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SENATE
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SENATE

S. No. 59

RECEIVED

Introduced by Senator JUAN MIGUEL F. ZUBIRI

EXPLANATORY NOTE

In recent years, the influx of technology brought about by globalization has spawned various products and processes having various effects on the environment, specifically how these contribute to environmental pollution. While pollution and continued degradation of the environment is a battle continuously fought by the government, the government's environmentally-related activities have grown up piecemeal over the years. Many agency missions, for example, are designed primarily along media lines – air, water and land. Yet the sources of air, water and land pollution are interrelated and often interchangeable.

Likewise, almost every part of government is concerned with the environment in some way, and affects it in some way. Yet each department also has its own primary mission – such as resource development, transportation, health, defense, urban growth or agriculture – which necessarily affects its own view of environmental questions.

As presently structured, the Department of Environment and Natural Resources (DENR) is the primary agency tasked to implement our environmental laws and policies, as well as managed the utilization of our natural resources. However, the certainty of clashing of interests between environmental protection and conservation on the one hand and utilization of natural resources on the other would be unavoidable. And that puts DENR officials and employees in an uneasy position and difficult balancing act.

Also, if the critical standard-setting functions were centralized within any one existing department, it would require that department to constantly make decisions affecting other departments – in which, whether fairly or unfairly, its own objectivity as an impartial arbiter could be called into question. And because environmental protection cuts across so many jurisdictions, and arresting environmental deterioration is of great importance to the quality of life not only in our country but also to the world, it is believed that a strong, independent agency from the current Department of Environment and Natural Resources is needed.

That agency would, of course, work closely with and draw upon the expertise and assistance of other agencies having experience in the environmental area which is hoped to lead to a far more effective approach to pollution control by: a) identifying pollutants; b) tracing them through the entire ecological chain, observing and recording changes in form as they occur; c) determining the total exposure of man and his environment; d) examining

interactions among forms of pollution; and e) identifying where in the ecological chain interdiction would be most appropriate.

Thus, the time has come to organize our laws and the government's environmentally-related activities rationally and systematically. There is a need for a separate agency devoted solely to anti-pollution programs – addressing the effects of pollution through knowing more about the total environment – land, water and air.

The Environmental Protection Agency of the Philippines is such an agency. It shall only deal with matters that have a relation only to the protection, preservation and enhancement of the environment. It does not have a narrow charter to deal with only one aspect of a deteriorating environment; rather it has a broad responsibility for research, standard-setting, monitoring and enforcement with regard to five environmental hazards; air and water pollution, solid waste disposal, radiation and pesticides.

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



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**AN ACT
CREATING THE ENVIRONMENTAL PROTECTION AGENCY OF THE
PHILIPPINES, THEREBY AMENDING EXECUTIVE ORDER 192,
APPROPRIATING FUNDS THEREFOR 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 “*Environmental*
2 *Protection Agency Act of 2010*”.

3 **Section 2. Declaration of State Policy.** It is hereby declared the policy of
4 the State to ensure the conservation of the country’s forest, mineral, land and off-
5 shore areas and other natural resources, including the protection and
6 enhancement of the quality of the environment. It is also the policy of the State to
7 recognize and apply a true value system including social and environmental cost
8 implications relative to their utilization, development and conservation of our
9 natural resources.

10 **Section 3. Creation of the Agency.**

11 (a) There is hereby created the Environmental Protection Agency of the
12 Philippines to be placed under the Executive Branch, hereinafter referred
13 to as “EPA.”

14 (b) The EPA shall be headed by a Chairman, appointed by the President,
15 with a Cabinet Rank and with the salary and privileges of that of a
16 Department Secretary.

17 (c) The Chairman shall be assisted by a Vice-Chairman who shall be
18 appointed by the President and with the rank, salary and privileges of a
19 Department Undersecretary.

20 (d) There shall be in the EPA, Regional Executive Directors who shall
21 monitor and enforce environmental laws at the regional level. He/she
22 shall have the necessary staff support.

1 **Section 4. *Mandate.*** The EPA shall be the primary arm of the government
2 responsible for the conservation and protection of the country's environment and
3 natural resources.

4 **Section 5. *Powers and Functions.*** To accomplish its mandate, the EPA
5 shall have the following functions:

- 6 (a) Establish and enforce environmental protection standards consistent
7 with national environmental goals;
- 8 (b) Conduct research on the adverse effects of pollution and on methods
9 and equipment for controlling it;
- 10 (c) Gathering of information on pollution;
- 11 (d) Use such information gathered in strengthening environmental
12 protection programs and recommending policy changes;
- 13 (e) Assisting others, through grants, technical assistance and other
14 means, in arresting pollution of the environment;
- 15 (f) Advise the President and the Congress of the Philippines on the
16 enactment of laws relative to the conservation of the country's natural
17 resources and environmental protection;
- 18 (g) Formulate, implement and supervise the government's policies, plans
19 and programs pertaining to the conservation, development and
20 replenishment of the country's natural resources;
- 21 (h) Promulgate rules and regulations in accordance with the law
22 governing the exploration, conservation, development, extraction,
23 disposition, use and such other commercial activities tending to cause
24 the depletion and degradation of our natural resources;
- 25 (i) Undertake exploration, assessment, classification and inventory of the
26 country's natural resources using any and all available technology that
27 would carry out the mission and mandate of the EPA;
- 28 (j) Promote proper and mutual consultation with the private sector
29 involving the utilization of natural resources, its development and
30 conservation;
- 31 (k) Undertake geological surveys of the whole country including its
32 territorial waters;
- 33 (l) Establish policies and implement programs for the:
 - 34 1. Accelerated inventory, surveys and classification of lands,
35 forest, and mineral resources using appropriate technology, to
36 be able to come up with a more accurate assessment of
37 resource quality and quantity;

1 2. Preservation of cultural and natural heritage through wildlife
2 conservation and segregation of national parks and other
3 protected areas; and

4 3. Maintenance of a wholesome natural environment by enforcing
5 environmental protection laws.

6 (m) Assume responsibility for the assessment, development, protection,
7 conservation, and regulation as provided for by law, where applicable,
8 of all natural resources and the enforcement of natural resources laws,
9 rules and regulations;

10 (n) Oversee, supervise and police our natural resources; to cancel or
11 cause to cancel such privileges and arrangement; to close and cause
12 the closure of establishments, after due process, upon failure, non-
13 compliance or violations of any laws, rules and regulations, orders and
14 for all other causes which contravene the objective of conserving and
15 protecting the country's natural resources and others supportive
16 objectives of the national interest;

17 (o) Promulgate rules and regulations for the control of water, air and land
18 pollution;

19 (p) Promulgate ambient, and affluent standards for water and air quality
20 including the allowable levels of other pollutants and radiations;

21 (q) Promulgate policies, rules and regulations for the conservation of the
22 country's genetic resources and biological diversity and endangered
23 habitat;

24 (r) Formulate an integrated, multi-sectoral and multi-disciplinary National
25 Conservation Strategy, which will be presented to the cabinet for the
26 President's approval;

27 (s) Exercise other powers and functions and perform such other acts as
28 may be necessary, proper or incidental to the attainment of its
29 mandates and objectives;

30 **Section 6. Organizational Structure.** The EPA shall consist of the Agency
31 Proper, the staff offices, the staff bureaus, and the
32 regional/provincial/city/municipal offices.

33 The Agency Proper shall consist of the following:

- 34 a. Office of the Chairman;
- 35 b. Office of the Vice-Chairman;
- 36 c. Public Affairs Office; and
- 37 d. Pollution Adjudication Office.

38

1 The line Bureaus on the other hand, shall be composed of:

- 2 a. Protected Areas and Wildlife Bureau; and the
- 3 b. Environmental Management Bureau.

4 The field offices shall consist of all the department's regional offices, the
5 provincial offices and the municipal offices.

6 **Section 7. Public Affairs Office.** There is hereby created a Public Affairs
7 Office, under the Office of the Chairman, to be headed by a Director and assisted
8 by an Assistant Director, which shall serve as the public information arm of the
9 Agency. It shall be responsible for disseminating information on natural
10 resources development policies, plans, programs and projects; and respond to
11 public queries related to the development and conservation of natural resources.

12 **Section 8. Transfers to Environmental Protection Agency.**

13 I. These are hereby transferred to the EPA:

- 14 a. The powers, functions, duties and responsibilities of the
15 Environmental Management Bureau of the Department of
16 Environment and Natural Resources as well as all its functions and
17 powers under Section 16 of Executive Order 192;
- 18 b. The Protected Areas and Wildlife Bureau of the Department of
19 Environment and Natural Resources as well as all its functions and
20 powers under Section 18 of Executive Order 192;
- 21 c. The Pollution Adjudication Board of the Department of Environment
22 and Natural Resources as well as all its functions and powers
23 under Section 19 of Executive Order 192;
- 24 d. The control and administration of the National Integrated Protected
25 Area System under Republic Act 7586 otherwise known as the
26 NIPAS Act of 1992;
- 27 e. The powers and functions of the DENR under Sections 5, 14, 16,
28 17, 18, and 21 of Republic Act 7586;
- 29 f. The powers, functions and duties of the National Water and Air
30 Pollution Control Commission under Republic Act 3931 except such
31 powers and functions as provided for under Section 6a paragraphs
32 6 and 7, and Section 7 paragraph b relating to the power to hold
33 public hearings in relation to denying, revoking, or modifying a
34 permit;
- 35 g. The powers, functions and responsibilities of the DENR under of
36 Republic Act 6969 otherwise known as An Act To Control Toxic
37 Substances and Hazardous and Nuclear Wastes Providing
38 Penalties For Violations Thereof, and for other purposes;

- 1 h. The Inter-Agency Technical Advisory Council as well as its
2 functions as provided for under Section 7 of Republic Act 6969;
- 3 i. All powers, functions, duties and responsibilities of the Department
4 of Agriculture and of the Department of Environment and Natural
5 Resources in relation to conservation, preservation, anti-pollution
6 and other functions appurtenant thereto under Republic Act 8550
7 otherwise known as the Philippine Fisheries Code;
- 8 j. The functions, powers, duties and responsibilities of the DENR as
9 well as the functions, powers, duties and responsibilities of Local
10 Government Units under Republic Act 8749 otherwise known as
11 the Clean Air Act except:
- 12 1. such powers, functions, duties and responsibilities
13 relating to the issuance of permits as provided under
14 Section 16; and
- 15 2. such functions, powers, duties and responsibilities under
16 Section 22 relating to the issuance of a Certificate of
17 Conformity (CoC)
- 18 k. The powers, functions, duties, responsibilities and role of the
19 Department of Environment and Natural Resources under Republic
20 Act No. 9003 except the issuance of the Environmental Compliance
21 Certificate (ECC) as required under Section 38 of Republic Act No.
22 9003;
- 23 l. The powers, functions, duties and responsibilities of the National
24 Solid Waste Management Commission as established under
25 Republic Act No. 9003;
- 26 m. The functions, duties and responsibilities of the National Ecology
27 Center as established under Section 7 of Republic Act No. 9003;
- 28 n. The powers, functions, duties and responsibilities of the
29 Department of Environment and Natural Resources under Republic
30 Act No. 9072 except the issuance of permits as provided for under
31 Section 5 paragraph c;
- 32 o. The powers and functions of the DENR under Republic Act 9147
33 relating to the conservation and protection of wildlife species and
34 their habitats;
- 35 p. Such other powers, functions, duties and responsibilities of various
36 government departments and agencies tasked under existing laws
37 relating to the abatement of pollution.
- 38

1 II. These are hereby transferred to the Chairman:

- 2 a. The powers and functions as well as the advisory and
3 recommending powers and appointing powers of the Secretary of
4 the DENR under Sections 6, 7, 10 and 11 of Republic Act 7586
5 otherwise known as the NIPAS Act of 1992;
- 6 b. *Functions of the Ministry of Human Settlements* as provided for
7 under Section 4 of Presidential Decree 1586;
- 8 c. The powers and functions of the Secretary of the DENR as
9 provided for under Section 10 of Republic Act 6969;
- 10 d. Functions of the Secretary of the Department Environment and
11 Natural Resources with respect to being the head of a Governing
12 Board under Section 9 of Republic Act No. 8749;
- 13 e. The powers, functions, duties and responsibilities of the Secretary
14 of the Department of Environment and Natural Resources under
15 Republic Act 9003 otherwise known as the Ecological Solid
16 Waste Management Act;
- 17 f. Such other powers, functions, duties and responsibilities of heads
18 of various government departments and agencies which is related
19 to the abatement of pollution.

20 **Section 9. *Performance of transferred functions.*** The Chairman may from
21 time to time make such provisions as he/she shall deem appropriate authorizing
22 the performance of any of the functions transferred to him by the provisions of
23 this Act by any other officer, or by any organizational entity or employee, of the
24 EPA.

25 **Section 10. *Incidental Transfers.***

- 26 (a) So much of the personnel, property, records, and unexpended balances
27 of appropriations, allocations, and other funds employed, used, held
28 available, or to be made available in connection with the functions
29 transferred to the Chairman or the EPA by this reorganization and/or its
30 creation as the Secretary of the Department of Budget and Management
31 shall determine shall be transferred to the EPA at such time or times as
32 the Secretary shall direct.
- 33 (b) Such further measures and dispositions as the Secretary of the
34 Department of Budget and Management shall deem to be necessary in
35 order to effectuate the transfers shall be carried out in such manner as he
36 shall direct and by such agencies as he shall designate.

37 **Section 11. *Organizational Provisions.*** In accomplishing the acts of
38 organization herein prescribed, the organization of the EPA shall in no way

1 displace, dislocate or demote the personnel of concerned bureaus, agencies and
2 other government instrumentalities but rather shall be absorbed, streamlined,
3 and expanded.

4 **Section 12. *Interim Officers.***

5 (a) The President may authorize any person who, immediately prior to the
6 effective date of this Act, is immediately known as a staunch advocate of
7 the preservation, protection, and conservation of the environment to act as
8 Chairman until the office of Chairman is for the first time filled pursuant to
9 the provisions of this reorganization plan or by interim appointment, as the
10 case may be.

11 (b) The President may similarly authorize any such person to act as Vice-
12 Chairman, authorize any such person to act as Regional Executive
13 Director, and authorize any such person to act as the head of any principal
14 constituent organizational entity of the EPA.

15 (c) The President may authorize any person who serves in an acting capacity
16 under the foregoing provisions of this section to receive the compensation
17 attached to the office in respect of which he/she so serves. Such
18 compensation, if unauthorized, shall be in lieu of, but not in addition to,
19 other compensation from the Government of the Republic of the
20 Philippines to which such person may be entitled.

21 **Section 13. *Structure and Staffing Pattern.*** The positions, structure, and
22 staffing pattern of the EPA shall be approved and prescribed by the Chairman
23 within sixty (60) days from the effectivity of this Act and the authorized positions
24 created thereunder shall be filled with regular appointments by him or by the
25 President as the case may be.

26 In no case shall the new position structure and staffing pattern of the EPA
27 affect the existing position and structure and staffing patterns of the different
28 bureaus and governmental agencies absorbed or hereby transferred to the
29 Agency.

30 **Section 14. *Periodic Performance Evaluation.*** The EPA is hereby
31 required to formulate and enforce a system of measuring and evaluating
32 periodically and objectively the performance of the EPA and submit the same
33 annually to the President, and to the Senate and House of Representatives.

34 **Section 15. *Notice or Consent Requirement.*** If any organizational or
35 reorganizational change herein authorized is of such substance or materiality as
36 to prejudice third persons with rights recognized by law or contract such that
37 notice to consent of creditors is required to be made or obtained pursuant to any
38 agreement entered into with any of such creditors, such notice or consent

1 requirement shall be complied with prior to the implementation of such
2 organizational or reorganizational change.

3 **Section 16. *Funding.*** Appropriations earmarked for the concerned
4 bureaus to include the Environmental Management Bureau (EMB), the Protected
5 Areas and Wildlife Bureau (PAWB), and other government instrumentalities that
6 have been streamlined; and the funds appropriated for environmental laws now
7 under the administrative and operational jurisdiction of the EPA; and foreign
8 grants, assistance, donations shall hereby constitute the funding requirements
9 of the EPA.

10 **Section 17. *Implementing Authority of the Chairman.*** The Chairman shall
11 issue such orders, rules and regulations and other issuances as may be
12 necessary to ensure the effective implementation of the provision of this Act.

13 **Section 18. *Separability Clause.*** If for any reason, any part of or provision
14 of this Act is declared unconstitutional or invalid, such parts not affected thereby
15 shall remain in full force and effect.

16 **Section 19. *Repealing Clause.*** Any law, executive order, letter of
17 instruction, rules and regulations, circulars, issuances or any part thereof
18 inconsistent with any of the provisions of this Act is hereby repealed, modified or
19 amended accordingly.

20 **Section 20. *Effectivity.*** This Act shall take effect fifteen (15) days after its
21 publication in at least two (2) newspapers of general circulation.

22 Approved,