taxes.

7 **CHAPTER VII**

8 **AUDIT AND REPORTS**

9 **SEC. 19. *Audit Personnel and Reports.*** -- The Authority shall be subject to the
10 Commission on Audit (COA) which shall have the power, authority, and duty to examine, audit,
11 and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of
12 funds and property of the Authority.

13 *a) Personnel.* -- The Chairman of the COA shall appoint a representative who shall be
14 the Auditor of the Authority, and the necessary personnel to assist said representative in the
15 performance of such duties. The number and salaries of the Auditor and said personnel shall be
16 determined by the the COA Chairman, subject to appropriation by the Board of Directors. In
17 case of disagreement, the matter shall be submitted to the President of the Philippines whose
18 decision shall be final. Said salaries and all other expenses of maintaining the Auditor's office
19 shall be paid by the Authority.

20 *b) Report.* -- The financial transactions of the Authority shall be audited in accordance
21 with law, administrative regulations, and the principles and procedures applicable to commercial
22 corporate transactions. A report of audit for each fiscal year, by the representative of the COA
23 Chairman, through the latter, to the Board of Directors of the Authority, and copies thereof shall
24 be furnished the President of the Philippines, the Secretary of Economic Planning, the Senate
25 President and the Speaker of the House of Representatives. The report shall set forth the scope
26 of the audit and shall include a statement of assets and liabilities, capital and surplus or deficit;
27 a statement and surplus or deficit analysis; statement of income and expenses; a statement of

1 sources and application of funds; and such comments and information as may be necessary,
2 together with such recommendations with respect thereto as may be advisable, including a
3 report of any impairment of capital noted in the audit. The report shall also show specifically
4 any program, expenditures, or other financial transaction or undertaking observed in the course
5 of audit, which in the opinion of the Auditor, has been carried out or made without authority of
6 law.

7 **SEC. 20. *Legal Department.*** -- The Authority shall have its own legal department, the
8 chief and members of which shall be appointed by the Administrator with the approval of the
9 Board of Directors.

10 **SEC. 21. *Exemption from the LTFRB Law.*** -- The Authority shall not be subject to
11 the authority, supervision and control of the Land Transportation Franchising and Regulatory
12 Board (LTFRB), created under Executive Order No. 202, Series of 1987.

13 **SEC. 22. *Strikes During National Emergency.*** -- The provisions of law to the contrary
14 notwithstanding, in cases of national emergency, or when in the opinion of the President of the
15 Philippines, the national security or interest is in imminent danger, employees and laborers of
16 the Authority shall not strike for the purpose of securing changes or modification in their terms
17 and conditions of employment during said period of emergency: *Provided, however,* That during
18 the implementation of this Act, management and labor should always strive to maintain industrial
19 peace by availing of and exhausting all methods of resolving all labor disputes to ensure the
20 continuous, effective and successful establishment of the Mindano Railways: *Provided, further,*
21 That the Authority may enter into collective negotiation agreements, one for personnel of
22 supervisory rank and the other for personnel of non-supervisory rank regardless of the number
23 of recognized unions which may be or might have been organized therein.

24 **SEC. 19. *Applicability of the Revised Corporation Code.*** -- The provisions of the
25 Corporation Code which are not inconsistent with the provisions of this Act, shall be applicable
26 to the Authority.

1 **SEC. 21. *Implementing Rules and Regulations.*** --The Department of
2 Transportation, in consultation with concerned government agencies and stakeholders, shall
3 promulgate the implementing rules and regulations of this Act, within sixty (60) days from the
4 effectivity of this Act.

5 **SEC. 22. *Congressional Oversight Committee.*** – There is hereby created a
6 Congressional Oversight Committee on Railways to be composed of five (5) members from the
7 Senate, which shall include the chairperson of the Senate Committee on Public Services, and,
8 five (5) members from the House of Representatives, which shall include the Chairperson of the
9 House Committee on Transportation. The Congressional Oversight Committee on Railways shall
10 be jointly chaired by the Chairperson of the Senate Committee on Public Services and the
11 Chairperson of the House Committee on Transportation. The Congressional Oversight
12 Committee on Railways shall exercise oversight on the implementation of this Act.

13 **SEC. 23. *Separability Clause.*** -- If any portion of this Act is declared unconstitutional
14 or invalid, the portions or provisions which are not affected shall continue to be in full force and
15 effect.

16 **SEC. 24. *Repealing Clause.*** -- All laws, decrees, executive orders and rules and
17 regulations or parts thereof which are inconsistent with this Act are hereby repealed or modified
18 accordingly.

19 **SEC. 25. *Effectivity.*** -- *This* Act shall take effect fifteen (15) days after its complete
20 publication in at least two (2) newspapers of general circulation and the Official Gazette.

21 Approved,
22