


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

7 JUL -3 2013

SENATE

S. No. 825

RECEIVED BY: 

Introduced by Senator Biazon

Explanatory Note

"The President may contract or guarantee foreign loans on behalf of the Republic of the Philippines with the prior concurrence of the Monetary Board, and subject to such limitations as may be provided by law. The Monetary Board shall, within thirty days from the end of every quarter of the calendar year, submit to the Congress a complete report of its decision on applications for loans to be contracted or guaranteed by the Government or government-owned and controlled corporations which would have the effect of increasing the foreign debt, and containing other matters as may be provided by law." (Article VII, Section 20)

"Subject to reasonable conditions prescribed by law, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest." (Article II, Section 28)

"Foreign loans may only be incurred in accordance with law and the regulation of the monetary authority. Information on foreign loans obtained or guaranteed by the Government shall be made available to the public." (Article XII, Section 21)

The 1987 Constitution, while authorizing the executive department through the President to contract foreign loans on behalf of the Republic, is rich with provisions seeking to protect the country's interest against possible abuses. Thus, there is the requirement to report to Congress on top of the exercise by Congress of its inherent function of oversight.

For the year 2007 alone, the country is shelling out P328.733 Billion on interest payments alone.

This bill proposes to centralize the myriad of functions and responsibilities distributed among various agencies concerning foreign loans from negotiation to debt servicing to one single agency. This new Cabinet level agency, composed of a board as its highest policy-making body, shall be the primary agency of the government that will integrate and coordinate the country's debt management system that includes debt recording and inventory, debt monitoring and analysis, risk management, debt planning; debt service payments; advise on debt negotiations and borrowings, and formulation of debt policies and strategies.

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


RODOLFO G. BIAZON
Senator

FOURTEENTH CONGRESS OF THE REPUBLIC)
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7 JUL -3 P3:14

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AN ACT
CREATING THE DEBT MANAGEMENT BOARD, APPROPRIATING FUNDS
THEREFOR, AND FOR OTHER PURPOSES

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

Section One. *Short Title.* -- This Act shall be known as the "Debt
Management Board Charter."

Section 2. *Declaration of Policy.* -- It is hereby declared the policy of the
State, consistent with the mandate by the Constitution, to implement a sound and
effective debt management system and strategies as an integral part of the
country's overall macroeconomic management and public administration.

Section 3. *Definition of Terms.* -- When used in this Act, the following
terms or words and phrases shall mean or be understood as follows:

a. "Debt" refers to the stock of total liabilities or obligations at any given
time, whether of the national government or the consolidated non-financial public
sector, or both.

b. "Debt management" refers to the process of establishing and
implementing a strategy for prudently managing the government's debt in order
to achieve the government's risk and cost objectives and any other sovereign
debt management goals the government may have set.

c. "Debt service" refers to the sum of loan repayments, interest payments,
commitment fees and other charges on foreign and domestic borrowings.

d. "Consolidated public sector debt" refers to the total indebtedness,
whether foreign or domestic, of the National Government, Local Government,
Government Owned and Controlled Corporations and Financial Institutions.

e. "Government Owned and Controlled Corporations (GOCCs)" refer to a
stock or non-stock corporation, whether performing governmental or propriety
functions, which is directly chartered by a special law, or if organized under the
general corporation law is owned or controlled by the government directly or
through a parent corporation or subsidiary corporation, to the extent of at least a
majority of its outstanding capital stock or of its outstanding voting capital stock.

f. "National Government" refers to the executive, legislative, and judiciary
branches of the government, including the constitutional offices.

g. "National government debt" refers to all security issuances and loans of the National Government.

Section 4. *Creation of the Debt Management Board and its Composition.* – To carry out the above-declared policy, there is hereby created, within thirty (30) days after the effectivity of this Act, a Debt Management Board, hereinafter referred to as the Board.

The Board, which shall be a Cabinet level agency, shall be the primary agency of the government that will integrate and coordinate the country's debt management system that includes debt recording and inventory, debt monitoring and analysis, risk management, debt planning; debt service payments; advise on debt negotiations and borrowings, and formulation of debt policies and strategies.

The Board shall be composed of the following:

- a. The President as its Chairperson;
- b. Director-General of the Board's Secretariat as its Vice-Chairperson
- c. Executive Secretary;
- d. Secretary of Finance;
- e. Secretary of Budget and Management;
- f. *Secretary of Foreign Affairs;*
- g. Secretary of Trade & Industry;
- h. Governor of the Bangko Sentral ng Pilipinas;
- i. *Director-General of the National Economic and Development Authority (NEDA);*
- j. One representative from the academe;
- k. Two representatives from civil society organizations actively engaged in socio-economic activities; and
- l. One representative from the business sector;

Provided, that members from the last three groups as stated above shall be appointed by the President and shall perform the functions of the office for two (2) years.

The Board shall meet at least once a month or as frequently as is necessary to discharge its responsibilities as determined by the President.

The members of the Board shall not receive additional compensation, allowances or emoluments for services rendered thereto except traveling and other necessary expenses to attain its goals and objectives.

Section 5. *Powers and Functions of the Board.* – The Board shall have the following powers and functions:

- a. Formulate and recommend well-defined and feasible debt management strategies and policies in order to maintain the country's debt at a sustainable level in accordance with the medium-term and long-term Philippine Development Plan;
- b. Provide an inventory and audit of all loans acquired by the Philippine government, government owned and controlled corporations (GOCCs), local government units (LGUs), government financial institutions (GFIs), and other public and private entities that constitute the country's public sector debt;

c. Develop, recommend and implement policies, guidelines and control mechanisms and ceilings on foreign and domestic borrowings to ensure debt sustainability;

d. Conduct debt sustainability analyses and risk management to assess optimal borrowing levels and conduct studies or review and recommend policies and regulations governing external borrowings, foreign investments and other foreign exchange transactions;

e. Study and recommend for approval by the Monetary Board different debt transactions such as negotiations for new borrowings, utilization and monitoring of loan proceeds, and debt servicing;

f. Formulate and recommend policies for the establishment and continuous review of the legal, administrative and institutional arrangements for centralized and well-coordinated debt management operations;

g. Provide adequate resources for an effective debt management such as, but not limited to, competent and qualified staff, technical experts in the area of debt management, communication equipment, and others;

h. Prepare proposals for discussion in bilateral, regional and international fora and promote active and appropriate representation of the country's interests and concerns;

i. Adopt operational guidelines and internal rules of procedure and cite for contempt violations thereof;

j. Conduct hearings and a public audit of all loans and receive testimonies, reports and technical advice;

k. Invite or summon by subpoena any public official, private citizen or any other person to testify before it or require any person by *subpoena duces tecum* to produce before it such records, reports, documents or other materials as it may require; and

l. Perform such other functions which, in the opinion of the Board, are required for the effective implementation of its functions under this Act.

Section 6. *The Debt Management Office.* — There is hereby created the Debt Management Office, hereinafter referred to as the Office, which shall have the following powers and functions:

a. Serve as the research and technical support arm of the Board;

b. Provide technical staff support and assistance, including the conduct of studies and development of policy measures and other recommendations, on the various aspects of the functions of debt management, and coordination, evaluation and monitoring of all foreign and domestic borrowings.

c. Serve as the Secretariat of the Board; and

d. Regularly publish different debt transactions such as negotiation for new borrowings, utilization and monitoring of loan proceeds, and debt servicing;

d. Perform such other functions as may be assigned to it by the Board to achieve its goals and objectives.

Section 7. *The Office of the Director General.* -- The Office shall be headed by a Director-General who shall be the Vice Chairperson of the Debt Management Board, and shall be appointed by the President. The Director-General shall be a member of the Cabinet.

As chief executive officer of the Board Secretariat, the Director-General shall exercise general supervision and control over its technical and administrative personnel.

Section 8. *Duties and Responsibilities of the Director General.* -- The Director General shall have the following duties and responsibilities:

- a. Advise the President on the promulgation of rules, regulations and other issuances relative to debt and risk management;
- b. Submit regular reports to the President and the Congress;
- c. Ensure public transparency on all matters regarding public and private loans, debt payments and other transactions of the Board;
- d. Establish policies and standards for the efficient and effective operations of the Board in accordance with the programs of the Government;
- e. Promulgate rules, regulations and other issuances necessary in carrying out the Board's mandate, objectives, policies, plans, programs and projects;
- h. Perform other functions as may be provided by law or assigned by the President.

Section 9. *The Deputy Director Generals.* -- The Board shall have two (2) Deputy Director Generals who shall be appointed by the President and shall have the rank of Undersecretary.

Each Deputy Director General shall directly supervise and manage a unit under the Board as enumerated under Section 10 hereof.

Each Deputy Director General shall have the following functions;

- a. Advise the Director General in the promulgation of department orders, administrative orders and other issuance;
- b. Exercise supervision over the offices, departments, operating units and officers and employees under his responsibility;
- c. Promulgate rules and regulations, consistent with Office policies that will efficiently and effectively govern the activities under his/her responsibility;
- d. Coordinate the functions and activities of the units under his/her responsibility with those of other units under the responsibility of other Deputy Director Generals;
- e. Exercise authority on substantive and administrative matters related to the functions and activities of units under his responsibility as may be delegated by the Director General; and

f. Perform other functions as may be provided by law or assigned by the Director General.

Section 10. *Support Units.* -- There shall be two main support units under the Office as follows:

a. Debt Monitoring and Analysis Unit. The Debt Monitoring and Analysis Unit shall be directly responsible for the inventory and audit of all foreign and domestic loans of the National government and its guarantees to all other corporations, national government agencies, local government units or any other entities.

The Debt Monitoring and Analysis Unit shall have the following specific functions:

1. Maintain records/files of government securities, individual loan agreement and other pertinent documents on public debt;
2. Generate various periodic reports/statements on external and domestic debt such as monthly consolidated national government debt burden, consolidated public debt, annually or quarterly status of public debt, yearly and/or medium-term debt service estimates and monthly actual debt service;
3. Submit such reports to higher planning, fiscal, monetary authorities, the Congress and Commission on Audit for planning purposes, operational decisions and audit requirements;
4. Generate debt sustainability analyses and debt service forecasts;
5. Provide analysis and explore various debt management options taking into consideration the economic and market conditions, and future structure of public debt;
6. Recommend appropriate terms for new borrowings based on debt sustainability and credit risk exposure analyses; and
7. Perform other functions as may be provided by law or assigned by the Director General or Deputy Director General.

b. Policy and Risk Management Unit. The Policy and Risk Management Unit shall have the following specific functions:

1. Develop and update guidelines for Debt Management through conduct of research, management of information technology systems, and perform administration functions;
2. Develop the methods to reduce the costs of the debt;
3. Propose risk management framework;
4. Develop debt management strategy;
5. Evaluate the performance and risks of the debt portfolio and its impact on government resources;
6. Report and manage credit risk exposure to Congress and to higher fiscal and monetary authorities for planning;

7. Identify possible sources of funds; and

8. Identify the range of instruments that can be used to access possible sources for borrowings.

Section 11. *Appropriations.* The initial sum of one hundred million pesos (PhP 100,000,000.00) is hereby allocated to be charged against the current appropriation for the President's contingent fund and the savings of the Department of Finance as provided for by General Appropriations Act for fiscal year 2007. Its regular appropriation shall thereafter be under that of the Department of Finance.

Section 12. *Implementing Rules and Regulations.* – Within sixty (60) days from the effectivity of this Act, the Board shall promulgate the necessary rules and regulations for the proper implementation of the provisions of this Act.

Section 13. *Transitory Provision.* Any existing government office or program dealing with or performing the functions as mentioned in this Act shall be integrated with the Board or Office, as the case may be, pursuant to the power of the President to reorganize the executive offices.

For staffing and hiring purposes, the existing employees or officials of the Department of Finance or Bangko Sentral ng Pilipinas performing essentially the same tasks and functions as enumerated herein shall be prioritized without any diminution in rank, seniority, salary and other emoluments.

Section 14. *Repealing Clause.* – All laws, rules, regulations, orders, circulars and memoranda inconsistent with this Act are hereby repealed or modified accordingly.

Section 15. *Separability Clause.* - If, for any reason, any portion or provision of this Act or the application thereof shall be declared invalid or unconstitutional, the validity of other parts or provisions not affected thereby shall continue to be in full force and effect.

Section 16. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

Approved,