

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session

House Bill No. 1929

Introduced by Rep. Robert Ace S. Barbers

EXPLANATORY NOTE

Series of preliminary studies have been undertaken in the past by different government agencies to establish a rail system in Mindanao but all these efforts did not yield favorable results that would warrant the railway project to finally take off. This is so because of lack of focus. There is no well-established institution that is primarily tasked to concentrate and devote itself to the project.

The bill that calls for the establishment of the Mindanao Railways Corporation is principally designed to pursue vigorously the railway project in Mindanao to accelerate the economic growth of the island. It will provide a vehicle that would effectively push for the implementation of the railways to afford the people of Mindanao with efficient, safe and affordable mass transit system. For sure, it will spark the economic undertakings and investments in the region into action.

The island of Mindanao has been long "short-changed" in the allocation of public resources. This situation has spawned massive poverty that resulted to political discontent which had consequently blown up into lawlessness and violence as what we are now experiencing with some raging groups in Mindanao.

The bill, if enacted into law, will help correct the traditional inequitable distribution of government wealth in favor of the more progressive regions of Luzon and Visayas. It will certainly influence prospects for dramatic and rapid economic progress on Mindanao that will eventually ease poverty among the island's populace.

The Mindanao railway project is seen to serve as a catalyst of peace and development in the country, particularly in Mindanao.


ROBERT ACE S. BARBERS

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session

House Bill No. 1929

Introduced by Rep. Robert Ace S. Barbers

**AN ACT
CREATING THE MINDANAO RAILWAYS CORPORATION PRESCRIBING ITS
POWERS, FUNCTIONS AND DUTIES AND APPROPRIATING FUNDS
THEREFOR FOR ITS OPERATION**

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

SECTION 1. Title – This act shall be known as the “Mindanao Railways Act of 2004”.

SECTION 2. Name, Domicile and Place of Business – There is hereby created the Mindanao Railways Corporation to install, operate and maintain a railway system in the island of Mindanao which shall be hereinafter called the Corporation. Its principal domicile and place of business shall be in Surigao City. It may establish other offices within or outside Mindanao as may be necessary for the proper conduct of its business.

SECTION 3. Purposes and Specific Powers – The Corporation shall have the following purposes and specific powers:

- (a) To own or operate railroads, tramways and other kinds of land transportation, vessels and pipelines for the purpose of transporting, for consideration, passengers, mails and properties between any point in Mindanao.
- (b) To own and/or operate powerhouses, hotels, restaurants, terminals, warehouses, timber concessions, coal mines, iron and other mineral properties; to manufacture rolling stocks, equipment, tools and other appliances; and to construct and operate, in connection with its railroad lines, toll viaducts, toll tunnels and the like as its auxiliary services.

SECTION 4. General Powers – The Corporation shall have the following general powers:

- (a) To prescribe its by-laws and its operating policies;

- (b) To adopt, alter and use a corporate seal;
- (c) To make contracts, to sue and be sued;
- (d) To borrow money; to own real or personal property and to introduce improvements thereon, and to sell mortgage or otherwise dispose of the same;
- (e) To issue investment participation certificates, bonds and debentures with the approval of the Monetary Board of the Bangko Sentral ng Pilipinas to be used by the Corporation in financing its projects;
- (f) To set up subsidiaries on railway operations, train operations and other allied services; and
- (g) To exercise the powers granted under this Act and such incidental powers as may be necessary to carry on its business, directly or indirectly, and to exercise further the general powers mentioned in the Corporation Law insofar as they are not inconsistent or incompatible with the provisions of this Act.

SECTION 5. Authorized Capital Stock – The authorized capital stock of the Mindanao Railways Corporation shall be Two Billion Pesos (P2,000,000,000.00) divided into Twenty Million (20,000,000.00) par value shares of One Hundred Pesos (P100.00) each. All shares are nominative and indivisible.

SECTION 6. Classification of Shares and its Features – The Corporation's authorized capital stock shall have the following classifications and features:

- (a) Series "A" shares shall comprise ten million shares equivalent to One Billion Pesos (P1,000,000,000.00) to be fully subscribed by the Philippine Government, twenty percent (20%) or Two Hundred Million Pesos (P200,000,000.00) of which shall be initially paid-up and the balance shall be paid from a continuing annual appropriation of not less than Two Hundred Million Pesos (P200,000,000.00) which is hereby appropriated out of any funds in the National Treasure not otherwise appropriated. The said amount shall be programmed and released by the Budget Commission in accordance with the schedule of cash requirements to be prepared and submitted by the Mindanao Railways Corporation. Provided, that this continuing annual appropriations of Two Hundred Million Pesos (P200,000,000.00) and the programming and release thereof shall remain in force until the authorized capital subscribed by the Government shall have been paid in full.
- (b) Series "B" shares shall comprise two million shares equivalent to Two Hundred Million Pesos (P200,000,000.00) to be made available for subscription by the Filipino individuals and institutions.
- (c) Series "C" shares shall comprise eight million shares equivalent to Eight Hundred Million Pesos (P800,000,000.00) to be made available for subscription by Filipino and foreign individuals and/or entities.

SECTION 7. Board of Directors – The Board of Directors composed of seven (7) members duly elected by the General Stockholders Meeting as provided for in this

Act shall convene at the principal office once every month upon due notice by the Chairman or, whenever the need arises, upon the request of three (3) members on the Board of Directors. The Board may convene outside the Corporation's principal office as members shall determine in the by-laws of the Corporation.

SECTION 8, Terms of Office of Members of the Board – The members of the Board of Directors of the Corporation representing the National Government shall have terms of three (3) years from the date they assume and qualify office. However, any person chosen to fill a vacancy shall serve only for the unexpired term of the member whom he succeeds. On the other hand, Directors representing the interests of other stockholders shall have one (1) year term unless re-elected in the succeeding Annual General Stockholders Meeting.

The Chairman and all the members of the Board must be residents of Mindanao for at least seven (7) years prior to the appointments. The members of the Board need not be stockholders of the Corporation.

SECTION 9. Powers of the Board – The Board of Directors shall have the broadest powers to manage the Corporations, except such matters as are explicitly reserved for the general stockholders meeting.

Without prejudice to the general powers conferred above, the Board of Directors shall have specific powers and duties:

- (a) To prescribe, amend and repeal the by-laws, rules and regulations governing the manner in which the general business of the Corporation may be exercised, including provisions for the formation of such committee or committees as the Board of Directors may deem necessary to facilitate its business and all matters related to personnel organization, office functions and salary administration;
- (b) To elect or appoint and fix the compensation of the General Manager, subject to the approval of the President of the Philippines, and to elect or appoint and fix the compensation of the other officers of the Corporation. In making these appointments, preference shall be given to residents of Mindanao, particularly from the members of the cultural minorities. The Board by a majority vote of all its members may suspend and/or remove, for a cause, the General Manager and other officers and employees of the Corporation;
- (c) To approve the annual and/or such supplemental budgets of the Corporation which may be proposed and submitted to it by the General Manager from time to time; and
- (d) To delegate, from time to time, in accordance with law any of the powers of the Board in the course of the current business or businesses of the Corporation to any standing or special committee or to any officer of the Corporation. The performance or execution of such delegated acts shall be reported to the Board for its confirmation.

SECTION 10. Suspension and Removal of Directors representing the National Government – Any member of the Board of Directors representing the National Government may, for cause, be suspended or removed by the President of the Philippines.

SECTION 11. Managing Head – The management of the Corporation shall be vested in the General Manager.

SECTION 12. Power and Duties of the General Manager – The General Manager shall have the following powers and duties:

- (a) To execute and administer the policies, measures, orders and resolutions approved by the Board of Directors;
- (b) To direct and manage the affairs and business of the Corporation on behalf of the Board of Directors, and subject to its control and supervision.
- (c) To sit in all meetings of the Board of Directors as Vice-Chairman and participates in its deliberations, with the right to vote, and to preside any meetings for or in absence of the Chairman;
- (d) To submit within sixty (60) days after the close of each fiscal year an annual report, through the Board of Directors , to the office of the President of the Philippines;
- (e) To appoint and fix the number of any subordinate employee of the Corporation and to remove, suspend, or otherwise discipline them for cause subject to the approval of the Board of Directors. In making these appointments, preference shall be given to residents of Mindanao, particularly from the members of the cultural minorities; and
- (f) To perform such other duties as may be assigned to him by the Board of Directors from time to time.

SECTION 13. Appointment and Promotion – In the appointment and promotion, test or qualification shall be prescribed and considered for such appointments or promotions. Said officers and employees shall be subject to the Civil Service Law, rules and regulations.

SECTION 14. Corporate Auditor and Reports – The Commission on Audit (COA) shall appoint the Resident Auditor of the Corporation including the necessary audit personnel who will assist him/her in the performance of his/her duties.

The financial transactions of the Corporation shall be audited and examined in accordance with existing laws and accounting and auditing rules and regulations. A report of audit for each fiscal year by the COA Resident Auditor shall be submitted through the Commission on Audit to the Board of Directors of the Corporation and copies thereof shall be furnished the President of the Philippines and the Presiding Officer of the two Houses of Congress. The report shall set forth the scope of the audit

and shall include a balance sheet, statement of income and expenses, statement of sources and application of funds, statement of changes in capital funds together with the accompanying notes thereon.

SECTION 15. Tax Exemption – The Corporation shall be exempted from payment of all taxes of every name and nature – Municipality, city, municipality, city, provincial or national – upon its capital stock, franchises, right of way earnings, and all other properties owned or operated by it.

SECTION 16. Exemption from Customs Duties and Port Charges – All importation by the Corporation of railway materials and supplies, machinery, equipment including computers and accompanying spare parts, as may be necessary for its operation, shall be exempted from payment of custom duties. This exemption shall extend to port charges upon vessels whose entire cargo consists of materials for the construction or equipment of the Corporation. It shall also cover such proportion of the prescribed port charges on other vessels where the tonnage of materials for such construction or equipment may bear the tonnage of the cargo of the vessel. Provided; however, That the same shall not be disposed of domestically unless payment is made of all duties thereof at the tariff rates and according to their condition at the time of disposal and upon compliance with all import and exchange procedures.

SECTION 17. Exemption from the Land Transportation Commission Act – The Corporation shall not be subject to the authority and supervision of the Land Transportation Commission.

SECTION 18. Terms of Legal Existence – The legal existence of the Corporation shall be a period of fifty (50) years from and after the date of the approval of this Act, renewable upon resolution of the general stockholders meeting called for the purpose.

SECTION 19. Privatization – Nothing in this Act shall be construed to preclude the Corporation from privatizing its ownership. For this purpose, any limitation on the transfer of the shares shall not be applicable with respect to the shareholdings of the National Government.

SECTION 20. Statutory Articles of Incorporation – This Act, upon its effectivity, shall be deemed accepted for all legal intents and purposes as the Statutory Articles of Incorporation of the Mindanao Railways Corporation. Notwithstanding the provision of any existing law to the contrary, said Corporation shall be deemed registered and duly authorized to do business and operate as of the date of approval of this Act.

SECTION 21. By-Laws – Within sixty (60) days upon effectivity of this Act, the By-Laws of the Corporation for its organizational, functional and operational administration and procedure shall be adopted by affirmative vote at the Board of Directors meeting called for the purpose.

The By-Laws shall be signed by the directors voting for them and shall be kept in the principal office of the Corporation. A copy thereof duly certified by a majority of the directors and countersigned by the Corporate Secretary of the Corporation shall be filed and registered with the Securities and Exchange Commission.

SECTION 22. Strikes During National Emergency – The provisions of law to the contrary notwithstanding, in cases of national emergency, or when in the opinion of the President of the Philippines the national security or interest is in imminent danger, employees and laborers of the Corporation shall not strike for the purpose of securing changes or modifications in their terms and conditions of employment during said period of emergency.

SECTION 23. Applicability of the Corporation Law – The provisions of the Corporation Law that are not inconsistent with the provisions of this Act shall be applicable to the Corporation created thereby.

SECTION 24. Repealing and Separability Clauses – The provisions of Republic Act No. 4156 as amended, creating the Philippine National Railways and all acts, executive orders, administrative orders, proclamations, rules and regulations or parts thereof inconsistent with any of the provisions of this Act are hereby repealed or modified accordingly.

If any part of this Act or the application thereof to any person, association or circumstances is declared invalid or unconstitutional, the other pertinent parts or provisions of this Act and their application to such person, association or circumstances shall not be affected thereby.

SECTION 25. Effectivity – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved.