

FIFTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

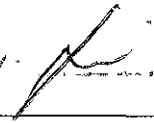
OFFICE OF THE CLERK

10 JUL 13 P4:06

SENATE

S.B. No. 1414

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Introduced by Senator Loren Legarda

EXPLANATORY NOTE

This bill seeks to strengthen and modernize the construction industry by creating the Philippine Construction Industry Development Authority or PHILCIDA.

The construction industry is one of the vital sectors of the economy. It accounts for a 5.11 percent share in GDP. It generates jobs and provides the basic physical, industrial, commercial and social infrastructure facilities necessary for the growth and sustained development of the different sectors of the economy such as housing, manufacturing, commerce, transport, agriculture, services and various other industries. Without a modern and efficient construction industry, the provision and maintenance of vital infrastructure facilities would be impaired and would seriously erode the nation's ability to improve the Filipino's living conditions, including the fundamental task of meeting his/her basic needs for shelter, water, electricity, transport, schools, hospitals and so on.

The potentials of the industry to generate export receipts and create overseas jobs for Filipino workers are also huge and well known. Filipino engineering and construction firms have been successful in penetrating the Middle East market since the 1970s. The sector earns roughly US\$25.02 Million a year from international projects and creates thousands of jobs. If modernized and transformed into a more competitive one, the industry can easily triple or quadruple its global export receipts and its job-generating capacity can be enhanced several times.

Despite its potentials, however, the industry has not sustained its growth parallel with the growth of the population and the nation's expanding requirements. The industry is even not faring well vis-à-vis foreign construction firms bidding for projects right in the deregulated Philippine market. For the reality is that the growth of the construction industry has weakened by the absence of an enabling policy environment that can nudge it to become more competitive in the context of a rapidly globalizing world. In fact, several countries in Southeast Asia have managed to develop their construction industry faster than their Philippine counterpart through the continuous upgrading of their industry capacities and the skills of their construction workers and engineers. This they are able to do mainly with the guiding help of their governments and the leadership of agencies able to strategize how to position the construction industry under regional and global integration.

The Philippines should not allow itself to be left behind.

The existing Construction Industry Authority of the Philippines (CIAP), with its limited functions, personnel and resources, is unable to address the multiplicity of problems and emerging challenges affecting the growth and development of the Philippine construction industry.

Further, the country is unable to produce enough construction engineers, designers and skilled workers, a great number of whom are being poached left and right by foreign construction companies.

On the other hand, the upgrading of the skills of a large number of community-based construction workers found all over the country is not being addressed sufficiently. Ordinary construction workers are also accorded low status and their rights often abused. They are given temporary tenure and they are exposed to unsafe and unhealthy working conditions. Most are not even covered by the Social Security System.

This bill, therefore, seeks to address the foregoing multi-faceted problems and challenges facing the construction industry. This bill seeks to promote the upgrading, modernization and competitiveness of the construction industry. It also seeks to promote an integrated human resources development (HRD) for the industry, covering the skills, health and safety and protection concerns of the construction workers, both in the formal and informal sectors.

This is the reason why a Construction Industry Competitiveness Upgrading Fund (CICUF) is likewise being created through this bill. CICUF shall serve as an instrument to promote industry modernization, productivity, public-private partnership and the rounded development and protection of the construction workers. CICUF recognizes the strategic and pivotal role of the construction industry in the economy.

In sum, this proposed bill, therefore, envisions to promote the competitiveness of the industry by raising the standards of construction work, enhancing the skills of the workers through training, promoting occupational safety and health standards at the workplace, and fostering greater public-private partnership in construction industry development.

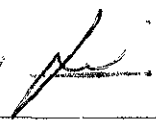
In view of this, the early passage of this bill is earnestly sought.


LOREN LEGARDA
Senator

10 JUL 13 P4:06

SENATE

S.B. No. 1414

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Introduced by Senator Loren Legarda

AN ACT
STRENGTHENING THE CONSTRUCTION INDUSTRY, CREATING THE
PHILIPPINE CONSTRUCTION INDUSTRY DEVELOPMENT AUTHORITY
AND FOR OTHER PURPOSES

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

1 **SECTION 1. Short Title.** - This Act shall be known as "**The Philippine**
2 **Construction Industry Competitiveness Act of 2010.**"

3
4 **SEC. 2. Declaration of Policy.** - Recognizing that the construction industry
5 has the immense potential to trigger and sustain growth of the economy and
6 employment through a program of integrated and balanced development, it shall be
7 the policy of the State to encourage, promote, support and enhance the orderly
8 growth and development of the construction industry in the Philippines. It shall also
9 be the policy of the State to promote the welfare and hone the talents and skills of all
10 workers in the construction industry so that they can ably contribute to the
11 competitiveness of the industry while raising their economic and social well-being.

12
13 **SEC. 3. Objectives.** - Towards these ends, The Philippine Construction
14 Industry Competitiveness Act of 2010 shall have the following objectives:

- 15
16 a. To create a business environment conducive to the continuous growth of the
17 construction industry;
- 18 b. To establish an adequate support structure to enhance the viability of the
19 construction industry;
- 20 c. To encourage the continuous upgrading of skills, qualifications and
21 competitiveness of the workers, both formal and informal, in consonance
22 with national interest and public safety;

- 1 d. To promote the involvement of workers' organizations in the construction
2 industry in the delivery of skills training services; and
3 e. To provide occupational safety and health and social protection programs for
4 the construction workers in the context of social partnership, higher
5 productivity and competitiveness of the construction industry.
6

7 **SEC. 4. *Scope and Coverage.*** - This Act shall cover all persons, natural or
8 juridical, who are involved in the construction industry such as, but not limited to,
9 construction constructors and construction sub-contractors, specialty contractors,
10 "pakyaw" contractors, designers, consultants, manufacturers, suppliers and dealers
11 of construction materials, project managers, supervisors, construction workers,
12 construction project owners whether public or private, building officials, and
13 industry associations, councils and organizations.
14

15 **SEC. 5. *Creation of Philippine Construction Industry Development***
16 ***Authority.*** - The Philippine Construction Industry Development Authority
17 (PhilCIDA) is hereby created, which shall exercise corporate, developmental and
18 regulatory powers and functions through a Board of Directors composed by the
19 Secretary of Trade and Industry as Chairman, and the Secretaries of Public Works
20 and Highways, Interior and Local Government, Transportation and
21 Communications, Labor and Employment, the President of the Philippine
22 Constructors Association, Inc. (PCA), the Director-General of the Technical
23 Education and Skills Development Authority, and five (5) private sector members
24 composed of one (1) permanent representative each from the construction
25 contracting sector, consulting sector, materials manufacturers/suppliers,
26 construction workers, and project owners, to be appointed by the Chairman upon
27 the nomination of a council to be composed of the PCA, Confederation of Filipino
28 Consultants (COFILCO), subdivision and Housing Developers Association (SHDA),
29 Philippine Chamber of Commerce and Industry (PCCI), Association of Carriers and
30 Equipment Lessors (ACEL), and the Association of Construction and Informal
31 Workers (ACIW).
32

33 The Construction Industry Authority of the Philippines (CIAP), Philippine
34 Overseas Construction Board (POCB), Philippine Contractors Accreditation Board
35 (PCAB), and Philippine Domestic Construction Board (PDCB), and Construction
36 Manpower Development Foundation (CMDF) are hereby abolished and all their

1 funds, records, personnel and properties are hereby transferred to the Authority.
2 However, the Construction Industry Arbitration Commission (CIAC) except for its
3 personnel shall continue to exist as an independent body which shall be attached to
4 the Authority for purposes of policy and program coordination.

5
6 **SEC. 6. Powers, Duties and Objectives of PhilCDA.** - The Philippine
7 Construction Industry Development Authority is hereby vested with powers and
8 authority over the Philippine construction industry. It is tasked to develop and
9 promote the viability, stimulate and accelerate the development, growth,
10 improvement, expansion of the construction industry of the Philippines, and to
11 regulate and supervise the business and exercise of profession in the construction
12 industry. For this purpose, the Authority is vested with the following powers and
13 duties:

- 14
- 15 a. Formulate and implement policies, standards and best practices for the
16 constructions industry, including the formulation, issuance and enforcement
17 of policies, guidelines, rules and regulations for licensing, registration,
18 and/or accreditation of contractors, consultants, and other construction
19 service providers, to carry out the provisions of this Act.
 - 20 b. Develop a comprehensive and long-term development plan to ensure the
21 continued viability of the local construction industry based on sustained
22 economic growth and for a more equitable distribution of domestic and
23 overseas opportunities for Filipino enterprises and workers, in conformity
24 with the constitutionally-mandated goals of national economy;
 - 25 c. Design and adopt strategies to accelerate the development of the construction
26 industry, including but not limited to, measures for upgrading professional,
27 technical, and financial capabilities of all workers;
 - 28 d. Develop a comprehensive skills training program to improve the
29 competitiveness and efficiency of the construction workers.
 - 30 e. Regularly monitor, research and study the construction industry in the
31 Philippines and in other countries, to establish an updated database of
32 construction workers, contractors, etc, identify and address problems,
33 enhance growth, develop programs, recommend, support and implement
34 policies, legislation and other measures for the optimum development of the
35 construction industry;

- 1 f. Prescribe and issue policies, rules and regulations, circulars and guidelines
2 pertinent to its powers and functions;
- 3 g. Develop programs and strategies for the optimum use of local construction
4 materials and for the improvement of their quality, competitiveness and
5 efficiency;
- 6 h. Establish a compensation plan, position classification system, and
7 qualification standards for its officers and staff based on a comprehensive job
8 analysis and audit of actual duties and responsibilities;
- 9 i. Make a periodic review of its organizational and operational capability, and
10 affect a re-structuring, upgrading, or the creation of plantilla positions and
11 acquisition of appropriate resources as may be deemed necessary. For this
12 purpose, the Authority may use its income, subject to government auditing
13 rules and regulations;
- 14 j. Develop and maintain a construction industry information system that is
15 efficient and accessible to the public;
- 16 k. Establish a funding mechanism to carry out its programs and activities,
17 including the provision of resources to accredited and/or designated
18 government agencies in the implementation of the Authority's functions;
- 19 l. Assess and collect fees and other assessments, contributions; receive grants
20 to promote and develop the construction industry; administer its funds,
21 including grants received; and provide incentives under such guidelines
22 approved by the Board;
- 23 m. Investigate any violation of this Act and its Rules and Regulations and other
24 complaints within the contemplation of this Act, issue subpoena ad
25 testificandum and duces tecum, cite for contempt, issue cease and desist
26 orders, and conduct ocular inspection and other proceedings as may be
27 deemed necessary;
- 28 n. Prosecute, in coordination with the Department of Justice, violators of this
29 Act and/or any of its rules and regulations;
- 30 o. Approve the annual budget of the Authority;
- 31 p. Adopt, alter and use a corporate seal; enter into contracts, lease, own or
32 otherwise dispose of personal or real property; sue and be sued; and
33 otherwise carry out its duties and functions as provided for in this Act;
- 34 q. Submit an annual report of its activities to the Secretary of Trade and
35 Industry; and

1 r. Adopt measures for the enforcement of this Act and other relevant laws,
2 statutes, rules and regulations and perform such other functions necessary to
3 achieve its objectives, properly exercise its authority and effectively discharge
4 its functions and duties.

5
6 **SEC. 7. Organization.** – The Authority shall be attached to the Department of
7 Trade and Industry for policy and program coordination. It shall have a General
8 Manager to be appointed by the Secretary of Trade and Industry upon the
9 recommendation of the Board of Directors. The General Manager shall be the Chief
10 Executive Officer of the Authority and is responsible to the PhilCIDA Board of
11 Directors. He must be a natural-born citizen of the Philippines, at least thirty five
12 (35) years of age on the day of his appointment, holder of a college degree with at
13 least ten (10) years of experience relevant to the construction industry, and of proven
14 competence, integrity, probity and independence. He shall perform such functions
15 and duties as may be prescribed by the Board.

16 For purposes of this Section, the Board shall organize the Authority by
17 creating departments, committees and such other offices as it may deem necessary
18 for the proper exercise of its powers and the efficient performance and discharge of
19 its functions, duties and responsibilities.

20 The Authority shall provide for an organization for its officers and staff. All
21 positions in the Authority shall be permanent and governed by a compensation and
22 position classification system and qualification standards based on a comprehensive
23 job analysis and audit of actual duties and responsibilities. The compensation plan
24 shall be subject to the periodic review by the Authority no more than once every two
25 (2) years without prejudice to yearly merit reviews or increases based on
26 productivity and performance. The Authority shall be exempt from the provisions of
27 the Salary Standardization Law and the Attrition Law.

28 Subject to Civil Service laws, rules and regulations, no officer or employee of
29 the Authority shall be removed or suspended except for cause, as provided for by
30 law.

31
32 **SEC. 8 - Construction Industry Competitiveness Upgrading Fund.** The
33 Authority shall establish and administer the Construction Industry Competitiveness
34 Upgrading Fund (CICUF) as a competitiveness strategy to meet the demands of a
35 globalizing construction industry. This Fund shall be disbursed or used by the
36 Authority for:

- 1 a. Promotion, development and upgrading of skills and expertise of
- 2 construction workers preparing to join the construction industry and workers
- 3 already in the construction industry.
- 4 b. Improvement of productivity and stability in the industry through assistance
- 5 for value-adding training and critical structural adjustments in the face of
- 6 regional and global competition.
- 7 c. Enhancement of the research and development capacities of the construction
- 8 industry to be always at par with the best in the region and in the rest of the
- 9 world.
- 10 d. Accomplishment of the highest occupational safety and health standards and
- 11 practices.
- 12 e. Improvement of the socio-economic welfare of the workers.

13
14 The Authority shall assess and cause the collection of One-Fourth of One
15 Percent (1/4 of 1%) of the Total Estimated Cost of every construction contract, which
16 exceeds P500,000.00, entered into, whether with the private sector or the public
17 sector, irrespective of funding sources, shall be imposed on every contractor
18 operating in the Philippines, irrespective of nationality, and on Filipino contractors
19 operating overseas as the contractor's contribution to the Fund. Such Fund shall be
20 deposited in government bank/s designated by the Authority.

21 Payment to the Fund shall be made 14 days prior to the commencement of the
22 construction project or upon application for a building license. No building permit
23 shall be issued without proof of payment to the Fund and no construction shall be
24 permitted to commence without proof thereof. Non-payment to the Fund shall be a
25 ground for the revocation/suspension of the building permit, issuance of a work
26 stoppage order, or non-issuance of the occupancy permit by the Building Official.
27 No project authorization for overseas contracts shall be issued without contribution
28 to the CICUF by the concerned contractor.

29 Any contractor who fails to contribute to CICUF when due, shall be liable to
30 pay a fine equivalent to fifty percent (50%) of the amount due, without prejudice to
31 the payment of the levy.

32 The amount of contribution payable under this section shall be recoverable as
33 a civil debt due to the Authority.

34 Twenty per cent (20%) of the Fund shall be allocated for the retirement and
35 hospitalization needs of the construction workers.

1 The Authority shall simultaneously implement an orderly, efficient, and
2 transparent collection and contribution procedure and guideline once the law takes
3 effect.

4
5 **SEC. 9. *Human Resource Development.*** - There shall be created within the
6 Authority a Human Resource Development Committee to oversee the function of
7 the Authority for human resource and manpower development of the construction
8 industry. The Human Resource Development Committee shall:

- 9
- 10 a. Draw up an overall construction human resource development plan,
11 programs and relevant strategies.
 - 12 b. In coordination with TESDA -
 - 13 1. Develop training regulations, competency-based curriculum and
14 competency-based assessment materials;
 - 15 2. Administer competency-based training;
 - 16 3. Administer competency-based assessment;
 - 17 4. Determine and recommend fees and upon approval by TESDA, impose
18 these on competency-based training and assessment; and
 - 19 5. Maintain a registry of skilled workers trained, assessed, and certified.
 - 20 c. In consultation with the private sector -
 - 21 1. Formulate, adopt and set standards for site supervisors and construction
22 managers;
 - 23 2. Accredite training providers for site supervisors and construction
24 managers;
 - 25 3. Administer assessment and certification for site supervisors and
26 construction managers;
 - 27 4. Determine and impose fees for training program, assessment, and
28 certification of site supervisors and construction managers; and
 - 29 5. Maintain a registry of site supervisors and construction managers trained,
30 assessed, and certified.
 - 31 d. Recommend appropriate policies and measures to rationalize training and
32 export of developed human resource in the construction industry in
33 coordination with the Department of Labor and Employment (DOLE) and
34 other pertinent government agencies, and to maintain a registry of
35 construction workers abroad.

- 1 e. Develop, provide, and coordinate with private and public sectors, human
2 resource training programs for construction service providers and
3 construction-related entrepreneurs, construction site supervisors for domestic
4 and foreign deployment, standardization and improvement of construction
5 techniques, procedures and materials, quality assurance, and construction
6 occupational safety and health; and
- 7 f. Perform such other functions as may be assigned by the Authority.

8

9 **SEC. 10. *Local Government Participation.*** - The cities and municipalities are
10 encouraged to create its own committee to oversee the development of programs for
11 skills upgrading of the construction workers and the enhancement of technical
12 capabilities of all the technical workers in the construction industry in their area.
13 These local government units are also encouraged to partner with workers
14 organizations in their areas in the delivery of skills training and upgrading services.

15

16 **SEC. 11. *Construction Industry Dispute Resolution.*** - The Construction
17 Industry Arbitration Commission, created by virtue of Executive Order No. 1008
18 otherwise known as the Construction Industry Arbitration Law, shall continue to
19 exercise original and exclusive jurisdiction over disputes arising from, or connected
20 with, contracts entered into by parties involved in construction in the Philippines,
21 whether the dispute arises before or after the completion of the contract, or after the
22 abandonment or breach thereof. The disputes cognizable by the CIAC may involve
23 government or private contracts as provided for under Republic Act No. 9184 or the
24 Government Procurement Reform Act and Republic Act No. 9285, also known as the
25 Alternative Dispute Resolution Act of 2004. The CIAC shall acquire jurisdiction
26 upon the filing of a request for arbitration or mediation by any or both of the
27 contracting parties and shall be responsible for the following, in addition to its
28 powers and authority as specifically provided in this Act:

- 29
- 30 a. To formulate and adopt arbitration , mediation and other alternative dispute
31 resolution programs for the construction industry (hereinafter collectively
32 called as ADR programs);
 - 33 b. To enunciate policies and prescribe rules and procedures for its ADR
34 programs;

- 1 c. To supervise its ADR programs and exercise such authority related thereto as
2 regards the training, accreditation, appointment, replacement or challenging
3 of arbitrators/ mediators/conciliators;
4 d. To have an official seal to authenticate its official documents;
5 e. To direct its officer and employees to perform such functions as may be
6 assigned to them from time to time;
7 f. To submit its annual report to the Authority within three (3) months after the
8 end of the fiscal year; and
9 g. To perform such other functions as may be assigned by the Authority from
10 time to time.

11
12 **SEC. 12. *Mandatory Use of the Constructors Performance Evaluation System***
13 **(CPES).** - All government construction projects regardless of funding source shall be
14 subject to CPES. For this purpose, no government project shall be acceptable by the
15 concerned agency unless it has undergone CPES evaluation. Failure of the
16 responsible officer of a particular project to implement CPES shall be deemed
17 dereliction of duty and shall make him or her liable for disciplinary action. In
18 addition, he or she shall be jointly and severally liable with the contractor for any
19 damage or claim that may arise due to his failure to implement the CPES.

20 No contractor with a CPES final rating lower than satisfactory for a particular
21 project shall be eligible to bid for similar government construction projects in
22 accordance with the guidelines to be prescribed by the Authority.

23
24 **SEC. 13. *Budget for PhilCDA.*** - The National Government shall continue to
25 allocate in its annual General Appropriations Act such amount that is presently
26 allocated for CIAP to the newly created PHILCDA, which shall be used solely for its
27 operational expenses and capital outlay.

28
29 **SEC. 14. *Implementing Rules and Regulations.*** - The Authority shall, within
30 sixty days (60) from the effectivity of this Act, issue such rules and regulations as
31 may be necessary for the implementation of the general provisions of this Act,
32 including the authority to collect fees, impose levies and other charges to support its
33 operations and other lawful activities necessary in the execution of its functions and
34 responsibilities.

35

1 **SEC 15. *Transitory Provisions.*** - Upon approval of this Act, the officers and
2 employees of the CIAP, PCAB, POCB, PDCB, CIAC, and the CMDF shall be
3 transferred to the Authority and shall continue to perform their respective functions,
4 duties and responsibilities and receive the corresponding salaries and benefits until
5 a new structure and plantilla shall have been submitted to and approved by the
6 Department of Budget and Management within thirty (30) days upon signing of this
7 Bill.

8 All permanent employees of the Construction Industry Authority of the
9 Philippines (CIAP), the Philippine Contractors Accreditation Board (PCAB), the
10 Philippine Overseas Construction Board (POCB), the Philippine Domestic
11 Construction Board (PDCB), Construction Industry Arbitration Commission (CIAC),
12 and the Construction Manpower Development Foundation (CMDF) who are not
13 absorbed or transferred are hereby declared qualified for early retirement and shall
14 be entitled to separation pay equivalent to three (3) months for every year of service,
15 in addition to retirement and other benefits allowed under existing laws. For this
16 purpose, the revenues of CIAP, PCAB, POCB, PDCB, CIAC, and CMDF are hereby
17 appropriated and set aside for deposit in a separate trust account for the payment of
18 separation pay.

19 Upon effectivity of this Act, all revenues of CIAP, its implementing Boards,
20 CIAC, and CMDF shall be set aside and deposited in a separate trust account to
21 cover the payment of separation pay.

22
23 **SEC. 16. *Separability Clause.*** If any part, section or provision of this Act is
24 declared invalid or unconstitutional, other parts or provisions hereof not affected
25 thereby shall continue to be in full force and effect.

26
27 **SEC. 17. *Repealing Clause.*** All laws, rules and regulations and/or parts of
28 Republic Act No. 4566, Presidential Decree Nos. 1167 and 1746, and Executive Order
29 No. 1008 inconsistent with the provisions of this Act are hereby repealed
30 accordingly.

31
32 **SEC 18. *Effectivity.*** - This Act shall take effect fifteen (15) days after its
33 publication in at least one (1) newspaper of general circulation.

34
35 Approved,