

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

13th Congress
First Regular Session

House Bill No. 1101

Introduced by: **Hon. Augusto H. Baculio**

Explanatory Note

Environmental problems in the Philippines are multi-faceted. Forest denudation, destruction of marine life, loss of soil fertility urban air and water pollution, and inadequate wastes disposal systems are environmental problems that rob us and the future generations of clean and healthy environment.

The continuous degradation of our environment is somehow attributed to government neglect. The Department of Environment and Natural Resources, while attending to problems concerning our forests and natural resources, has not been keen on the environment. Fact is, the department lack strategies and action plans to safeguard public health against poor environmental quality. What this nation therefore needs is a separate government entity that will focus on environmental concerns such as air and water pollution, solid and toxic wastes, hazardous substances, and public health.

This bill therefore proposes the creation of the National Environmental Management Authority (NEMA), an environmental watchdog which will be responsible for the conservation of the country's environment and resources, regulation of environmental impact occasioned by human activities, and control and abatement of environmental pollution.

The primary powers of NEMA, as envisioned in this legislative measure, shall include, among others, the following:

- The formulation of an integrated policy approach to natural resource and environmental conservation;
- The formulation and implementation of comprehensive and continuing conservation and environmental protection strategies and action plans;
- The formulation and enforcement of environmental quality standards for water, air, land, noise, radiation and the prescription of rules and regulations for pollution control and environmental conservation;
- The deputation of appropriate government agencies or instrumentalities and establishing field offices in various administrative and autonomous regions of the country for the purpose of enforcing the Act; and

- The promotion of PO's and NGO's and private sectors' active participation in conservation the natural resources and protecting the environment.

The proposed NEMA shall provide the lead role in enhancing environmental quality. In view of the importance of this institutional reform, earnest approval of this bill is hereby requested.

HON. AUGUSTO H. BACULIO

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AN ACT
CREATING THE NATIONAL ENVIRONMENTAL MANAGEMENT AUTHORITY, DEFINING ITS POWERS, FUNCTIONS AND RESPONSIBILITIES, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

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

CHAPTER I
GENERAL PROVISIONS

SECTION 1. ***Title***. - This Act shall be known as the National Environmental Management Authority Act.

SEC. 2. ***Declaration of Policy***. - It is the policy of the State to protect and advance the right of the people to a balanced ecology and a wholesome and healthy environment. Toward this end, the State shall create an agency mandated to adopt and implement plans, programs, projects and activities which shall ensure protection of the environment against pollution and other impacts occasioned by man's activities.

CHAPTER II
NATIONAL ENVIRONMENTAL MANAGEMENT AUTHORITY

SEC. 3. ***Creation of the National Environmental Management Authority***. - To implement the policy enunciated in this Act, there is hereby created a body corporate to be known as the National Environmental Management Authority, hereinafter referred to as the Authority, which shall be created within One hundred twenty (120) days after the effectivity of this Act. The Authority shall be under the general supervision of the Office of the President.

SEC. 4. ***Purposes of the Authority***. - The Authority shall have the following purposes:

(a) To enforce the provisions of laws enacted for the prevention or control of air, water and land pollution, including the proper disposal of wastes and the environmental impact assessment (EIA) system;

(b) To adopt, revise, promulgate and prescribe policies, rules and regulations and environmental quality standards consistent with laws enacted for the prevention and control of pollution;

(c) To evolve an integrated, multi-sectoral and multi-disciplinary approach which shall implement the following:

1. Development of a research program pertaining to environmental protection, pollution prevention, control and management, and an information system to support information dissemination campaigns;
2. Monitoring and evaluation of the implementation of all laws relating to the regulation and control of activities that have an impact on the maintenance of a wholesome natural environment, for the adoption or recommendation of necessary measures thereon;
3. Establishment and implementation of a combined system of pollution fees or charges and other market-based instruments, fines and penalties linked to an operating principle that the user or polluter shall bear responsibility for payment, and creating the necessary incentives to recycle and re-use resources to abate, reduce, neutralize, or otherwise minimize or prevent pollution;
4. Adoption and promulgation of rules and regulations governing the procedures of the Authority with respect to hearings, the filing of reports, the issuance and/or review of all permits and other rules and regulations for the proper implementation and enforcement of this Act, pollution laws and the EIA System;
5. Promotion of cooperation and greater people participation and private initiative in environmental protection, pollution prevention, control and management
6. Conduct information dissemination, education and training programs relating to environmental protection, pollution prevention, control and management;
7. Consultation and interaction with and deputization of appropriate government agencies or instrumentalities for the purpose of enforcing the provisions and objectives of this Act;

(d) To exercise powers that are necessary or expedient for, or incidental to, the performance of its functions.

SEC. 5. ***General Corporate Powers of the Authority***. - The Authority shall have the following powers:

1) To have continuous succession under its corporate name until expiration hereunder or otherwise provided by law;

2) To prescribe its by-laws not inconsistent with this Act;

3) To adopt a seal and alter it at its pleasure, which shall be accorded judicial notice;

4) To sue and be sued in its corporate name;

5) To enter into contracts in its corporate name;

6) To lease, buy or own real or personal property and to utilize, exploit, mortgage, sell, alienate or otherwise dispose of the same in its corporate name;

7) To issue bonds subject to existing regulation and borrow funds from any local or foreign financial institutions independent of the bonds it may issue or may continue to issue, to carry out the purposes of the Authority under this Act;

8) To purchase, hold, alienate, mortgage, pledge or otherwise dispose of the shares of the capital stock of, or any bond, securities, or other evidence of indebtedness created by any other corporation, co-partnership, or government agencies or instrumentalities; and with the owner of said stock exercise all the rights of ownership including the right to vote thereon; *Provided*, that the Authority shall not invest its funds in any highly risky debt instruments issued without recourse to commercial banks or investment houses as well as in any highly speculative stocks;

9) To develop and implement a comprehensive, multi-year plan for environmental protection and pollution control that shall form part of the National Economic and Development Authority's National Development Plan;

10) To engage in industry, commerce, or other activities within the country which may be necessary or directly contributory to the socio-economic development of the country, and, for this purpose, whether by itself or in cooperation with private persons or entities, to organize, finance, invest in, and operate subsidiary corporations. *Provided*, that the Authority shall engage only, unless public interest requires otherwise, in those activities as are in the nature of new ventures or are clearly beyond the scope, capacity, or interest of private enterprises due to consideration of geography, technical or capital requirements, returns on investment and risk;

11) To plan, program, finance and/or undertake infrastructure projects when so required within the context of its development plans and programs including the readjustment, relocation, or resettlement of population within the affected areas as may be deemed necessary and beneficial by the Authority. *Provided*, that should any project be financed wholly or in part by the Authority, it is hereby authorized to collect reasonable fees and tolls as may be fixed by its board of directors from users and/or beneficiaries thereof to recover costs of construction, operation and maintenance of the projects: *Provided, further*, that if the Authority should find it necessary to undertake such infrastructure projects

which are classified, as social overhead capital projects as determined by the Authority, the Authority shall be authorized to receive financial assistance from the government in such amount as may be necessary to carry out the said projects subject to such terms and conditions that may be imposed by the government, upon recommendation of the NEDA board;

12) To reclaim or cause to be claimed portions of any part of water body or undertake reclamation projects and/or acquire such bodies of land which may be necessary to accomplish the aims and purposes of the Authority, subject to the approval of its Board of Directors, *provided*, that the land so reclaimed shall be the property of the Authority and title thereto shall be vested in the Authority; *provided*, further, that the resulting shore area shall continue to be owned by the national government; *provided*, finally this paragraph shall not apply to bodies of land and water falling within the jurisdiction of the Laguna Lake Development Authority;

13) To lend or facilitate the extension of financial assistance and/or act as surety or guarantor to worthwhile agricultural, industrial and commercial enterprises related to environment;

14) To prepare annual environmental status reports to be submitted to the President and Congress;

15) For carrying on its business, or for the purpose of attaining or furthering any of its objectives, to perform any and all acts which a corporation, co-partnership, or natural person is authorized to perform under the laws now existing or which may be enacted hereafter;

16) To do and perform the purposes stated under the immediately preceding section and all things that may be necessary or proper to carry out the purposes of this Act.

SEC. 6. ***Place of Business***. - The Authority shall establish its principal office in Metro Manila but may establish and maintain field offices, branches, subsidiaries, or other units as may be necessary to administer its responsibilities. It may reorganize or abolish the same as it may deem proper. *Provided*, that there shall be at least one branch in every administrative region of the country.

CHAPTER III
FINANCING

SEC. 7. - ***Capitalization and Financing***. - The authorized capital of the Authority shall be One Billion and Five Hundred Million Pesos (Php 1,500,000,000.00), to be fully subscribed by the government of the Republic of the Philippines, hereafter referred to as the government, Three Hundred Million Pesos (Php 300,000,000.00) of which shall be fully paid for by the government upon the effectivity of this Act and the balance to be paid for within a period of five (5) years from the effectivity of this Act,

For this purpose, the sum of money appropriated in the immediately preceding annual general appropriations for the Environmental Management Bureau (EMB) of the Department of Environment

and Natural Resources shall be re-appropriated or channeled to the Authority upon the effectivity of the Act, and such sum of money shall be included in the paid up capital. Thereafter and within the next five (5) years, there shall be appropriated annually from the funds in the national treasury the sums of money as may be allocated in accordance with the preceding paragraph, or the amount of not less than the sums of money so appropriated annually to EMB prior to the effectivity of the Act, whichever is higher.

SEC. 8. ***Loans, Credits and Other Forms of Indebtedness***. - The Authority may contract loans, credits and other forms of indebtedness when essential to the proper administration of its corporate affairs or necessary for the proper transaction of its business or to carry out its purpose.

SEC. 9. ***Bonds and Other Long-Term Securities***. - Subject to the rules and regulations of the Bangko Sentral ng Pilipinas and the Securities and Exchange Commission, the Authority is hereby authorized to issue bonds, debentures, securities, collaterals, notes and other obligations to finance self-liquidating projects.

SEC. 10. ***Exemption from Taxes***. - The Authority shall be exempt from all taxes, licenses, fees and duties. This exemption shall extend to its subsidiaries. All notes, bonds, debentures and other obligations issued by the Authority shall be exempt from all taxes both as to the principal and interest.

Any donation, contribution, bequest, subsidy or financial aid which may be made to the Authority shall be exempt from estate or gift taxes, subject to the conditions provided under the National Internal Revenue Code, as amended.

SEC. 11. ***Regulatory Fees***. - The Authority may impose reasonable fees for the issuance of permits and for periodic monitoring and inspection of pollution control or waste collection, processing or disposal facilities.

CHAPTER IV
BOARD OF DIRECTORS OF THE AUTHORITY

SEC. 12. ***Board of Directors***. - The corporate powers shall be exercised, all business conducted and all property of the Authority controlled and held by the Board of Directors to be appointed by the President.

The Board of Directors shall be composed of the following members:

(a) Director-General of the Authority as Vice Chairman;

(b) Competent representatives not lower than the rank of Director from the following agencies:

1. Office of the President
2. Department of Natural Resources;
3. Department of Health;

4. National Economic Development Authority;
5. Department of Labor
6. Department of Interior and Local Government;
7. Department of Science and Technology;
8. Department of Public Works and Highways;
9. Department of Agriculture;

(c) Five (5) members representing the following sectors:

1. One (1) from industry with practical knowledge of, and experience in, industry, commerce or economic development;
2. One (1) from non-government organizations or people's organizations with practical knowledge of, and experience in, community-based environmental conservation and/or advocacy on environmental matters;
3. One (1) from the academe or professional groups involved in environmental protection,
4. One (1) from the local government units with practical knowledge of, and experience in, local government chosen from among the recommendees of the national association of City/Municipal Mayors, and
5. One (1) from labor organizations with practical knowledge of, and experience in, labor relations;

All members of the Board shall be citizens of the Philippines. No person shall be elected as a member of the Board unless he or she be is of unquestioned integrity and competence.

Representatives from the private sector shall be nominated through a process designed by themselves and shall be appointed by the President of the Philippines.

The Board of Directors shall elect annually from among its members a Chairman. There shall be a Corporate Secretary who shall be appointed by the Board.

SEC. 13. ***Powers and Duties of the Board of Directors***. – The Board of Directors shall exercise the following powers and duties:

(a) Establish, prescribe, amend and repeal rules and regulations to govern the conduct of business of the Authority;

(b) Adopt, formulate, prescribe, amend and repeal rules and regulations or environmental quality standards necessary to achieve the purposes of this Act and existing environmental laws;

(c) Upon the recommendation of the Director-General, appoint (of) all officials from Assistant Directors-General and above, and others of comparable rank including the Deputy Directors-General, and fix their compensation;

(d) By a majority vote of all members of the Board, suspend, remove or otherwise discipline for just cause all officials appointed by the Board;

(e) Approve the annual and/or supplemental budgets of the Authority; and

(f) Do such acts and perform such other functions as may be necessary to carry out the provisions of this Act.

SEC. 14. ***Term*** – Appointed members from the private sectors shall serve for a period of three (3) years. Any member elected to fill any vacancy in the Board occurring prior to the expiration of the term for which his predecessor was elected shall serve only for the unexpired period. *Provided*, that such member may be removed from office for cause as provided by law or become incapacitated to discharge the duties of their office or, by order of the proper forum, on any of the following grounds:

a) Culpable violation of the Constitution;

b) Dishonesty, oppression, misconduct in office, dereliction of duty, or gross negligence; and

c) Commission of any offense involving moral turpitude or an offense punishable by imprisonment.

SEC. 15. ***Per Diems***. – The private sector members of the Board shall receive for every meeting attended a reasonable *per diem* as determined by the Board. Members of the Board shall be reimbursed by the Authority for actual expenses including traveling and subsistence expenses incurred by them in the performance of their duties for the Authority as authorized by the Board.

CHAPTER V
ORGANIZATION OF THE AUTHORITY

SEC. 16. ***Director General***. – The Director General shall serve as the Chief Executive of the Authority. He shall be appointed by the president of the Philippines, and shall enjoy the status, rank and compensation equivalent to that of a Cabinet Secretary. The Director General shall possess qualification and experiences relevant to environmental protection and management, and shall serve for a period of seven (7) years.

SEC. 17. ***Duties and Powers of the Director General***. - The principal responsibility for the implementation of the mandate of the Authority shall be vested in the Director General. As such, he shall have the following duties and powers:

(a) Exercise general supervision and control over the operations of the Authority;

(b) Execute and administer environmental implementing rules and regulations, environmental quality standards, and environmental plans, programs and projects;

(c) Submit for consideration of the Board of Directors the policies and measures which he believes to be necessary to carry out the purposes and provisions of this Act and of relevant promulgated environmental laws;

(d) Appoint officials and employees below the ranks of Assistant Directors-General to positions in the approved budget upon written recommendation of the Assistant Director-General concerned in accordance with the merit system established by the Authority; and

(e) Perform such other duties and powers of the Authority that are necessary or expedient for, or incidental to, the performance of its functions as conferred by the Board .

SEC. 18. ***Organizational Structure of the Authority.*** – The Director General shall be assisted by Deputy Director or Directors-General, who shall be responsible for the major office or offices of the Authority organized accordingly for national or central support and regional or field management.

The Deputy Director or Directors-General shall be responsible for the supervision of his office or their respective offices. They may be assisted, in carrying out their functions, by Assistant Directors-General. There shall be established a coordinating staff for and within the established office or each of the offices of the Assistant Directors-Generals.

Each division or field office established under the national or central support and regional management office or offices that shall be headed, respectively, by a Division or Regional or Field Director, and assisted by an Assistant Director or Assistant Regional or Field Director.

Provided, however, that the offices that shall be established within the Authority shall cover the following functions:

(a) environmental planning and policy;

(b) environmental research;

(c) environmental and management information system;

(d) environmental education and training;

(e) environmental regulation;

(f) standard setting;

(g) monitoring;

(h) legal; and

(i) administrative and finance.

SEC. 19. ***Environmental Planning and Policy***. - The environmental planning and policy function shall absorb the planning functions of the Environmental Management Bureau (EMB) of the Department of Environment and Natural Resources (DENR). As such, it shall have the following functions:

(1) Formulate the environmental framework and master plan for environmental management which shall include the short term and long term plans to be endorsed to NEDA for adoption into the national development plan;

(2) Coordinate the implementation by the public and private sectors of the NEDA-adopted multi-year plan for environmental protection and pollution control;

(3) Review, analyze and evaluate existing as well as proposed environmental protection and pollution control policies, plans, programs and projects;

(4) Develop and/or evaluate and monitor programs or local and foreign assisted projects of the Authority;

(5) Provide a mechanism for monitoring and assessment of physical and financial accomplishments;

(6) Undertake policy studies for effective, efficient and economical operations of the Authority;

(7) Provide planning support serves to the field offices of the Authority in order to ensure their efficient and effective operation; and

(8) Perform such other functions as may be assigned by the Director General.

SEC. 20. ***Environmental Research***. - The environmental research office, shall absorb the environmental research functions of the EMB of the DENR. As such, the Office shall have the following functions:

(1) Gather and analyze data that will support the formulation of environmental quality standards (for water, air, land, noise, radiation, etc.) and environmental management guidelines for gaseous, liquid, solid as well as toxic and hazardous wastes;

(2) Formulate and recommend an integrated research program pertaining to air, water and land pollution, including research into environmentally sound technologies and pollution control technologies;

(3) Provide research laboratory services supportive of the Authority's exercise of regulatory functions such as standard setting and environmental permitting activities;

(4) Provide research support services to the field offices of the Authority in order to ensure their efficient and effective operation;

(5) Formulate, develop, coordinate, and implement short-term and long-term research programs on existing and potential environmental issues;

(6) Aim to provide the scientific data to be used as bases for policy formulation, environmental monitoring and enforcement of rules and regulations, and in dealing with potential environmental issues and problems;

(7) Perform such other functions as may be assigned by the Director General.

SEC. 21. ***Environmental and Management Information Systems***. - The environmental and management information systems functions, shall be primarily responsible for the design-establishment and operation of an environmental and management information system, including data bank development based on geographic information gleaned from periodic environmental surveillance, reconnaissance and monitoring activities utilizing complementary technologies such as aerial photography and other remote sensing systems.

The Office shall absorb the information systems management functions of the EMB of the DENR.

SEC. 22. ***Environmental Education and Training***. - The environmental education and training functions, shall be primarily responsible for the conduct of environmental education and training programs relating to pollution prevention and control and the protection and management of the environment. Said main objective of the programs is to increase the awareness of the people regarding environmental issues and problems. It shall include a "behavioral change and value formation" component aimed at altering polluter behavior and inculcating the environmental ethic of stewardship and the virtue of sustainable development. Further, it shall prepare an Annual Environmental Quality Status Report to be submitted to the President and to Congress.

The Office shall absorb the environmental education functions of the EMB of the DENR.

SEC. 23. ***Environmental Regulations***. - The environmental regulations function shall undertake the following:

(a) Design, establish and institutionalize a unified environmental permit and licensing system in order to simplify and rationalize the processing of environment-related permits and licenses;

(b) Review, analyze and evaluate pertinent technical/legal documents pertaining to environmental permitting/licensing in order to determine the environmental acceptability and/or soundness of programs, projects and activities that might significantly affect the environment;

(c) Perform investigative and monitoring functions to ensure the compliance of proponents to the Authority's rules and regulations;

(d) Initiate proper legal actions and proceedings such as the prosecution of violations of the Authority's rules and regulations and/or the cancellation of environmental permit or license taking into account due process;

(e) Attend to appeals and complaints from the public and parties affected by the Authority's orders and decisions as they relate to natural resource conservation and environmental protection;

(f) Assist the technical support offices of the Authority in translating research and technical findings into legal and policy form; and

(g) Perform such other functions as may be assigned by the Director General.

SEC. 24. ***Standard Setting and Monitoring.*** – The standard setting and monitoring functions shall review, revise and/or formulate standards for acceptable quality of land, air and water and management of chemical and hazardous waste in the country; undertake the implementation of a holistic national program for air, water and land pollution management including the establishment and supervision of air and watersheds throughout the country; formulate air, water and land surveillance and monitoring or schemes for the implementation by the field offices of the Authority; and coordinate or conduct emission or discharge inventory.

SEC. 25. ***Legal.*** – Legal function shall provide counsel or advice to the Authority; review issuance of licenses, permits, notices of violation, Orders/Resolutions, contracts involving the Authority's mandate; file legal actions against violators and assist in the formulation of policies, programs guidelines, memorandum circulars, standards and rules and regulations.

SEC. 26. ***Administrative and Finance.*** – Administrative and finance functions shall effect established Authority-wide policies on personnel management, general services communications, logistics, property, safety, records management and documentation. It shall develop, maintain and improve a cost and financial accounting system for all projects of the Authority and exercise over-all supervision over the financial management functions and activities of the Authority and its field offices.

SEC. 27. ***Field Offices.*** - Regional offices shall likewise be established in each administrative region of the country. Each regional office of the Authority shall be headed by a Director, to be assisted by an Assistant Director. Both the Director and the Assistant Director shall be Career Executive Service Officers or shall possess equivalent qualification; *Provided*, that the LLDA shall perform the functions of the Authority's regional office within its area of jurisdiction.

The field offices of the Authority shall have the following functions:

1) Implement environmental protection and pollution control laws as well as policies, plans, programs, projects and rules and regulations of the Authority in order to achieve the objective of sustainable development in the countryside;

2) Provide for the efficient and cost-effective delivery of the Authority's services to the people;

3) Coordinate with regional offices of other departments, offices, agencies in the regional and local government units in the enforcement of natural environmental protection and pollution control laws ;

4) Recommend and, upon approval, implement projects on environmental protection and pollution control;

5) Conduct appropriate field research supportive of the Authority's policies, plans, programs and projects;

6) Respond to appeals, complaints and queries from the public regarding environmental protection and pollution control; and

7) Perform such other functions as may be assigned by the Director General.

SEC. 28. ***Merit System*** – All officials, agents and employees of the Authority shall be selected and appointed on the basis of merit and fitness in accordance with a comprehensive and progressive merit system to be established by the Authority. Personnel, including temporary workers, shall be governed by such merit system. Each position and personnel of the Authority shall have a Position Charter, which will define employee qualifications, work responsibilities, accountabilities, required behavior and commitment to perform the functions.

SEC. 29. ***Appointment to Position in the Reorganized Authority***. – Appointment to positions in the reorganized Authority shall be based on qualification standards consistent with the rules and regulations of the Civil Service Commission. Existing officials and employees of the Authority shall be given top priority in filling up the positions in the reorganized Authority.

SEC. 30. ***Compensation and Position Classification***. - All Positions in the Authority shall be governed by a compensation, position classification system and qualification standards approved by the Board of Directors, upon the recommendation of the General Manager, The Compensation plan shall be comparable with the prevailing compensation plans in the Philippine Export Zone Authority (PEZA), Subic Bay Metropolitan Authority (SBMA), Clark Development Corporation, Bases Conversion and Development Authority (BCDA) and the private sector and shall be subject to the periodic review by the Board no more than once every two (2) years without prejudice to yearly merit reviews or increases based on productivity and profitability. The Authority shall therefore be exempt from existing laws, rules and regulations on compensation, position classification and qualification standards. It shall however endeavor to make its systems conform as closely as possible to the principles of salary standardization under Republic Act No. 6758.

CHAPTER VI
POLLUTION ADJUDICATION COMMISSION

SEC. 31. ***Pollution Adjudication Commission***. - The Pollution Adjudication Board (PAB) created under Executive Order No. 192 shall be transferred and attached to the Authority, but only for program and policy coordination. The PAB shall be reorganized into the Pollution Adjudication Commission (PAC) in accordance with this Chapter.

SEC. 32. ***General Jurisdiction***. - The PAC, with a regional structure as herein provided, shall have original and exclusive jurisdiction to decide cases cognizable by PAB under RA Nos. 8749, 6969 and 9003, Presidential Decree Nos. 984, 1152, 1586, and other special laws on pollution.

SEC. 33. ***Composition of the Pollution Adjudication Commission***. - The Commission Proper shall be composed of fifteen (15) members of whom:

a) One (1) will be a Deputy Director-General of the Authority;

b) Four (4) will be Assistant Directors-General of the PAC;

c) Ten (10) will be members coming from the following sectors:

(1) Three (3) from industry;

(2) Three (3) from environmental non-government organizations or people's organizations;

(3) Two (2) from the academe or professional groups involved in environmental protection, and

(4) Two (2) from the labor sector.

The Chairman and the Vice Chairman of the PAC shall be chosen by the members of the PAC in a meeting duly called for the purpose.

SEC. 34. ***Appointment and Qualification of the Pollution Adjudication Commission***. - The Deputy Director General of the Authority and the Assistant Directors-General of PAC shall be members of the Philippine Bar and must have been engaged in the practice of law in the Philippines for at least seven (7) years and with, at least, five (5) years experience or exposure in any field relevant to environmental management. The private sector representatives must have at least five (5) years experience or exposure in any field relevant to environmental management.

Assistant Directors-General of PAC and private sector representatives shall be appointed by the President of the Republic of the Philippines. *Provided*, that private sector representatives shall be chosen from a list of nominees submitted by their respective sectors and endorsed by the Director General of the Authority.

Members appointed by the President shall serve on a full-time basis. Accordingly, upon assumption into office, they shall divest themselves of any affiliation with association or associations they belong.

SEC. 35. ***Procedure in the PAC***. – In the exercise of their adjudicatory powers, and other functions and duties, the Commission Proper may sit *en banc* or in five divisions. *Provided, however,* the Commission Proper shall sit *en banc* for purposes of promulgating rules and regulations governing the hearing and disposition of cases before any of its divisions and regional branches and formulating policies affecting its administration and operations.

Of the five divisions, the First and Second Divisions shall handle cases coming from the National Capital Region, the Third Division shall have jurisdiction over cases from other parts of Luzon,

and the Fourth and Fifth Divisions shall have jurisdiction over cases from Visayas and Mindanao, respectively. Each division of the Commission Proper shall be composed of three (3) members.

The concurrence of two (2) Commissioners of a division shall be necessary for the pronouncement of a judgment or resolution. Whenever the required membership in a division is not complete and the concurrence of two (2) Commissioners to arrive at a judgment or resolution cannot be obtained, the Chairman shall designate a number of additional Commissioners from the other divisions as may be necessary.

The conclusions of a division on any case submitted to it for decision shall be reached in consultation before the case is assigned to a member for the writing of the opinion. A certification to this effect signed by the Presiding Officer of the division shall be issued and a copy thereof attached to the record of the case and served upon the parties.

The Chairman of the PAC shall be the Presiding Officer of the First Division and the four (4) Assistant Directors-General of the PAC shall be the Presiding Officers of the Second, Third, Fourth and Fifth Divisions, respectively. In case of the absence or incapacity of the Chairman, the Presiding Officer of the Second Division shall be the Acting Chairman. The Chairman, aided by the Executive Clerk of the Commission, shall have administrative supervision over the Commission Proper and its regional branches and all its personnel, including the Regional and Special Panel of Pollution Arbiters created pursuant to Sec. 38 hereof. The same Executive Clerk shall assist the Commission Proper when sitting *en banc*.

Each of the four (4) other divisions shall also be assisted by a Commission Clerk in the performance of their functions.

In any proceeding before the Regional and Special Panel of Pollution Arbiters or Commission Proper, the rules of evidence prevailing in regular courts of law shall not be controlling. The PAC shall use all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure, all in the interest of due process. In any proceeding before the Regional and Special Panel of Pollution Arbiters or Commission Proper, the parties may be represented by legal counsel.

The decision, order or judgment of the Regional and Special Panel of Pollution Arbiters shall become final and executory fifteen (15) days after receipt of said decision, order or judgment.

SEC. 36. ***Powers and Functions of the Pollution Adjudication Commissions***. - The PAC shall have the following powers and functions:

a) To hear and decide cases falling under their jurisdiction pursuant to Sec. 17 of this Act;

b) To promulgate rules of procedure governing the hearing and disposition of cases, the original, exclusive and/or appellate jurisdictions of the Regional and Special Panel of Pollution Arbiters and the Commission Proper;

c) To administer oaths, summon the parties to a controversy, issue subpoenas requiring the attendance and testimony of witnesses or the production of such books, papers, contracts, records, statement of account, agreements and other documents as may be material to a just determination of the matter under investigation or hearing conducted in pursuance of this Act ;

d) To conduct hearings on all matters within its jurisdiction, proceed to hear and determine the disputes in the absence of any party thereto who has been summoned or served with notice to appear, conduct its proceedings or any part thereof in public or in private, adjourn its hearings at any time and place, refer technical matters or accounts to an expert and to accept his/her report as evidence after hearing of the parties upon due notice, direct parties to be joined in or excluded from the proceedings, correct, amend or waive any error, defect or irregularity, whether in substance or in form, give all such directions as it may deem necessary or expedient in the determination of the dispute before it and dismiss the dispute as part thereof, where it is trivial or where further proceedings by the Commission are not necessary or desirable;

e) To punish any person for direct or indirect contempt against the PAC;

f) To enjoin any or all acts involving or arising from any case pending before it which, if not restrained forthwith, may cause grave or irreparable damage to any of the parties to the case or seriously affect social or economic stability;

g) To issue orders and decisions to compel compliance with environmental standards and pollution control laws and their implementing rules and regulations and any issuances or decisions of the Commission;

h) To serve as arbiter for the determination of reparations or restitution of the damages and losses resulting from environmental pollution;

i) To deputize in writing or request assistance of appropriate government agencies or instrumentalities for the purpose of enforcing its decisions;

j) To issue an *ex parte* order directing the discontinuance of pollution or wastes, or the temporary suspension or cessation of operation of the equipment, project or activity and other acts causing environmental degradation, generating such pollutants or wastes, without the necessity of a previous public hearing. *Provided*, that such *ex parte* order shall be issued only in case of immediate threat to life or property, public health, safety or welfare or to animal or plant life, or exceeds the allowable environmental standards. the *ex parte* order shall be immediately executory and shall remain in force and effect until the same is modified or lifted by the Commission. *Provided, finally*, that no lifting of issued *ex*

parte Closures and Cease and Desist Orders may be issued if the discharge contains toxic and hazardous substances exceeding allowable standards until and unless it has shown proof of an upgraded and completed pollution control device or effective pollution prevention measure; and

g) Exercise such powers and perform such other functions as may be necessary to carry out its duties and responsibilities under this Act.

SEC. 37. ***Headquarters of the PAC***. - The PAC and its First, Second and Third Divisions shall have their main offices in Metropolitan Manila, and the Fourth and Fifth Divisions in the cities of Cebu and Cagayan de Oro, respectively.

SEC. 38. ***Regional and Special Panel of Pollution Arbiters.*** - There shall be established a panel of pollution arbiters for each administrative region of the country and for the area within the jurisdiction of the Laguna Lake Development Authority (LLDA) created under Republic Act No. 4850, as amended. Each panel shall be composed of three (3) members, at least one (1) of whom shall be a member of the Philippine Bar and must have been engaged in the practice of law in the Philippines for at least five (5) years; *provided*, however, that all members must have at least three (3) years professional experience or exposure in the field of natural resources or environmental management. Pollution arbiters shall be appointed by the Chairman of the PAC except that the special panel of pollution arbiters shall be appointed by the General Manager of the LLDA. Each panel of pollution arbiters shall be supported by a Secretariat.

SEC. 39. ***Term and Removal of Members***. - The Chairman and the other Commissioners, the Clerks of the Commission and Regional and Special Panel of Pollution Arbiters shall hold office in good behavior until they reach the age of sixty-five years, unless sooner removed for cause as provided by law or become incapacitated to discharge the duties of their office. *Provided*, that PAC members from the private sector shall serve for three (3) years only but may also be removed in the manner provided in this section.

SEC. 40. ***Administrative Fines and Penalties***. - The PAC shall impose fines consistent with laws on pollution and implementing rules promulgated therefor as well as guidelines set by the Commission. *Provided*, that the PAC shall also impose fines for violation for the requirement set in its orders. *Provided, further* that the PAC shall set guidelines for the imposition of fines for the violation of such requirement.

SEC. 41 . ***Finality of Determination***. - Any case of controversy before the PAC shall be decided within thirty (30) days after it is submitted for resolution. Only one motion for reconsideration shall be allowed. Any order, decision, or ruling shall be final after the lapse of fifteen (15) days from receipt of a copy thereof.

SEC. 42. ***Appeals***. - Any decision, order or judgment of the Regional and Special Panel of Pollution Arbiters and Commission Proper issued in the exercise of their original or exclusive jurisdiction may be appealed to the Commission Proper within fifteen (15) days after receipt of said decision, order or judgment. *Provided*, that decision, order, award or ruling of the Commission Proper may be brought to the Court of Appeals by certiorari within 15 days from receipt of a copy thereof. *Provided, also*, that the findings of fact of the Commission Proper shall be final and conclusive if based on substantial evidence. *Provided, finally,* that cease and desist orders shall be immediately executory.

SEC. 43. ***Frivolous Appeals***. - To discourage frivolous or dilatory appeals from the decisions or orders on the regional levels, the PAC may impose reasonable penalties, including but not limited to fines or censures upon erring parties.

SEC. 44. ***Execution of Decisions***. - All decisions or orders of the Regional and Special Panel of Pollution Arbiters or Commission Proper, after the same have become or are final and executory pursuant to Section 42 hereof, shall be enforced in the same manner as the decisions of the Regional Trial Courts are executed. The PAC shall have the power to issue to the PAC Sheriff or duly constituted authorities whom it may deputize, such writs of execution as may be necessary for the enforcement of such decision or order.

The PAC shall have the power to garnish bank deposits, seize or confiscate personal property and/or impose a levy on real property of the violator to satisfy the fines owing to it. Such property shall be sold at public auction by the PAC Sheriff.

Any person who shall fail or refuse to comply with such decision, order or writ, after being required to do so shall, upon application by the PAC, be punished by the proper court for indirect contempt.

SEC. 45. ***Lien Upon Personal and Immovable Properties of Violators***. - Fines and penalties imposed pursuant to the provisions of this Act, upon application by the PAC before the proper Regional Trial Court, shall constitute as a lien upon personal and immovable properties of the violator. Such lien shall in case of insolvency of the respondent, enjoy preference subsequent to labor's wages under Article 2241 and 2242 of Republic Act 386, otherwise known as the New Civil Code.

CHAPTER VII
OTHER PROVISIONS

SEC. 46. ***Relations with Private Sector Organizations***. - The Authority shall promote the establishment and operation of private sector organizations to become active partners in the conservation of the natural resources and protection of the environment.

The Authority may enter into joint ventures an such other cooperative arrangements with private sector organizations to engage in projects designed to promote and maintain ecological balance, it may also provide assistance, financial or technical, to such organizations for environmental projects to be implemented within the country.

SEC. 47. ***National Environment Protection Fund (NEPFund)***. - There is hereby created a National Environment Protection Fund (NEPFund) to be administered by the Authority. To finance the said Fund, the following shall be imposed:

(a) A national environment protection fee in an amount equivalent to ten percent (10%) of the total fees charged, but not more than One hundred pesos (P100.00) for every business or non-business permit or license issued by the government.

(b) An allocation equivalent to ten percent (10%) of the total unclaimed bank balances escheated in favor of the State under Republic Act No. 3936, as amended (Unclaimed Balances Law).

All fees and charges imposed pursuant to pollution laws such as Republic Act Nos. 8749, 6969, PD 984 shall accrue to the NEPFund and managed by the Authority in accordance with relevant provisions of aforesaid statutes except fees and charges imposed by the LLDA pursuant to RA 4850: Provided, that all fees and charges imposed pursuant to PD 1586 and its implementing rules and regulations shall likewise accrue to the NEPFund and manage by the Authority: Provided, further, that proceeds from fines and penalties prescribed in pollution laws and other penalties imposed by the Authority shall also accrue to the NEPFund except proceeds from fines and penalties imposed by the Special PAC for the LLDA area.

The NEPFund may be augmented by grants, subsidies, and donations from other government sources or private grantors or donors; *provided*, that grants and donations specifically bestowed for funds established in pollution laws for purposes of particular activities or projects shall be honored.

The NEPFund shall be administered for the purpose of financing adequate, suitable and appropriate measures to promote natural resource conservation and improve environmental quality and, in general, to achieve the purposes of this Act.

CHAPTER VIII
FINAL PROVISIONS

SEC. 48. ***Transitory Provisions***. - All offices, bureaus, agencies and divisions herein mentioned to be absorbed by the Authority shall cease, and their functions, including their appropriations, funds, records, equipment, facilities, rights, other assets and personnel shall be transferred to the Authority within 120 days after the effectivity of this Act. Its liabilities, if any, shall be treated in accordance with the government auditing code and other pertinent laws, rules and regulations.

Its personnel whose positions are not included in the Authority's structure and staffing pattern shall be deemed separated from the service and shall be entitled to receive such benefits authorized under existing laws, rules and regulations.

SEC. 49. ***Interaction with Republic Act No. 4850, An Act Creating the Laguna Lake Development Authority***. –The Laguna Lake Development Authority (LLDA) shall, upon the effectivity of this Act, implement and enforce the powers and functions of the Authority within its territorial jurisdiction under Executive Order No. 927 in accordance with Sec. 27 hereof. Accordingly, the LLDA, in coordination with the Authority, within the transitory period of one hundred twenty days (120) days, shall effect such necessary changes therefor.

SEC. 50. ***Repealing Clause***. – Republic Act Nos. 8749, 9003, 6969 and 4850 and Executive Order Nos. 192 and 292 are hereby modified accordingly. All Acts, Decrees, General Orders, Letters of Instruction, Regulations and Circulars, or parts thereof inconsistent with any provisions of this Act are hereby repealed or modified accordingly.

For purposes of the provisions of Section 44 hereof, Section 14 of Republic Act No. 8749 otherwise known as the Clean Air Act of 1999 is hereby amended.

SEC. 51. ***Separability Clause***. - If, for any cause, any part of this Act is declared unconstitutional, the rest of the provisions shall remain in force and effect.

SEC. 52. ***Effectivity***. - This Act shall take effect upon approval.

Approved,