

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



Senate
Office of the Secretary

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SENATE
S.B. No. 1110

RECEIVED BY: 

Introduced by Senator Aquilino "Koko" Pimentel III

**AN ACT
AMENDING SECTION 8 OF
PRESIDENTIAL DECREE NO. 910, S. 1976
(CREATING AN ENERGY DEVELOPMENT BOARD,
DEFINING ITS POWERS AND FUNCTIONS, PROVIDING
FUNDS, THEREFOR, AND FOR OTHER PURPOSES)**

EXPLANATORY NOTE

Section 8 of Presidential Decree No. 910, s. 1976 (P.D. 910) provides the President with plenary power to use the proceeds of a Special Fund for the purpose of financing government energy resource development and exploitation projects and for such other purposes as he may direct.

This Special Fund ("Fund") is composed of collections and government shares that are credited and booked under a special account managed by the Bureau of Treasury. The funds are sourced and collected through the Department of Energy from government shares representing royalties and rentals, as well as production shares on service contracts and other payments on the exploration, development, and exploitation of energy resources. Part of this Fund is the Malampaya Fund, which is remitted from Shell Philippines Exploration, the private firm that operates the Malampaya natural gas platform in Palawan.

In recent years the Fund has been involved in controversies such as the P900 million portion of the Fund that was allocated to the Department of Agrarian Reform and allegedly siphoned off to finance bogus non-government organizations by Janet Lim-Napoles and the allegation that the Fund merely sits in the coffers of the Bureau of

Treasury, where it is waiting to be used by the government for a limited purpose, which is energy development.

In November 2013, the Supreme Court, in the case of *Belgica vs. Executive Secretary*¹, declared as unconstitutional the phrase "*and for such other purposes as may be hereafter directed by the President*" under *Section 8 of P.D. 910* for failing the sufficient standard test, thereby violating the principle of non-delegability of legislative power. The monumental decision effectively clipped the President's unqualified power to allocate the Fund for any other purpose that he may deem proper.


To support our government's fiscal stability, this measure intends to abolish the fund and direct the payment of all the fees, revenues, receipts, royalties, rentals, production shares, and all monies from contracts arising from existing energy development and exploitation programs to the National Treasury, subject to the share of local government units under Republic Act No. 7160, otherwise known as the *Local Government Code of 1991*, to make them available for the government's general use.

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


AQUILINO "KOKO" PIMENTEL III

¹ G.R. No. 208566, November 19, 2013.

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6 FUNDS, THEREFOR, AND FOR OTHER PURPOSES)

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

7 SECTION 1. Section 8 of *Presidential Decree No. 910, 1976*
8 (*Creating an Energy Development Board, Defining its Powers and*
9 *Functions, Providing Funds, Therefor, and For Other Purposes*) is
10 hereby amended to read as follows:

11 "SECTION 8. Appropriations. — [The sum of Five Million
12 Pesos out of any available funds from the National Treasury
13 is hereby appropriated and authorized to be released for the
14 organization of the Board and its initial operations.
15 Henceforth, f]Funds sufficient to fully carry out the functions
16 and objectives of the Board shall be appropriated every fiscal
17 year in the General Appropriations Act.

18 All fees, revenues and receipts of the Board from any and all
19 sources including receipts from service contracts and
20 agreements such as application and processing fees, signature
21 bonus, discovery bonus, production bonus; all money
22 collected from concessionaires, representing unspent work
23 obligations, fines and penalties under the Petroleum Act of
24 1949; as well as the government share representing royalties,

25 rentals, production share on service contracts and similar
26 payments on the exploration, development and exploitation
27 of energy resources shall **ACCRUE TO THE NATIONAL**
28 **TREASURY AND SHALL BE AVAILABLE FOR THE**
29 **GENERAL PURPOSES OF THE GOVERNMENT,**
30 **SUBJECT TO THE SHARES OF LOCAL**
31 **GOVERNMENT UNITS UNDER SECTION 290 OF**
32 **REPUBLIC ACT NO. 7160, OTHERWISE KNOWN AS**
33 **THE LOCAL GOVERNMENT CODE OF 1991.** [form
34 part of a Special Fund to be used to finance energy resource
35 development and exploitation programs and projects of the
36 government and for such other purposes as may be hereafter
37 directed by the President].”

38 **SEC. 2. *Repealing Clause.*** – All other laws, decrees, orders, rules
39 and regulations or parts thereof inconsistent with this Act are hereby
40 repealed or modified accordingly.

41 **SEC. 3. *Effectivity.*** – This Act shall take effect fifteen (15) days
42 after its complete publication in at least two (2) newspapers of general
43 circulation.

Approved,