

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 1347



Introduced by Representatives Rafael P. Nantes and Proceso J. Alcala

EXPLANATORY NOTE

It is a well-known fact that the Philippines is bestowed with abundant natural resources which can be utilized for economic and environmental endeavors. One of this is the vast indigenous energy resources which include biomass, solar, wind, geothermal, hydro and ocean energy and other energy sources using new technologies.

Despite the advantages of the use of this alternative sources of energy and their abundant supply, they are fully utilized and maximized. The Philippine Energy Plan 2002-2011 shows that in 2002, the country's energy self-sufficiency rating is 51% and is projected to drop to only 38% by 2011. The country is critically dependent on petroleum products with about 94% of the present demand met by importation.

To clearly illustrate the inefficient use of our indigenous energy resources, it is noteworthy to mention that in 2002, the use of biomass is 30% of the country's energy mix; nevertheless, due to the absence of supportive policies to fully develop biomass energy sources, the share will decrease to only 22% of the energy mix by 2011 as projected in the Philippine Energy Plan. On the other hand, more innovative countries are expanding their biomass energy program by developing and expanding the cultivation of energy crops to generate power and produce fuels like alcohol and coco-based fuels.

Thus, the Philippine economy is vulnerable to the sudden and unpredictable changes in the world crude oil prices and fluctuations in foreign currency exchange rates.

The use of alternative sources of energy will undoubtedly mitigate dependence on imported fuel leading to acceleration of countryside development.

This Bill seeks to promote production, commercialization and utilization of renewable energy systems using indigenous resources to support the sustainable economic growth of the country. Specifically, this measure aims to promote self-reliance, sufficiency and security in the country's energy requirement both in electric power and fuel; advance rural energization, poverty eradication and social equity; and stimulate economic development in the countryside and promote the protection of the environment.



REP. RAFAEL P. NANTES
First District
Quezon Province



REP. PROCESO J. ALCALA
Second District
Quezon Province

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***Introduced by Representatives Rafael P. Nantes
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AN ACT
TO PROMOTE THE DEVELOPMENT, UTILIZATION AND
COMMERCIALIZATION OF RENEWABLE ENERGY SYSTEMS USING
INDIGENOUS RESOURCES AND FOR OTHER PURPOSES

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

Section 1. Short Title. This Act shall be known as the "National
Renewable Energy Act of 2004."

Sec. 2. Declaration of Policy. It shall be the policy of the State
to promote self-reliance, sufficiency and security in the country's energy
requirement both in electric power and fuel; advance rural energization
to stimulate economic development in the countryside and eradicate
poverty; rationalize the use of resources to benefit the low-income
groups; and promote environmental protection. To this end, the State
shall promote the development, commercialization and use of renewable
energy systems by:

- a) Setting up the mechanism to develop local capabilities in the development and use of indigenous renewable energy sources;
- b) Creating a conducive business environment to encourage investments and allow easier participation of the private sector in the renewable energy sub-sector; and
- c) Promoting the development and use of indigenous renewable energy resources compatible with the protection of the environment;

Sec. 3. Definition of Terms. When used in this Act:

- a) "Renewable energy systems" shall refer to energy systems which include production and use of renewable energy resources to produce heat, steam, mechanical power, electricity, fuels or fuel additives, excluding large scale hydro and geothermal power plants;
- b) "Renewable energy resources" shall refer to indigenous resources, which do not have an upper limit on the total quantity to be used. The resources are renewed on a regular basis and the renewable rate is rapid enough to consider availability over an indefinite period of time. These renewable energy resources include biomass, solar, wind, geothermal, hydro and ocean energy, and other emerging energy sources using new technologies;
- c) "Biomass" shall refer to resources which are non-fossilized materials of biological origin such as plants purposely grown as energy crops; trees and tree residues; agricultural and industrial crops by-products and residues; and animal manure, except those obtained from or mixed with municipal or other wastes;
- d) "Biomass energy systems" shall refer to energy systems that use biomass to produce heat, steam, mechanical power, electricity, fuels or fuel additives;
- e) "Solar energy" shall refer to the radiant energy of the sun;
- f) "Solar energy systems" shall refer to energy systems which directly tap and convert solar energy, either through solar thermal applications or through photovoltaic cells, into electricity;
- g) "Wind energy" shall refer to the kinetic energy of the wind;
- h) "Wind energy systems" shall refer to energy systems which use wind turbines to tap wind energy and convert it to mechanical power as in windmill or electrical power in wind turbine systems;
- i) "Micro-hydro power systems" shall refer to small hydro-based energy systems which utilize water turbines with an installed capacity of not more than 50 kilowatts as may be determined by the Department of Energy, to convert the energy from running or falling water;
- j) "Ocean energy systems" shall refer to energy systems which convert ocean current to electrical energy, otherwise known as wave and tidal power systems or Ocean Thermal Energy

Conversion (OTEC) systems which convert thermal gradient from the ocean surface to the bottom into electrical energy;

- k) "Biofuels" shall refer to liquid fuels and blending components produced from biomass feedstocks, such as: ethanol from corn, cassava, sugarcane and biodiesel from coconut and other vegetable oil, used primarily for land, air and water transportation and other energy-using equipment designed for various purposes such as substitute or additive to fossil-petroleum fuels;
- l) "Biogas" shall refer to the gas produced from the anaerobic decomposition of organic materials;
- m) "Oxygenated gasoline" shall refer to gasoline formulated with added substances such as methanol, ethanol and ethyl tertiary butyl ether (ETBE) to increase the oxygen content and octane rating and make the fuel burn more cleanly, thereby reducing toxic tailpipe pollution, particularly carbon monoxide;
- n) "Conventional Energy systems" shall refer to energy systems using commercially-traded fuels such as petroleum products, coal and electricity produced from such fuels, including large-scale hydro and geothermal power plants.

Sec. 4. Renewable Energy Systems and Technologies. The Department of Energy (DOE), hereinafter called the Department, is hereby mandated to create, maintain and regularly update an information system of renewable energy technologies and establishments with renewable energy systems, within six (6) months from the effectivity of this Act. It shall be established for purposes of, but not limited to: (1) annual energy and power development planning of the country; (2) making information on all renewable energy technologies available to all individuals and entities who are interested to invest in renewable energy generation projects, conducting research and development studies, etc.; (3) enhancing monitoring and evaluation of existing technologies; and (4) formulation of appropriate policies. As such, the information system shall be backed by a reliable database and shall include all relevant information for the development and commercialization of renewable energy systems, such as biomass energy systems, solar energy systems, wind energy systems, mini-hydro energy systems and ocean energy systems.

To encourage utilization of oxygenated gasoline, the Department shall disclose to the public all information on various substances used as

gasoline-additives, such as methanol, ethanol, ethyl tertiary butyl ether (ETBE) and other related substances.

The Department, in coordination with the Department of Science and Technology (DOST), shall provide institutional mechanism and system for the delivery and dissemination of viably proven applications, both imported and locally-developed and duly registered with the DOST.

Sec. 5. Research and Development for New and Renewable Energy Technologies. Within six (6) months from the effectivity of this Act, the Department, in collaboration with the DOST and in consultation with other government agencies, the academe, the private sector and other stakeholders, shall review the current funding and performance of research and development in renewable energy technologies. Based on this review and strategic importance of renewable energy in the country's socio-economic development, the Department with the DOST shall propose a ten-year Research and Development Plan whose annual programs and funding are performance-based and are modeled as public-private partnerships. Such R & D Plan and its programs shall be primarily directed towards reduction of costs, efficiency improvement and commercialization of existing renewable energy technologies. The Department, in coordination with the DOST, shall conduct a periodic review of the plan and programs.

In order to make technologies developed abroad available in the country, the Department, in coordination with appropriate agencies, shall develop and implement operational guidelines to facilitate entry of foreign expertise and resources in order to accelerate the pace of technology transfer and development of local expertise.

Sec. 6. The Research and Development Fund for Renewable Energy Technologies. An R & D Fund is hereby created for the development of renewable energy. The fund shall be sourced from the annual appropriation duly requested by the DOST as part of its annual budget proposal. All donations and grants in the form of contributions to the national government specifically for the development of renewable energy technologies shall accrue to this fund.

Institutes, colleges and universities selected as National Centers for Excellence (NCEs) as Certified by the Commission on Higher Education (CHED) and other institutions conducting researches on renewable energy may, upon presentation and approval of research proposals by the DOST, awarded the research grants subject to the

standing regulation of the Commission on Audit. The DOST in consultation with the Department shall establish criteria and guidelines for research grants.

Sec. 7. Utilization of Biofuels. Consistent with the provisions of the 1999 Clean Air Act, the Department in coordination with the Department of Environment and Natural Resources (DENR) shall determine the required biofuel content of petroleum fuels recommended for use in land, air and water transportation and other energy-using equipment designed for various purposes. The Department shall provide easily accessible information on the sources and quantities to facilitate distribution and make biofuel available for all users.

Sec. 8. Incentives for Renewable Energy Systems. Incentives shall be given to all individuals and entities engaged in the production at all levels and users of renewable energy.

1. For a period of ten (10) years after the effectivity of this Act, all individuals and entities engaged in the production of raw materials used in the generation of renewable energy, such as but not limited to growing of energy crops for fuel and power generation, shall be entitled to duty-free importation of and waiver of value-added tax (VAT) on production and processing-related equipment. *Provided,* That planters of fast-growing trees purposely grown for fuel shall not be required permits for cutting by the DENR. The same incentives are given to fuel and power producers utilizing biomass resources including agricultural wastes such as crop residues and animal manure and industrial by-products such as bagasse, shells, fiber pulp, etc.;
2. For a period of ten (10) years after the effectivity of this Act, sales of all fuels and electric power produced from renewable energy systems (RES) shall be exempted from VAT and the purchased power adjustment (PPA) imposed on users of electricity;
3. All developers and operators of RES including cogeneration plants duly registered with and accredited by the DOE and Board of Investments shall be entitled to the following incentives:

- a) Within ten (10) years from the date of accreditation and prior approval by the DOE and for the exclusive use of the accredited party:
 - i. tariff and duty free importation of machinery, equipment and devices and other components for RES;
 - ii. tax credit on domestic capital equipment, machinery and devices equivalent to one hundred percent (100%) of the customs duties that would have been paid on imported machineries, equipment and devices.
- b) Within ten (10) years from the start of commercial operation of the DOE accredited party:
 - i. Income tax holiday;
 - ii. Tariff and duty free importation of raw materials and spare parts for RES;
 - iii. Tax credit on domestic equipment, machineries, raw materials and spare parts equivalent to one hundred percent (100%) of the customs duties that would have been paid on imported machineries, equipment and devices;
- c) Exemption from ten percent (10%) value-added tax for all purchases of equipment, machineries, spare parts and raw materials;
- d) Zero added-value tax rate on sales of the renewable energy component of generated power, fuels and fuel additives in all stages of sales until it reaches the end-user;
- e) Exemption from any applicable excise tax for the renewable component of electric power generated or fuels and fuel additives produced;
- f) At the option of the taxpayer in accordance with the procedure established by the Bureau of Internal Revenue, fixed assets acquired by the local manufacturer and the renewable energy user for establishing its capability to manufacture

renewable energy system equipment and devices may be:

- i. Depreciated to the extent of not more than twice as fast as normal rate of depreciation if expected life is ten (10) years or less; or
 - ii. Depreciated over any number of years between five (5) years and expected life, if the latter is more than ten (10) years, and depreciation thereon allowed as deduction from taxable income; *Provided*, That the taxpayer notifies the Bureau of Internal Revenue at the beginning of the depreciation period which depreciation rate allowed by the Section will be used by it;
4. Relative to the Emission Charge System and Emission Quotas provided for in the 1999 Clean Air Act, all DOE-accredited developers and operators of RES including cogeneration plants, shall be entitled to appropriate Emission Charge Credits and Emission Quota Credits, to be determined by the DENR, in consultation with the DOE and the private sector based on the volume and toxicity of emitted pollutant.
 5. Developers and operators of RES including cogeneration plants, as duly registered with and accredited by the Department shall, shall be exempted from the payment of Universal Charge provided for under Section 34 of the Electric Power Reform Act of 1999.

The Department of Finance (DOF) through its Bureau of Internal Revenue (BIR) and Bureau of Customs (BOC), the Tariff Commission (TC) and the Board of Investments (BOI) are hereby mandated to set and publish the criteria and guidelines for the implementation of the incentives states in this Section within six (6) months from the effectivity of this Act.

Sec. 9. Financial Assistance Programs. Government financial institutions (GFIs) such as the Development Bank of the Philippines (DBP), the Philippine National Bank (PNB), the Government Service Insurance System (GSIS), the Land Bank of the Philippines (LBP), and such other government institutions as are now engaged or may hereafter

engage in financing of investment operations shall in accordance with and to the extent allowed by the enabling provisions of their respective charters or applicable laws, accord high priority to applications for financial assistance of individuals, enterprises, or industries as duly recommended and endorsed by the Department.

Sec. 10. Appropriations. The amount necessary for the implementation of this Act shall be taken from the current fiscal year appropriations of the Department of Energy. Thereafter, such sums as may be needed for the continued implementation of this Act shall be included in the budget of the Department of Energy under the Annual General Appropriations Act.

Sec. 11. Implementing Rules and Regulations (IRR). Within six (6) months from the effectivity of this Act, the Department of Energy shall issue the implementing rules and regulations.

Sec. 12. Separability Clause. If for any reason any provision of this Act is declared unconstitutional or invalid, such parts not affected thereby remain in full force and effect.

Sec. 13. Repealing Clause. All laws, orders, decrees, rules and regulations or part thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Sec. 14. Effectivity Clause. This Act shall take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.

Approved,