



SENATE  
P.S. Res. No. 622

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Introduced by **SENATOR PANFILO M. LACSON**

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**RESOLUTION**

**DIRECTING THE SENATE COMMITTEE ON GAMES AND AMUSEMENT TO CONDUCT AN INVESTIGATION, IN AID OF LEGISLATION, ON THE PROPRIETY OF ENGAGING OR ALLOWING AUTHORIZED AGENT CORPORATIONS OF THE PHILIPPINE CHARITY SWEEPSTAKES OFFICE (PCSO) TO CONTINUE SELLING, DISTRIBUTING, PROMOTING, AND MARKETING SMALL TOWN LOTTERY (STL) DESPITE THE ABSENCE OF BUSINESS PERMITS OR OPPOSITION OF LOCAL GOVERNMENT UNITS, WITH THE END IN VIEW OF PROVIDING REMEDIAL LEGISLATION THAT WILL CLARIFY THE AUTHORITY OF LOCAL GOVERNMENT UNITS ON PCSO'S STL OPERATIONS**

*Whereas*, Republic Act No. 1169 or the Philippine Charity Sweepstakes Office Charter, as amended by Batas Pambansa Blg. 22, states in Section 1 that the Philippine Charity Sweepstakes Office shall have the authority:

- (a) to hold and conduct charity sweepstakes races, lotteries and other similar activities, in such frequency and manner as shall be determined, and subject to such rules and regulations as shall be promulgated by the Board of Directors;
- (b) to subject to the approval of the Minister of Human Settlements, to engage in health and welfare-related investments, programs, projects and activities which may be profit-oriented, by itself or in collaboration, association or joint venture with any person, association, company or entity, whether domestic or foreign, **except for the activities mentioned in the preceding paragraph (a)**, for the purpose of providing for permanent and continuing sources of funds for health programs, including the expansion of existing ones, medical assistance and services, and/or charitable grants: Provided, That such investment will not compete with the private sector in areas where investments are adequate as may be determined by the National Economic and Development Authority (emphasis supplied);

**Whereas**, pursuant to its mandate and to help the government eradicate the pernicious effect of the illegal numbers game of jueteng, PCSO conceptualized the Small Town Lottery (STL). STL is a state-run local lottery under the control and supervision of the PCSO, a government-owned and controlled corporation under the Office of the President pursuant to Republic Act No. 1169 as amended by Batas Pambansa Blg. 42 and Presidential Decree No. 1157, in relation to Executive Order No. 14 series of 2010;

**Whereas**, under Section 4 of the 2020 Small Town Lottery Revised Implementing Rules and Regulations (STL RIRR), the STL shall be implemented as a mass-based local lottery of the national government where the PCSO shall be allowed to engage Authorized Agent Corporations (ACC) taking into consideration the PCSO's manpower resources and other relevant factors;

**Whereas**, ACC refers to corporation, existing and duly registered with the Securities and Exchange Commission (SEC) and expressly authorized by the PCSO to sell, distribute, promote or market STL in a particular area;

**Whereas**, since its inception, STL has its share of controversies, especially with its AACs, culminating with the order of President Rodrigo Roa Duterte in July of 2019 to close all gaming schemes operated, licensed, and franchised by the Philippine Charity Sweepstakes Office (PCSO) due to alleged corruption;

**Whereas**, unfortunately, just a month later, the agency announced that *"pursuant to the recommendation of the Philippine Charity Sweepstakes Office (PCSO), the President lifted the suspension of operations of Small Town Lottery Authorized Agent Corporations that are compliant with the conditions of their STL Agency Agreement and have been remitting it's Guaranteed Minimum Monthly Retail Receipts;"*

**Whereas**, last August 2020, the National Bureau of Investigation has recommended to the Office of the Ombudsman the prosecution for graft of 15 former and current officials of the Philippine Charity Sweepstakes Office (PCSO) over alleged irregularities in the operation of STL;

**Whereas**, as of November 5, 2020, there are fifty-nine (59) operational Authorized Agent Corporations. Among these Authorized Agent Corporations, Sahara Games and Amusement Philippines Corporation (SGAPC) is authorized by the Philippine Charity Sweepstakes Office (PCSO) to operate the STL numbers game in the province of Isabela. SGAPC undertook and began their STL operation despite the opposition not only of the City of Cauayan, Isabela but also that of the other cities, municipalities and even the provincial government;

**Whereas**, on 15 December 2020, PCSO General Manager Royina Garma and SGAPC President Eduardo Davalan filed graft, grave coercion, and robbery with intimidation charges against Cauayan City Mayor Bernard Faustino Dy of Isabela, Cauayan City Legal Officer EMan Marquez, Business and Permit Licensing Officer Atty. Sherwin Luna, Public Order and Safety Division Chief Pilarito Malilin and several other unnamed POSD personnel due to the alleged illegal raid of a small town lottery facility in the city last November 2020.

**Whereas**, separate administrative charges of grave misconduct, grave abuse of authority, and conduct prejudicial to the best interest of the service as defined and penalized under R.A. 6713 or the Code of Conduct and Ethical Standards for Public Officials and employees were also filed against them;

**Whereas**, Isabela 6th District Representative Faustino Dy called for a House probe into the small-town lottery operations in their province. He claimed that aside from the absence of required permits, Cauayan City officials also discovered that SGAPC personnel from outside Isabela had not been respecting and complying with the COVID-19 protocols;

**Whereas**, SGAPC argued that the 2020 STL Revised Implementing Rules and Regulations did not require them to secure local business permits, to which Representative Dy responded by saying that SGAPC is a juridical person with a personality distinct and separate from the PCSO, which must secure a business permit from the municipalities or cities where they intend to operate their lotteries;

**Whereas**, SGAPC likewise invoked Department of Justice Opinion No. 71 issued by former Justice Secretary Teofisto T. Guingona, Jr. in 1995 who issued an opinion that *"the PCSO and its lottery ticket sellers, including lotto sales agents are not required to secure business permits/license from the province, city or municipality where they may operate and are also exempt from the authority of LGUs to impose taxes, fees or charges on the PCSO lotto ticket outlets and that the duly-appointed sales agents of the PCSO are mere extension of the PCSO, and should, like the PCSO, be also considered exempt from the licensing authority of the LGUs where they operate;*

**Whereas**, with this DOJ opinion, local government units seem helpless in pursuing their mandate of promoting the general welfare of their constituents as provided for in Section 16 of Republic Act 7160, otherwise known as the Local Government Code of 1991;

**Whereas**, on top of this are the two seeming conflicting decisions of the Supreme Court in *Kilosbayan Incorporated vs Guingona, G.R. No. 113375 dated 5 May 1994*, where it ruled that Section 1 of R.A. No. 1169, as amended by B.P. Blg. 42, prohibits the PCSO from holding and conducting lotteries in collaboration,

association or joint venture with any person, association, company or entity, whether domestic or foreign. The Court ruled that:

"The language of the section (Section 1 of R.A. 1149, as amended by B.P. Blg. 42) is indisputably clear that with respect to its franchise or privilege to hold and conduct charity sweepstakes races, lotteries and other similar activities, the PCSO cannot exercise it in collaboration association or joint venture with any other party. This is the unequivocal meaning and import of the phrase "except for activities mentioned in the preceding paragraph (a)," namely, charity sweepstakes races, lotteries and other similar activities.";

"No interpretation of the said provision to relax or circumvent the prohibition can be allowed since the privilege to hold or conduct charity sweepstakes races, lotteries, or other similar activities is a franchise granted by the legislature to the PCSO. It is a settled rule that "in all grants by the government to individuals or corporations of rights, privileges and franchises, the words are to be taken most strongly against the grantee .... [o]ne who claims a franchise or privilege in derogation of the common rights of the public must prove his title thereto by a grant which is clearly and definitely expressed, and he cannot enlarge it by equivocal or doubtful provisions or by probable inferences. Whatever is not unequivocally granted is withheld. Nothing passes by mere implication."

**Whereas**, a year later in 1995 in *Kilosbayan vs Morato* (G. R. No. 118910, July 17, 1995), the Supreme Court, in a complete reversal, ruled that:

"In G.R. No. 113375, it was held that the PCSO does not have the power to enter into *any* contract which would involve it in any form of "collaboration, association or joint venture" for the holding of sweepstakes races, lotteries and other similar activities. This interpretation must be reexamined especially in determining whether petitioners have a cause of action.

We hold that the charter of the PCSO does not absolutely prohibit it from holding or conducting lottery "in collaboration, association or joint venture" with another party. What the PCSO is prohibited from doing is to invest in a

business engaged in sweepstakes races, lotteries and similar activities, and it is prohibited from doing so whether in "collaboration, association or joint venture" with others or "by itself." The reason for this is that these are competing activities and the PCSO should not invest in the business of a competitor."

**WHEREAS**, unless Congress adopts a clear cut policy on how to resolve this seeming conflict in the implementation of its STL program, define the powers and jurisdiction of the entities concerned and provide solution that addresses and resolves the concerns of both the PCSO and the local government unit/s where the STL seeks to operate, this persistent bickering between the PCSO and the local government unit/s will not stop; **NOW THEREFORE, BE IT RESOLVED**,

**AS IT IS HEREBY RESOLVED** to direct as it hereby directs the Senate Committee on Games and Amusement to conduct an investigation, in aid of legislation, on the propriety of engaging or allowing authorized agent corporations of Philippine Charity Sweepstakes Office (PCSO) to continue selling, distributing, promoting and marketing Small Town Lottery despite the absence of business permits or opposition of local government units, with the end in view of providing remedial legislations that will clarify the authority of local government units on PCSO's STL operations.

**Adopted,**

  
**PANFILO LACSON**  
Senator