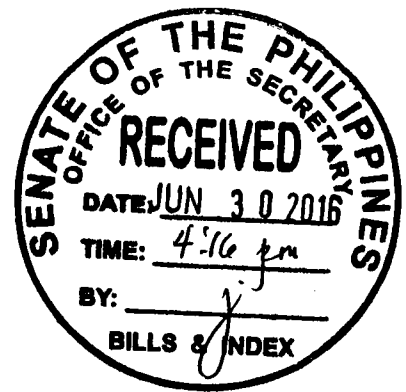


SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



SENATE
S. B. No. 112

Introduced by Senator Aquilino "Koko" Pimentel III

AN ACT
CREATING THE MINDANAO RAILWAYS CORPORATION
PRESCRIBING ITS POWERS, FUNCTIONS, AND DUTIES, AND
PROVIDING FOR THE NECESSARY FUNDS FOR ITS
OPERATION

EXPLANATORY NOTE

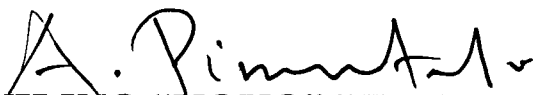
This bill seeks to create the Mindanao Railways Corporation (MRC) as a means to hasten the development of the island of Mindanao.

The collective experience of Japan, Canada, the United States of America and most of Europe shows how railroad networks have spurred and sped up the national development. In these nations, railroads opened up vast land areas for human settlement and made it possible to transport tremendous number of people and huge volume of goods at the lowest cost. The influx of people into areas previously unsettled, the easy mobility of the populace, and the availability of goods and services needed for civilized life means higher productivity of the land and its people.

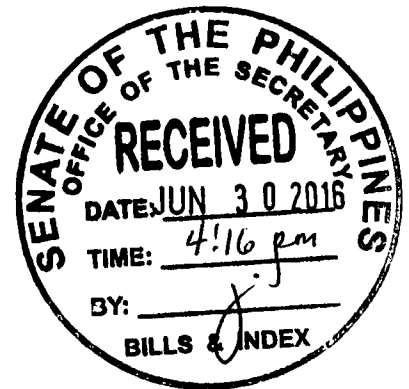
A railroad network crisscrossing Mindanao will considerably shorten the travel time between Zamboanga and my hometown, Cagayan de Oro, or Davao and Cagayan de Oro. That will, in turn, mean a reduction of the travel cost for the people and for the transportation cost of the goods whose end destination is the Visayas or Luzon, or beyond our northern shores, or vice versa.

We must benefit from the experience of other countries whose railway systems up to today provide people and goods the cheapest and fastest way of mass transit movement.

Considering all the foregoing, approval of this bill is earnestly sought.


AQUILINO "KOKO" PIMENTEL III

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

1 **SECTION 1.** *Statement of Policy.* – The Mindanao Railways
2 Corporation, being a factor for socio-economic development and
3 growth, shall be a part of the infrastructure program of the government
4 and as such, shall remain in and under government ownership during its
5 corporate existence. The Mindanao Railways Corporation must be
6 administered with the view of serving the interests of the public by
7 providing them the optimum service and, while aiming at its greatest
8 utility by the public, the utmost viability of its operation must be ensured
9 so that services can be rendered at the minimum passenger and freight
10 prices possible.

11 **SECTION 2.** *Name, Duration, and Domicile.* – A corporation to
12 serve as the instrumentality of the Government of the Philippines in
13 providing a railroad and transportation system for the whole island of
14 Mindanao is hereby created, to be known as the Mindanao Railways
15 Corporation, which shall exist for a term of fifty (50) years from the date
16 of approval of this Act. It shall have its main office in Cagayan de Oro
17 City and shall have such branches and agencies within the Philippines as
18 may be necessary for the proper conduct of its business. This

1 Corporation shall be an attached agency of the Department of
2 Transportation and Communication (DOTC).

3 **SECTION 3. *General Powers.*** – The Corporation shall have the
4 following general powers:

5 a) To exercise the right of eminent domain whenever necessary for
6 the attainment of its objectives;

7 b) To borrow money and contract loans, credits, or indebtedness
8 from domestic or foreign sources for the furtherance of its goals and
9 objectives;

10 c) To do all such other things and to transact all such business
11 directly or indirectly necessary, incidental or conducive to the attainment
12 of the purpose of the corporation; and

13 d) Generally, to exercise all powers of a corporation under Batas
14 Pambansa Blg. 68 otherwise known as “The Corporation Code of the
15 Philippines,” as amended.

16 **SECTION 4. *Purposes and Specific Powers.*** - The Corporation
17 shall have the following purposes and specific powers:

18 a) To own or operate railroad trainways, subways, bus lines,
19 trucklines, or other kinds of land transportation, vessels, and pipelines,
20 for the purpose of transporting, for consideration, passengers, mails, and
21 property between any point in Mindanao; and

22 b) As an auxiliary to its main purpose, to own and/or operate
23 powerhouses, hotels, restaurants, terminals, warehouses, timber
24 concessions, coal mines, iron and other mineral properties, and to
25 manufacture rolling stocks, equipment, tools, and other appliances; to
26 construct and operate in connection with its railroad lines, toll viaducts,
27 toll tunnels, and the like.

28 **SECTION 5. *Authorized Capital Stock of the Corporation.*** –
29 The authorized capital stock of the Corporation shall be One Hundred
30 Billion Pesos (P100,000,000,000.00) divided into Five Hundred Million
31 (500,000,000) common shares with par value of Two Hundred Pesos
32 (P200.00), which shall be fully subscribed by the National Government
33 and other government institutions, corporations, instrumentalities, and
34 agencies, whether national or local, within the framework of their
35 respective charters, twenty percent of which or Twenty Billion Pesos

1 (P20,000,000,000.00) shall be initially paid-up and the balance shall be
2 paid from a continuing annual appropriation of not less than Two Billion
3 Pesos (P2,000,000,000.00) which is hereby appropriated out of any
4 funds in the National Treasury not otherwise appropriated. The said
5 amount shall be programmed and released by the Department of Budget
6 and Management in accordance with the schedule of cash requirements
7 to be prepared and submitted by the Mindanao Railways Corporation;
8 Provided, that this continuing annual appropriation of Two Billion Pesos
9 (P2,000,000,000.00) and the programming and release thereof shall
10 remain in force until the authorized capital subscribed by the
11 Government shall have been paid in full.

12 **SECTION 6. Loans.** – The Mindanao Railways Corporation is
13 hereby authorized to contract loans, credits and indebtedness in any
14 domestic or convertible foreign currency, or capital goods, from foreign
15 governments, their agencies, instrumentalities or financial institutions, or
16 any non-governmental national or international financial institutions or
17 firms extending suppliers credit, deferred payment arrangement or other
18 fund sources, or to issue bonds, on such terms and conditions as it shall
19 deem appropriate for the accomplishment of its purpose, and to enter
20 into and execute documents and other documents specifying such terms
21 and conditions.

22 The President of the Philippines, through the Secretary of Finance,
23 is hereby authorized to guarantee, absolutely and unconditionally, as
24 primary obligor and not as surety merely, in the name and on behalf of
25 the Republic of the Philippines, the payment of the loans, credits,
26 indebtedness and bond issued, which shall be over and above the amount
27 which the President of the Philippines is authorized to guarantee under
28 *Republic Act No. 6142* as amended, as well as the performance of all or
29 any of the obligations undertaken by the Corporation in the territory of
30 the Republic of the Philippines pursuant to loan agreements entered into
31 with foreign governments or any international financial institutions or
32 fund sources.

33 The loans, credits, and indebtedness contracted under this section
34 and the payment of the principal, interest, and other charges thereon, as
35 well as the importation of machinery, equipment, materials, supplies,
36 and services, by the Corporation, paid from the proceeds of any loan,
37 credit or indebtedness incurred under this Act, shall also be exempted
38 from all charges and restrictions previously and presently imposed and

1 to be imposed by the Republic of the Philippines, or any of its agencies
2 and political subdivisions.

3 **SECTION 7. *Board of Directors, Composition, and Appointment.***

4 – The corporate powers of the Corporation shall be vested in and
5 exercised by the Board of Directors, hereinafter referred to as the
6 “Board”, composed of a Chairman to be appointed by the President; the
7 Undersecretary of Planning and Infrastructure Projects of the DOTC as
8 Co-Chairman; the General Manager of the Corporation who shall be its
9 Vice-Chairman; the Secretary of Finance; the Deputy Director-General
10 for Investment Programming of the National Economic and
11 Development Authority; an Undersecretary of the Office of the
12 Executive Secretary, Office of the President; and three (3) other
13 members to be appointed by the President.

14 The appointive members of the Board, who need not be stockholders of
15 the Corporation, shall be persons of good moral character, competent,
16 and experienced in one or more of the following fields: transport
17 planning, engineering, economics, management, finance, corporate law,
18 or marketing.

19 The Chairman and the three appointive members of the Board shall
20 serve for a period of six years; Provided, That in the initial
21 appointments, one member shall be appointed for a term of two years,
22 one member for four years, and one member for six years; Provided,
23 further, That their successors shall be appointed for a term of six years
24 except that any person appointed to fill a vacancy shall only serve for the
25 unexpired term of the member succeeded.

26 The officials next in rank to the ex-officio members of the Board, as
27 designated by them, shall serve as alternate members. They shall attend
28 the meetings of the Board whenever their principals are absent or the
29 said positions are vacant and shall receive the same benefits and
30 privileges as their principals.

31 For actual attendance of Regular or Special Board meetings, or Board
32 Committee meetings, the members of the Board shall receive a per diem,
33 to be determined by the Governance Commission for Government
34 Owned or Controlled Corporations (GCG).

35 All necessary expenses of the members of the Board to be incurred in
36 attending Board and other meetings and to discharge their official duties,

1 within the limits allowable by the GCG, shall be paid directly by the
2 Corporation in the form of cash advance or reimbursement.

3 **SECTION 8. *Qualifications of Appointive Members of the Board.***

4 – The appointive members of the Board of Directors shall be Filipino
5 citizens, at least 35 years of age at the time of their appointments, and
6 holders of degrees in the fields of transport planning, engineering,
7 economics, management, finance, marketing, law, or related courses,
8 with preference for those with masteral degrees in such fields or work
9 experience in railway management and operations for at least five (5)
10 years. All such officials must be residents of Mindanao for at least five
11 (5) years prior to their respective appointments.

12 **SECTION 9. *Powers and Duties of the Board of Directors.*** – The
13 Board of Directors shall have the following powers and duties:

14 a) To prescribe, amend, or repeal by-laws, rules and regulations,
15 or policies governing the manner in which the general business of the
16 Corporation may be exercised;

17 b) To fix the compensation of the General Manager and Assistant
18 General Managers, subject to the approval of the GCG, and to appoint
19 and fix the compensation of the other officers of the Corporation;

20 c) To approve, the annual and/or such supplemental budgets of the
21 Corporation;

22 d) By a two-thirds vote of all members, to recommend to the
23 President the suspension or removal for cause of the General Manager or
24 Assistant General Manager(s);

25 e) Upon recommendation of the General Manager, to approve the
26 appointment of all officials of the Corporation from the rank of division
27 head and above;

28 f) Subject to the provisions of applicable laws and regulations, and
29 upon recommendation of the General Manager, to reorganize the
30 Corporation, determine its staffing pattern, or define the functions and
31 duties of organization units and personnel; and

32 g) To expropriate, with rightful compensation, the necessary “right
33 of way” needed by the Corporation to acquire, maintain, and/or expand
34 its track lines.

1 **SECTION 10.** *Suspension and Removal of Directors.* – Any
2 member of the Board may, for cause, be suspended or removed by the
3 President of the Philippines.

4 **SECTION 11.** *Prohibition for Board Members.* – No Chairman or
5 member of the Board of Directors of the Corporation shall at the same
6 time serve in the Corporation in any capacity whatsoever other than as
7 Chairman or member thereof, unless otherwise authorized by law.

8 **SECTION 12.** *Managing Head.* – The management of the
9 Corporation shall be vested in the General Manager who shall be
10 appointed by the President of the Philippines upon the recommendation
11 of the Board. He shall possess technical competence in management,
12 preferably in railroad transport management, have demonstrated
13 executive ability, and be of good moral character. He shall hold office
14 for a term of eight (8) years.

15 In the performance of his functions, he shall be assisted by Assistant
16 General Managers who shall be appointed by him with the approval of
17 the Board and the President.

18 **SECTION 13.** *Powers and Duties of the General Manager.* – The
19 General Manager shall have the following powers and duties:

20 a) To direct and manage the affairs and business of the
21 Corporation on behalf of the Board, subject to the policies, rules, and
22 regulations established by the Board;

23 b) To sit in all meetings of the Board as Vice-Chairman, and
24 participate in its deliberations, with the right to vote, and to preside in
25 any meeting for or in the absence of the Chairman;

26 c) To recommend to the Board short-and-long range plans and
27 programs consistent with the overall objectives of the Corporation;

28 d) To submit and recommend consolidated annual budget and
29 propose capital and other supplemental budgets to the Board;

30 e) To appoint officials and employees below the rank of a division
31 head and to suspend or otherwise discipline for cause, all subordinate
32 officials and employees of the Corporation; Provided, however, That in
33 the case of removal for cause, approval of the Board shall be necessary;

1 f) To recommend to the Board such changes in the organizational
2 structure and staffing pattern of the Corporation as may be necessary to
3 carry out its functions effectively;

4 g) To submit to the Office of the President of the Philippines and
5 to the Congress of the Philippines, through the Board of Directors,
6 within sixty (60) days after the close of each fiscal year, an annual report
7 on the operations of the Corporation or such other reports as may be
8 required; and

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

11 **SECTION 14.** *Appointment and Promotion of Personnel.* – In the
12 appointment and promotion of officers and employees of the
13 Corporation, merit and efficiency shall serve as basis, and no political
14 test or qualification shall be prescribed and considered for such
15 appointments or promotions.

16 **SECTION 15.** *Exemption from Taxes, Duties, Port Charges or*
17 *Dues, and Customs Bonds.* – The Mindanao Railways Corporation is
18 hereby exempt from payment of all taxes of any kind and nature,
19 including those imposed by municipal, city, provincial, or national
20 governments, upon its capital stock, franchise, right of way, earnings,
21 and all other property owned or operated by it in relation to its principal
22 and auxiliary purposes, and all import duties on all railways materials,
23 rolling stocks, spare parts, supplies and equipment imported in the
24 Philippines for and/or by the said Corporation and this exemption shall
25 extend to wharfage dues, storage charges, arrastre, and shipside charges,
26 and special duties on such importations, and other port charges upon the
27 carrying vessels whose entire cargo consists of materials for the
28 construction of its projects or rehabilitation of its lines, facilities, and to
29 such proportion of the prescribed port charges on other vessels as the
30 tonnage of materials for such construction or equipment may bear to the
31 tonnage of the entire cargo of the vessel; and such exemption shall
32 further extend to the filing of general importer's and general
33 documentary bonds and warehouse bonds for the operation of its
34 warehouses, whether general bonded warehouses or general order store.
35 These exemptions shall extend to the Value-Added Tax (VAT),
36 Expanded Value-Added Tax (E-VAT), or any subsequent VAT laws.

37

1 **SECTION 16. *Audit Personnel and Report.*** –

2 a) Personnel – The Commission on Audit shall appoint a
3 representative who shall be the Auditor of the Corporation, and the
4 necessary personnel to assist said representative in the performance of
5 his duties. The number and salaries of the Auditor and said personnel
6 shall be determined by the Commission on Audit, subject to
7 appropriation by the Board of Directors. In case of disagreement, the
8 matter shall be submitted to the President of the Philippines whose
9 decision shall be final. Said salaries and all other expenses of
10 maintaining the Auditor's office shall be paid by the Corporation.

11 b) Report – The financial transactions of the Corporation shall be
12 audited in accordance with law, administrative regulations and the
13 principles and procedures applicable to commercial corporate
14 transactions. A report of audit of each fiscal year, by the representative
15 of the Commission on Audit, through the latter, to the Board of
16 Directors of the Corporation, and copies thereof shall be furnished the
17 President of the Philippines, the Secretary of Transportation and
18 Communications and the Presiding Officers of the two Houses of
19 Congress. The report shall set forth the scope of the audit and shall
20 include a statement of assets and liabilities, capital and surplus or deficit;
21 a statement and surplus or deficit analysis; statement of income and
22 expenses; a statement of sources and application of funds; and such
23 comments and information as may be necessary, together with such
24 recommendations with respect thereto as may be advisable, including a
25 report of any impairment of capital noted in the audit. The report shall
26 also show specifically any program, expenditures or other financial
27 transaction or undertaking observed in the course of the audit, which in
28 the opinion of the Auditor, has been carried on or made without
29 authority of law.

30 **SECTION 17. *Legal Department.*** – Any provisions of law or
31 executive order to the contrary notwithstanding, the Corporation shall
32 have its own Legal Department, which shall handle all legal matters
33 affecting the Corporation; Provided, That the Office of the Government
34 Corporate Counsel shall provide assistance and supervision in the
35 handling of court cases of the Corporation.

36 **SECTION 18. *Exemption from Regulation.*** – The Mindanao
37 Railways Corporation shall not be subject to the authority and
38 supervision of the Land Transportation Franchising and Regulatory
39 Board or any similar regulatory body.

1 **SECTION 19. *Liquidation.*** – When its term of existence has
2 expired in accordance with the provision of this Act, the Corporation
3 shall nevertheless, continue as a body corporate for three years after the
4 time of its dissolution for the purpose of prosecuting and defending suits
5 by or against it and of enabling it gradually to settle and close its affairs,
6 to dispose of and convey its properties, but not for the purpose of
7 continuing the business for which it was established. In order to carry
8 out its liquidation, upon the dissolution of the Corporation, a Board of
9 Liquidators shall be appointed by the President to take charge of
10 winding up its corporate affairs and effecting its liquidation.

11 **SECTION 20. *Reversion of General Funds.*** – All funds resulting
12 from dissolution and liquidation of the Corporation as herein provided
13 shall revert to the general funds of the Government.

14 **SECTION 21. *Separability Clause.*** – In the event any provision
15 of this act or the application of such provision to any person or
16 circumstances is declared unconstitutional, the remainder of this Act or
17 the application of said provision to other persons or circumstances shall
18 not be affected thereby.

19 **SECTION 22. *Repeal or Modifications.*** – The provisions of
20 Republic Act No. 4156, as amended, creating the Philippine National
21 Railways and all Acts, Executive Orders, and Proclamations or parts
22 thereof inconsistent with any of the provisions of this Act, are hereby
23 repealed or modified accordingly.

24 **SECTION 23. *Effectivity.*** – This Act shall take effect upon its
25 publication in a newspaper of general circulation.

26 *Approved,*