



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila



Thirteenth Congress
First Regular Session

HOUSE BILL NO. 3595

Introduced by Honorable Antonio H. Cerilles

EXPLANATORY NOTE

This proposed measure aims to establish an efficient, reliable and viable transportation network in Mindanao.

Mindanao have always been dubbed as a Land of Promise. However, it has not really grown as expected regardless of its rich natural resources and vast agricultural resource because the attention needed was not accorded to it.

The secessionist movement and the separatist group have been gaining grounds because the people of Mindanao feel that the government has failed to give the needed attention to support the socio-economic growth of the area.

The creation of the Mindanao Railways Authority will be the answer to the clamor of the people. It will enhance the socio-economic activities in the area. The geographical situation of Mindanao necessitates a railway system that will support the different activities in the island and bring it into an integrated and globally competitive economy where the benefits of development are equally shared and enjoyed by all Mindanaons.

A modern and sophisticated railway system is intended to form the backbone of a total transportation system for Mindanao. The Mindanao Railway System will create an efficient and competitive export corridor which will integrate with the highway network to attract freight, investor and business enterprise in the entire area of Mindanao.

The passage of this bill is the roadmap towards peace and development in the Island of Mindanao.



ANTONIO H. CERILLES



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AN ACT
CREATING THE MINDANAO RAILWAYS AUTHORITY,
PRESCRIBING ITS POWERS, FUNCTIONS, AND DUTIES AND
APPROPRIATING FUNDS FOR ITS OPERATIONS.

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

SECTION 1. **Short Title.** - This Act shall be known as the
“Mindanao Railways Authority Act of 2004”.

SEC. 2. **Declaration of Policy.** – It is hereby declared the policy of the State to promote, encourage, and protect the mutual intermodal and intramodal complementation, cooperation, and synchronization of the common carrier services in the most practicable, expeditious and organized manner with maximum safety, utility, service and cost effectiveness; and to foster sound economic conditions within the transportation industry and

among the several modes and common carriers in order that a healthy, dynamic and strong public sector can meet the transportation requirements of Mindanao.

SEC. 3. **Name, Duration and Domicile.** To carry out the above-stated policy, there is hereby created the Mindanao Railways Authority, hereinafter referred to as the Authority, which shall exist for a term of fifty years from date of approval of this Act. It shall have its main office in Cagayan de Oro City and shall have such branches, agencies and offices as may be necessary.

SEC. 4. **Powers and Functions of the Authority.** – The Mindanao Railways Authority shall have the following powers and functions:

- a. To acquire and hold the assets of the Mindanao Railways Authority and to succeed to, or acquire, maintain and operate such grants and concessions granted to it;
- b. To own or operate railroad, tramways and other kinds of land transportation for the purpose of transporting, for consideration, passenger, mail and property between any points in Mindanao;
- c. To own, operate or grant licenses for the operation of land transportation, vessel and pipelines in support of, or in supplement of its railway lines; and

d. As an auxiliary to its main purpose, to own and operate powerhouses, hotels, restaurant, terminals, warehouses, timber concessions, coal mines, iron and other mineral properties;

e. To manufacture rolling stocks, equipment, tools and other appliances;

f. To construct and operate in connection with its railroad lines, toll viaducts and toll tunnels; and

g. To perform such other functions as are necessary, proper and incidental to implement the provisions of this Act.

SEC. 5. Corporate Powers. – As a corporate body, the Mindanao Railways Authority shall have the following general powers:

a. To receive in trust, legacies, gifts and donations, real or personal properties as well as financial assistance from local and foreign donor for the rationalization of the Authority, to administer and dispose the same when necessary for the benefit of the Authority, subject to limitations, directions and instructions of the donors, if any. Such donation shall be exempted from taxes and shall be considered as deductible items from the income tax of the donor;

b. To borrow funds from any source, private or public, domestic or foreign and to receive from foreign countries donations for the improvement and maintenance of the railways;

c. To sue and be sued in its official name;

d. To enter into and perform contracts, execute instruments, and determine the character of, or the necessity for, its expenditures;

e. To determine and keep its own system of accounts following generally-accepted principles of accounting, as well as the forms and contents of its contracts and business documents;

f. To acquire, in any lawful manner, such personal or real property or any interest therein, as it deems necessary or convenient in the transaction of its business; to hold, maintain, sell, lease, or otherwise dispose of such property or any interest therein; and

g. To exercise all other corporate powers incidental, necessary or appropriate to its operation.

SEC. 6. **Authorized Capital Stock.** – The authorized capital stock of the Authority shall be five billion pesos divided into one million two hundred fifty thousand par value shares of two hundred pesos each: *Provided*, That Fifty percent of the authorized capital shall be fully subscribed and paid by the national Government to be appropriated out of

any funds in the National Treasury not otherwise appropriated: Provided, That at least Twenty-five percent shall be fully paid: Provided further, That Twenty percent thereof shall be subscribed and paid by the Department of Transportation and Communications (DOTC); and Provided, finally the the remaining Twenty-five percent shall be subscribed and paid by the private sector until the entire authorized capital stock of the Authority shall have been fully subscribed and paid..

SEC. 7. Authority to Contract Foreign Loans. - The Authority is hereby authorized to contract loans, credit or indebtedness, in any convertible foreign currency or capital goods from time to time from foreign governments or any international financial institution or fund sources subject to existing laws, rules and regulations.

The importation of machinery, equipment, materials, and supplies by the Authority, paid from the proceeds of any loan, credit or indebtedness incurred under this Act shall be exempt from all taxes, fees, imposts, other charges and restrictions imposed by the government of the Republic of the Philippines or any of its agencies and political subdivisions.

SEC. 8. Tax Exemption. – The Authority shall be exempt from the payment of income taxes, franchise taxes, realty taxes and all kinds of taxes and licenses of the National Government, its provinces, cities, municipalities

and other government agencies and instrumentalities: Provided, That its subsidiary corporations shall be subject to all said taxes five (5) years after their establishment under gradual scale. Such exemption shall include any tax or fee imposed by the Government on the sale, purchase or transfer of foreign exchange and all notes, bonds and debentures, and other obligations issued by the Authority, both as to principal and interests.

SEC. 9. **Structure, Staffing and Pay Scale.** – The Board shall determine the organizational structure, staffing pattern, and pay scales of the Authority and the officers and employees thereof conformably to that of existing government-owned or controlled corporations and subject to the evaluation or screening by the Civil Service Commission and of the Organization Position Classification and Compensation Bureau of the Department of Budget and Management. The Board may, further, reorganize said structure, modify such pattern, or alter the same scale and create or abolish division, sections or units and any of its subsidiaries.

SEC. 10. **Merit System.** – All officials and employees of the Authority and its subsidiary corporation shall be selected and appointed on the basis of merit and fitness, in accordance with a comprehensive and progressive merit system, which shall be established by the Authority immediately upon its organization. The recruitment, transfer, promotion and

dismissal of its personnel including contractual workers shall be governed by such merit system.

SEC. 11. Board of Directors, Composition, Appointment and Term. – The corporate powers and functions of the Authority shall be vested in and exercised by a Board of Directors of not more than eleven (11) and not less than five (5) consisting of chairman, vice-chairman and other members who shall be appointed by the President upon the recommendation of the chairman of the Regional Development Council (RDC) coming from the following sectors:

- 1 representative from the DOTC
- 1 representative from Region IX
- 1 representative from Region X
- 1 representative from Region XI
- 1 representative from Region XII
- 1 representative from ARMM
- 1 representative from Caraga Region
- 1 from business sector
- 1 from private sector
- 1 representative – Mindanao Peace Development Fund (MPDF)
- 1 representative – Mindanao Economic Development Council

The Board of Directors shall elect, from among themselves, the Chairman and a Vice-Chairman. There shall be a Corporate Secretary who shall be appointed by the Board.

SEC. 12. **Term of Office.** - The members of the Board shall serve for three (3) years except for the chairman whose term of office shall be for six (6) years. In case a vacancy occurs in the board, any person chosen to fill the vacancy shall serve only for the unexpired term of the member whom he succeeds.

SEC. 13. **Compensation.** - The members of the Board shall receive per diems and reasonable transportation allowance as may be fixed by the Board for any meeting actually attended.

SEC. 14. **Quorum.** - The presence of a majority of the members of the Board shall constitute a quorum.

SEC. 15. **Meetings.** - The Board shall meet preferably at its principal office, at least, once a month and as frequently as necessary to discharge its duties and responsibilities. The Board shall be convoked by the Chairman or upon written request of, at least five (5) of its members. Except as otherwise provided for in this Act, the votes of a majority of the members constituting a quorum shall be sufficient for the adoption of any rule, resolution, decision or any act of the Board.

SEC.16. Powers and Duties of the Board of Directors. – The Board of Directors shall have the following powers and duties:

a. To promulgate, amend and repeal by-laws, rules, regulations and other issuance necessary in carrying out the Authority's mandate, objectives, policies, plans and programs including provisions for the formation of such committee or committees as the Board of Directors may deem necessary to facilitate its business;

b. To appoint and fix the compensation of other officers of the Authority, with the approval of the President of the Philippines.

c. To exercise supervision and delegate authority over all functions and activities of the Authority;

d. To approve the annual and supplemental budgets of the Authority which may be submitted to it by the Chairman from time to time; and

e. To transact foreign loans and receive donation from foreign countries by virtue of a board resolution approved by the majority members of the board.

SEC. 17. Suspension or Removal of Directors. – Any member of the Board of Directors may be suspended or removed by the President of the Philippines.

SEC. 18. **Prohibition of Board of Directors.** – No Member of the Board of Directors of the Authority shall at the same time serve in other corporation in any capacity whatsoever.

SEC. 19. **Administrator.** – The Board shall have an Administrator to be appointed by the President of the Philippines who shall be the Chief Executive Officer of the Authority. The Administrator shall serve for a term of four (4) years subject to renewal upon the recommendation of the Board and at the pleasure of the President.

The Administrator shall be assisted by such Deputy Administrator and Assistant Deputy Administrator as the Board may authorize and appoint. Their tenure, qualification and compensation shall be determined and fixed by the Board.

SEC. 20. **Duties and Functions of the Administrator.** – The Administrator as the Managing Head of the Authority shall have the following duties and functions:

- a. Direct and manage the affairs and business of the Authority;
- b. Enforce policies and standards for the efficient and effective operations of the Authority in accordance with the program of the Government;

c. Sit in all meetings of the Board of Directors and participate in its deliberation, with the right to vote;

d. Submit within sixty 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. Submit, for the consideration of the Board, the policies and measures which he believes to be necessary to carry out the provisions of this Act;

f. Execute and administer the policies and measures approved by the Board;

g. Direct and supervise the operation and internal administration of the Authority. He may, for efficiency and effectiveness, delegate certain administrative responsibilities to other officers of the Authority subject to the rules and regulations of the Board;

h. Represent the Authority in all dealings with other offices, agencies and instrumentalities of the government and with all other persons, entities or enterprises, whether public or private, domestic or foreign;

i. Sign contracts entered into or concluded by the Board, and such other correspondences and documents of the Authority;

j. Represent the Authority, either personally or through counsel, in any legal action or proceedings; and

k. To perform such other duties as may be assigned to him by the Board of Directors and the President of the Republic of the Philippines.

SEC. 21. **Auditing.** – The Chairman of the Commission on Audit shall appoint a representative who shall be the auditor of the Authority. He shall likewise appoint the necessary personnel to assist said representative in the performance of his duties. The salaries of the Auditor and his staff shall be fixed by the Chairman of the Commission on Audit. Salaries and other expenses for the auditor's office shall be included in the budget of the Commission on Audit. The Auditor of the Authority and personnel under him may be removed only by the Chairman of the Commission on Audit.

SEC. 22. **Annual Report.** - An Annual report shall be submitted by the Commission on Audit to the Board of Directors of the Authority, and copies thereof shall be furnished to the President of the Philippines. The report shall set forth the scope of the audit and shall include a statement of assets and liabilities, capital and surplus or deficit; a statement and surplus or deficit analysis; statement of income and expenses; a statement of sources and application of funds; and such comments and information as may be necessary, together with such recommendations with respect thereto as may

be advisable, including a report of any impairment of capital noted in the audit. The report also shows specifically any program, expenditures or other financial transaction or undertaking observed in the course of audit, which in the opinion of the Auditor, has been carried on or made without authority of law.

SEC. 23. **Legal Counsel.** – Any provision of law or executive order to the contrary notwithstanding, the Mindanao Railways Authority shall have its own legal department, the chief and members of which shall be appointed by the Board of Directors.

SEC. 24. **Exemption from Salary Standardization Law and Attrition Law** - The Authority is hereby exempted from the provisions of Republic Act No. 6758, otherwise known as the Salary Standardization Law and Republic Act No. 7430, otherwise known as the Attrition Law.

SEC. 25. **Applicability of the Corporation Law.** – The provisions of the Corporation Law which is not inconsistent with the provision of this Act shall be applicable to the Authority created hereby.

SEC. 26. **Repealing Clause.** – All laws, decrees, orders, instructions, promulgation, rules and regulations or parts thereof that are inconsistent with any of the provisions of this Act, are hereby repealed, amended or modified accordingly.

SEC. 27. **Separability Clause.** – Should any provision of this Act or part thereof be declared unconstitutional or invalid by a court, the other provisions hereof not affected thereby shall remain in full force and effect.

SEC. 22. **Effectivity.** – This Act shall take effect upon its approval.

Approved,