

511-B

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS

First Regular Session

House Bill No. 2400



Introduced by Hon. Rozzano Rufino B. Biazon

EXPLANATORY NOTE

Presidential Decree No. 1894, issued by then President Ferdinand E. Marcos in 1982, granted the Toll Regulatory Board (TRB) the jurisdiction and supervision over the Philippine National Construction Corporation (PNCC) – formerly the Construction and Development Corporation of the Philippines (CDCP) – which holds the franchise or the right, privilege, and authority to construct, maintain and operate the North and South Luzon Expressways, the Metro Manila Expressway, as well as any and all such extensions, linkages, or stretches and the toll facilities appurtenant thereto.

Such jurisdiction and supervision includes the approval of the toll that the PNCC will charge the users of the expressways. Section 8 of PD No. 1894 states that, “The Toll Regulatory Board shall have the authority to approve such initial toll rates without the necessity of any notice and hearing.” Section 9 thereof states, “Any adjustment in the then current toll rate(s) resulting from the application of the formula ... shall be published once by the GRANTEE in a newspaper of general circulation not later than November 30 of each year and (ii) be enforceable and collected by the GRANTEE effective on the first day of January of the immediately succeeding year.”

While PD NO. 112, the law that authorized the establishment of the toll facilities on public improvements and created the Toll Regulatory Board, authorized the collection of toll fees for the use of certain public improvements that would allow a reasonable rate of investment, to attract private sector investment in the government’s infrastructure projects, in this case the construction, maintenance and operation of the expressways, there is a need to review and amend the subsequent law that amended the franchise of PNCC, PD No. 1894, in the light of the prevailing economic situation and other matters germane to the subject.

This bill seeks to require the TRB to conduct public hearings prior to the approval of initial toll rates of any such infrastructure that may yet be constructed, or any proposal to increase the toll rates of the existing ones.

Though declared to still be a private corporation by a Supreme Court decision in the case of PNCC versus Pabion and Ramiro, in G. R. No. 131715, December 8, 1999, as it was organized pursuant to the Corporation Code, and previously – in 1988 – declared to be an “acquired asset corporation” by Administrative Order No. 59, issued by then

President Corazon C. Aquino, the Philippine National Construction Corporation's majority shareholders *are* government financial institutions. This being the case, this bill also implicitly appeals to the government to exercise its power, in cognizance of the current economic situation, to render decisions that are more responsive to the call of the times.

In the light of the foregoing, approval of this bill is earnestly requested.



ROZZANO RUFINO B. BIAZON

Representative

Lone District, Muntinlupa City

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**AN ACT
REQUIRING THE TOLL REGULATORY BOARD TO CONDUCT PUBLIC
HEARINGS PRIOR TO THE APPROVAL OF TOLL RATES OR ANY
INCREASE THEREIN, AMENDING FOR THE PURPOSE PRESIDENTIAL
DECREE NUMBERED EIGHTEEN HUNDRED NINETY-FOUR**

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

Section 1. Presidential Decree No. 1894 is hereby amended to read as follows:

“Section 8. x x x

(b) x x x The Toll regulatory Board shall have the authority to approve such initial toll rates AFTER DUE NOTICE AND PUBLIC HEARINGS ARE CONDUCTED FOR THE PURPOSE [without the necessity of any notice and hearing]. For such purpose, the GRANTEE shall submit for the approval of the Toll Regulatory Board the toll propose to be charged the users. After approval of the toll rate(s) by the Toll Regulatory Board and publication thereof by the GRANTEE once in a newspaper of general circulation, the toll shall immediately be enforceable and collectible upon opening of the expressway to traffic use.

[Any interested Expressways use shall have the right to file, within a period of ninety (90) days after the date of publication of the initial toll rate, a petition with the Toll Regulatory Board for a review of the initial toll rate; provided, however, that the filing of such petition and the pendency of the resolution thereof shall not suspend the enforceability and collection of the toll in question. The Toll Regulatory Board, at a public hearing called for the purpose, after due notice, shall then conduct a review of the initial toll to determine the propriety and basis thereof. Decisions of the Toll Regulatory Board on petitions for review of the initial toll shall be appealable to the Office of the President within ten (10) days from the promulgation thereof. The GRANTEE may be required to post a bond in such amount and from such a surety or sureties and under such terms and conditions as the Toll Regulatory Board shall fix in case of any petition for review of, or appeal from, decisions of the Toll Regulatory Board.

In case it is finally determined, after a review by the Toll Regulatory Board or appeal therefrom that the GRANTEE is not entitled, in whole or in part, to the initial toll, the GRANTEE shall deposit in an escrow account the amount collected under the approved initial toll rate and such amount shall be refunded to Expressways users who had paid such toll in accordance with the procedure as may be prescribed or promulgated by the Toll Regulatory Board.]

Section 9. The GRANTEE shall have the right and authority to adjust any existing toll being charged the users of the Expressways under the following guidelines:

x x x

b) Any adjustment in the then current toll rates resulting from the application of the formula and indicated in the aforesaid written statement shall (i) be published once in a newspaper of general circulation not later than November 30 of each year and (ii) SHALL BE SUBJECT TO THE APPROVAL OF THE TOLL REGULATORY BOARD AFTER DUE NOTICE AND PUBLIC HEARINGS ARE CONDUCTED FOR THE PURPOSE AND SHALL be enforceable and collected by the GRANTEE effective on the first day of January of the [immediately succeeding] year FOLLOWING THE APPROVAL THEREOF.”

Section 2. The Toll Regulatory Board and the Department of Transportation and Communications shall formulate the rules and regulations necessary for the effective implementation of this Act within sixty (60) days from its effectivity.

Section 3. All laws, presidential decrees, executive orders, issuances, not consistent with this Act are hereby repealed or modified accordingly.

Section 4. This Act shall take effect after publication in the Official Gazette or in two (20 newspapers of general circulation.

Approved.