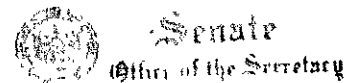


SIXTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
Second Regular Session )



14 DEC -9 P2:48

SENATE  
S. No. **2498**

RECEIVED BY: *Ju*

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Introduced by Senator Miriam Defensor Santiago

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AN ACT  
REQUIRING THE REGULAR MAINTENANCE AND PRESERVATION OF  
ALL PUBLIC INFRASTRUCTURES, ESTABLISHING MECHANISMS  
FOR ITS IMPLEMENTATION

EXPLANATORY NOTE

The government owes its taxpayers the guaranty that all its expenditures of public funds will redound to their maximum benefit without incurring any redundant or superfluous costs.

The prevailing system induces contractors to come up with projects that meet only the barest of criteria because their obsolescence promotes the possibility of another contract. The contractor will see its future profits emanating from projects that have lasted only for the duration of the warranty period.

Under this situation, the general public will be prejudiced twice: First, when their right to the continued and uninterrupted use of the infrastructure is interrupted; and second, when the public funds are again used for the repairs, maintenance works and/or replacement of infrastructures that did not meet its nominal life expectancy.

This bill seeks to correct this unwarranted situation by raising the standards in the construction of all public infrastructures. Under this proposed legislation, the contractor's strict observance to plans and specifications assures him of maximizing profits. No additional costs will accrue on his part if the project he finished is compliant with established government standards. The contractor's profits thus depend largely on the

quality of their work. Conversely, the more expenses for repairs, maintenance and replacement of the infrastructure projects, the less profit for the contractors.

Accordingly, both the public as well as the contractors mutually benefit from this proposal as proper construction of the project will assure them of maximizing profits and in turn the public continuously uses the infrastructure without the unnecessary delay and inconvenience caused by faulty and defective infrastructure.<sup>1</sup>

  
MIRIAM DEFENSOR SANTIAGO  
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<sup>1</sup> This bill was originally filed by President Benigno S. Aquino III during the Fourteenth Congress.

14 DEC -9 P2:48

SENATE  
S. No. 2498

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Introduced by Senator Miriam Defensor Santiago

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

1 AN ACT  
2 REQUIRING THE REGULAR MAINTENANCE AND PRESERVATION OF  
3 ALL PUBLIC INFRASTRUCTURES, ESTABLISHING MECHANISMS  
4 FOR ITS IMPLEMENTATION

5 SECTION 1. *Short Title.* – This Act shall be known as the “Public Works Reform  
6 Act.”

7 SECTION 2. *Declaration of Policy.* – It is the policy of the State to ensure the  
8 continued and uninterrupted use of all public infrastructures in order to promote the best  
9 interests of the general public. Towards this end, the State shall establish an effective  
10 mechanism for the efficient maintenance and preservation of all public infrastructures  
11 and when demanded by the situation, provide for the immediate replacement of the public  
12 infrastructure with the end in view of maximizing its utility at no extra costs.

13 SECTION 3. *Definition of Terms.* – For purposes of this Act:

14 (a) “Public Infrastructure” refers to any infrastructure built or constructed through  
15 public funds.

16 (b) “Maintenance works” refer to any work necessary to keep the infrastructure in  
17 conformity to the prescribed design and performance standards, plans and specifications.

18 (c) “Regular and Periodic Inspection” refers to the systematic and regular  
19 examination of the public infrastructure which shall not be less than twice a year to be  
20 conducted by the Bureau of Maintenance (or the “Bureau”) of the Department of Public

1 Works and Highways (DPWH) for purposes of determining the state and condition of the  
2 infrastructure versus the plans, specifications and intended lifespan of the infrastructure.

3 (d) "Contractor" refers to any private entity awarded or contracted to perform any  
4 public infrastructure project.

5 (e) "Proponent" refers to any agency of the National Government, its departments,  
6 bureaus, offices and agencies including government owned and controlled corporations  
7 and Local Government Units undertaking any public infrastructure project whether  
8 through bidding or any other modes allowed by law.

9 SECTION 4. *Conditions for the award of an infrastructure project.* – In addition  
10 to the legal requirements on contractors awarded any public infrastructure project, the  
11 following conditions shall be included in any contract or agreement covering the  
12 construction of any public infrastructure. That:

13 (a) The contractor shall undertake all necessary repair, maintenance and  
14 preservation works on the infrastructure or when determined by the Bureau to replace the  
15 same at its expense and within the time period herein provided.

16 (b) The contractor shall post a performance bond, in such amount as determined  
17 by the DPWH in consultation with the proponent to be sufficient to cover any repair,  
18 maintenance for the entire life of the infrastructure as well as the possible replacement  
19 thereof and such bond shall be renewed annually. The bond shall be secured from a  
20 bonding company of good standing as certified by the Insurance Commission and duly  
21 accredited by the DPWH and shall remain in effect during the projected life of the  
22 infrastructure.

23 SECTION 5. *Regular and Periodic Inspection.* – The Bureau of Maintenance shall  
24 conduct a regular and periodic inspection of the public infrastructure or whenever

1 requested by the proponent. The result of the inspection shall be in the form of a written  
2 report and shall be available to the public.

3 SECTION 6. *Contested Report.* – In the event the report of the Bureau is contested  
4 by either or both the Proponent and the Contractor, the Bureau of Maintenance may  
5 conduct another inspection in their presence. The findings of the Bureau shall be  
6 appealable to the Secretary of the DPWH within fifteen (15) days from the issuance or  
7 receipt of the findings. The Secretary of the DPWH shall render a decision within thirty  
8 (30) days from receipt of the appeal which shall be final and executory.

9 SECTION 7. *Repair, Maintenance and Replacement.* – All necessary repairs,  
10 maintenance and preservation works including the replacement of the infrastructure shall  
11 commence within a reasonable time as determined by the Bureau or the Secretary of the  
12 DPWH but in no case beyond thirty (30) days from notice to the contractor to do any of  
13 the above undertakings. Unless, for reasons of force majeure or fortuitous event and an  
14 extension is requested by the contractor and approved by the Bureau or the Secretary of  
15 the DPWH, all works required to be done shall be completed within the period set by the  
16 Bureau or the Secretary of the DPWH. A schedule of work and timetable shall be issued  
17 by the Bureau or the Secretary of the DPWH to prevent unwarranted disruption or  
18 inconvenience to the general public.

19 SECTION 8. *Penalties.* – Unjustified failure to commence and complete the  
20 necessary repairs, the contractor to maintenance and preservation works or its  
21 replacement within the periods specified in Section 7 above shall be sufficient grounds  
22 for the immediate forfeiture by the Bureau of the performance bond in favor of the  
23 proponent. The proceeds thereof shall be earmarked by the proponent for the repair,  
24 maintenance and replacement of the infrastructure project for which the bond was posted.

1           Additionally, any and/or all of the Contractors officers as well as their assigns and  
2 transferees, shall be permanently disqualified from undertaking any public infrastructure  
3 projects without prejudice to any other actions that may be instituted against them  
4 individually or solidarily under existing laws.

5           SEC. 9. *Implementing Rules and Regulations.* – A committee composed of one (1)  
6 representative each from the DPWH who will act as the chairman, the Department of  
7 Interior and Local Governments, the Department of Finance, and the National Economic  
8 and Development Authority shall within sixty (60) days from the effectivity of this Act,  
9 formulate and prescribe the necessary rules and regulations to implement and carry out  
10 the provisions of this Act.

11           SECTION 10. *Separability Clause.* – If any provision of this Act shall be declared  
12 unconstitutional, the other provision not affected thereby shall remain in full force and  
13 effect.

14           SECTION 11. *Repealing Clause.* – All laws, decrees, issuances, orders, rules and  
15 regulations, or parts thereof inconsistent with this Act are hereby repealed or amended  
16 accordingly.

17           SECTION 12. *Effectivity.* – This Act shall take effect fifteen (15) days after its  
18 publication in at least two (2) newspapers of general circulation.

Approved,

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