

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

Thirteenth Congress
First Regular Session



HOUSE BILL NO. 4534

Introduced by: HONORABLE AUGUSTO H. BACULIO

EXPLANATORY NOTE

Environmental concerns have been the subject of public discussions for a long time. Statutes on the environment have been enacted since colonial times and have established a tradition and history. One only has to scan our aging statute books and see that laws have been passed ranging from judicious utilization of resources to disposal of garbage.

While we derive experience from these statutes, we see that the Philippine environment situation continues to deteriorate. Despite the enactment of new legislation intended to protect and promote proper management of different areas of the environment, degradation continues and deterioration has reached alarming levels.

Advocates of environmental protection have advanced several reasons for this. One of primary concern is the failure of government to effectively implement these laws. Another is the geographical configuration of the country. It is argued that administrative effectiveness in the implementation of environmental laws is considerably weakened by the division of the country into more than 7,000 islands with extreme difficulties in the means of transportation and efficient communication. A third and perhaps more pronounced obstacle to effective environmental management is the fragmentation of environmental laws into sectoral concerns. These laws tend to address only specific environmental concerns and are derived more from the nature, circumstances and needs of particular sectors.

Since the issuance of Presidential Decree (PD) No. 1151 otherwise known as the "Philippine Environmental Policy" or PEP, a number of environmental laws have been enacted which are meant to implement the intent and objectives of the PEP. Among these are the National Integrated Protected Areas System (NIPAS) Act, the Toxic and Hazardous Substances Act, the Clean Air Act, the Ecological Solid Waste Management Act and the Clean Water Act. Their implementation, however, has been hampered by numerous problems. Among these are particular criticisms of inconsistency, conflict between and among them, including turf sharing and even failure and ambiguous implementation of many provisions. In addition, these laws incorporate new paradigm modalities of implementation and strategies that were not mainstream approaches and thinking on environmental governance at the time that PD No. 1151 was promulgated.

The apparent shortcomings could be traced to the fact that these laws do not appear to be guided by certain basic set of clear and unequivocal principles or "ground rules" that are previously set and agreed upon by all stakeholders

(government, civil society, industry and the private sector) and which can guide environmental decision, cutting across environment sectors. These principles could refer to the "non-negotiable" such as specific ecosystems that need protection; basic tools for assessment (use of various economic instruments, to compliment current command and control mechanisms) and the rights, obligations and accountability of stakeholders.

Broadly, such principles and ground rules could set the tone for the establishment of a sound and viable environmental management system, which guarantees equitable sharing of powers, responsibilities and accountabilities. They would also reflect the "state of science" at the time such that they would assist in the determination of the cost of effective technology options needed to address the problems. They may reflect as well current standards of environmental governance such as the incorporation of equity and environmental justice in all decisions to utilize the natural resources of the nation.

There is a need to set and institutionalize a policy that would integrate and harmonize sectoral environmental laws and issuances. This policy should spell out categorically those principles that will form the framework for an action plan to be formulated across sectoral enabling acts.

Finally, the present proposal is aimed to update environmental policy and keep our system of environmental management abreast with current trends on sustainable development policies.

Thus, the approval of this bill is earnestly sought.


HON. AUGUSTO H. BACULIO
Second District, Misamis Oriental

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HOUSE BILL NO. 4534

Introduced by: **HONORABLE AUGUSTO H. BACULIO**

AN ACT
PROVIDING FOR THE UTILIZATION AND MANAGEMENT OF NATURAL
RESOURCES, ENVIRONMENTAL ASSETS OR SOCIAL AND ECOLOGICAL
ENDOWMENTS FOR SUSTAINABLE DEVELOPMENT AND FOR OTHER
PURPOSES.

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

ARTICLE 1

GENERAL PROVISIONS

SECTION 1. Title. – This Act shall be known as the Environmental Policy Act of 2005.

SEC. 2. Declaration of Policies. – It is hereby declared the policy of the State to promote the right of the people to balanced and healthful ecology in accord with the rhythm and harmony of nature. Towards this end:

1. Sustainable development shall be the guiding principle in the formulation, adoption and implementation of all programs and projects affecting all aspects of the environment. The social, cultural, ecological and environmental assets and natural resources, hereinafter referred to as ecological endowments, are considered part of the national heritage and shall be afforded priority consideration in the planning and implementation of programs for the growth and collective well being of present and future generations.
2. Ecological endowments shall be utilized only in such a manner that they provide for the highest, largest and longest streams of net values and benefits and ensure their sustainability. Their administration and management shall not pose undue or unreasonable risks to the value of the ecological endowment nor to other affected endowments. Whenever risk, as determined by the Department of Environment and Natural Resources (DENR), are posed to the value of the ecological endowment or to other affected endowments, a fund shall be put up by the user, administrator or manager to cover the risks involved.
3. Except as otherwise provided by existing laws, all actions on utilization, administration and management of ecological endowments shall be opened to public scrutiny and all records relative thereto shall be considered public records.

4. All users of ecological endowments and all managers, administrators or officers, and personal agencies, instrumentalities, bodies, associations or entities, both public and private that are involved in the regulation or utilization of such endowments shall assume accountability for their acts or omissions commensurate to the degree such acts or omissions affect the overall state of the endowments that remain in the public domain. Any person, natural or juridical, who causes or is liable to cause adverse environment impact, shall shoulder the cost of preventive or remedial measures to be undertaken.

SEC. 3. Definition of Terms. – For purposes of this Act, unless the context indicates otherwise, the following shall mean:

- a) *Air* – includes the atmosphere and all its surroundings.
- b) *Bio-diversity* – refers to the interaction of plants, animals and microorganisms with one another and with the physical environment in the ecosystems.
- c) *Civil Society Organization* – refers to formal non-government organization registered or recognized as such by competent government body, including legally organized associations or networks of similar organizations.
- d) *Collective Well-Being* – refers to the quality of life of a community living as such in terms of their ability to avail of the opportunities open to them for their choice of livelihood, lifestyle or status, including the manner and method of meeting their social, material, cultural and spiritual needs.
- e) *Cultural Organizations* – include organizations involved in the preservation and promotion of the arts or the maintenance and preservation of acknowledged historical and heritage sites.
- f) *Ecological Endowments* – refer to environmental assets and natural resources as defined in this Act;
- g) *Environmental Assets* – refer to anything of value whether singly or collectively, which should be preserved, protected or enhanced because of their physical, cultural, historical, or aesthetic significance to the country, the deprivation or destruction of which will adversely affect the livelihood and well-being of the people.
- h) *Environmental Management System* – a system of legal or customary rules of action intended to achieve a desired state or condition of an ecological endowment in a specific place and time for a particular objective of making the asset or resource available for certain uses and value to the stakeholders.
- i) *Genetic Material* – any material of plants, animal, microbial, or other origin containing functional units of heredity.
- j) *Historical, highly cultural and heritage value* – refers to natural features consisting of physical and biological formations or groups of such formations which are of outstanding universal value from the aesthetic or scientific point of view.
- k) *Indigenous peoples* – refer to peoples, communities, clans, tribes or upland dwellers, formally organized or otherwise, recognized as such by existing laws or by customs and traditions.

- l) *Individual well-being* – refers to the quality of life of a person in his or her ability to avail opportunities of his or her preferred livelihood, lifestyle or status in society and the economy including the manner and method of meeting his or her material, social, cultural and spiritual needs.
- m) *Land* – includes the ground and the resources under it, and classified into agricultural and forest lands.
- n) *Local Community Organization* – any non-government association or aggrupation, formally or informally organized, existing and operating within one region or municipality whose members are not limited to one family, clan or tribe and which is recognized as a legitimate citizen's organization by at least one local government unit in which it is operating.
- o) *Natural Resources* – materials and conditions occurring in nature which are capable of economic gain, benefit or exploitation, including land, water and air and everything found in them.
- p) *Non-Government Organization (NGO)* – includes civil society and civic organizations organized locally or nationally **and registered** with the appropriate government agency.
- q) *People* – includes individuals, families, tribes, communities, whether formally or informally organized, associations and organizations whether national or local.
- r) *Peoples Organization* – includes stakeholders or residents of specific communities with common or varied livelihood as well as concern for the well being of their communities.
- s) *Professional Organization* – includes all organizations, either locally, nationally or internationally organized, whose members belong to the same recognized profession or calling.
- t) *Scientific Organization* – organization composed of recognized experts in scientific or technological field, locally or internationally.
- u) *Social Endowments* – refer to the body of customs, traditions, values and beliefs and knowledge systems adopted and practiced by groups, communities, and other social aggrupations which are accepted as part of their culture, values, norms and livelihood;
- v) *Sustainable Development* – integration of environment and development to ensure that the needs of present and future generations are properly met and their quality of life enhanced, through the judicious utilization and conservation of assets and resources and the adoption and the application of practices, whether indigenous or acquired, which tend to preserve or enhance the value of the asset or resource;
- w) *Water* – includes fresh, inland and marine water bodies as well as all resources found therein;

SEC. 4. Goals and Objectives. – This Act shall have the following goals and objectives:

- 1) Preserve and enhance natural resources, the elements and components of natural life-giving and sustaining processes, habitats and organisms as well as their reproduction and regeneration;

2) Develop processes and systems that will improve the production of land and water, maintain clean and fresh air, and preserve life-sustaining habitats of plants and animals;

3) Establish parameters that will define the ideal environmental states to maintain a balanced and healthful ecology for the benefit of the people;

4) Promote equal access to all available resources and protect the right of every citizen to avail of all opportunities that will promote his or her livelihood and alleviate poverty within the concept of sustainable development and judicious utilization of natural resources in order to enhance the sustainability of future generations;

5) Establish a system of accountability for all sectors and ensure transparency in all actions and decisions involving the environment and the utilization of natural resources.

6) Establish a framework of governance and a system of administration that agencies should adhere to in the enforcement of environmental laws.

7) Provide for more effective stakeholders participation in the planning, finalization and implementation of activities affecting the natural environment.

ARTICLE II

ENVIRONMENTAL MANAGEMENT

SEC. 5. *Environmental Management.* – The Department of Environment and Natural Resources (DENR) shall establish a viable strategy of environmental management in all areas and sectors based on sound and accepted scientific principles, history, customs, traditions, culture and indigenous practices.

Environmental management shall include the value of environmental assets and natural resources, their sustainability, social, cultural, historical and ecological endowments and the participation of all direct stakeholders. It shall have as its ultimate goal the promotion and protection of the collective well being of the people.

SEC. 6. *Environmental Management Systems.* – Acceptable environmental management system may be established on a national, regional and municipal level.

A set of guiding standards should be provided based on the policies, principles and goals provided in his Act.

The following should be considered in setting up the standard:

- 1) Science and Technology
- 2) Local knowledge, culture and traditions
- 3) Good governance
- 4) Full participation of concerned sectors
- 5) Distribution of benefits
- 6) Sustainability of the asset or resource
- 7) Others based on local concerns;

ARTICLE III

RESOURCES

SEC. 7. People. – The people is hereby recognized as the primary resource endowed with certain rights and privileges that are guaranteed protection but at the same time imposed with the obligations and responsibilities that they should comply either singly or collectively.

The people shall have the right to a balanced and healthful ecology which shall include:

- 1) Clean air
- 2) Clean water
- 3) Sustainable use of land to promote their livelihood
- 4) Availment of environmental assets and national wealth to enhance their livelihood
- 5) Clean and healthful surroundings
- 6) Protection from undue exploitation of ecological endowments
- 7) Promotion of science and technology to promote their livelihood and well-being

They shall have the following obligations and responsibilities:

- 1) Avail of ecological endowments in a sustainable manner;
- 2) Allow others to avail of their rights to enjoy ecological endowments;
- 3) Keep surroundings clean;
- 4) Prevent any form of abuse in the utilization of ecological endowments;
- 5) Protect the sustainability of ecological endowments;
- 6) Comply faithfully with all environmental laws, rules and regulations; and
- 7) Promote the implementation of environmental laws, rules and regulations

SEC. 8. Air. – The regulation, control, promotion and maintenance of air shall be in accordance with the provisions of Republic Act No. 8749 otherwise known as the Clean Air Act.

SEC. 9. Water. – The regulation, control, promotion and maintenance of water shall be in accordance with the provisions of Republic Act No. 9275, otherwise known as the Philippine Clean Water Act of 2004.

SEC. 10. Land. – Agricultural lands may be classified according to use as agricultural, residential or industrial. Only lands classified as agricultural shall be considered alienable and disposable. The State shall recognize the right of indigenous peoples to their ancestral lands and provide for their delineation. Indigenous peoples shall have the right to control and supervise the utilization and development of their ancestral lands. They shall have priority to utilize and develop natural resources within their ancestral lands.

Zoning regulations shall be enacted in order to control and rationalize the utilization and development of agricultural, residential or industrial lands.

SEC. 11. Forests. – Forest lands shall not be considered alienable and disposable. Forests shall be classified as protected and production forests. Utilization and development may be allowed only in production forests. The delineation of forest lands and utilization of forest resources shall be regulated under existing laws. Qualifications, standards and limitations shall be imposed in order to ensure rational and sustainable use of the resource.

SEC. 12. Bio-diversity. – The promotion and enhancement of bio-diversity shall be the concern of the government and the people.

The State, through the DENR, shall designate areas as bio-diversity areas and regulate the utilization and development of the same to ensure the preservation and enhancement of bio-diversity.

The State shall address area-based, species-based and process oriented regulatory techniques to keep the threats to bio-diversity under control while mandating cross-sectoral legal mechanisms to achieve its purpose.

SEC. 13. Genetic Resource. – The benefits derived from the use of genetic resources shall be equitably and fairly shared. The State shall regulate the utilization of genetic resources but shall preserve and maintain knowledge, innovations and practices of indigenous and local communities for the conservation and use thereof.

In the promotion of genetic resources, the collective well being of the people shall be afforded priority consideration.

SEC. 14. Mineralized Areas. – These areas shall be utilized, developed and regulated in accordance with the provisions of Republic Act No. 7942, otherwise known as the Philippine Mining Act of 1995.

SEC. 15. Historical, highly cultural and heritage value. – To ensure that effective and active measures are taken for the protection, conservation and presentation of the cultural and natural heritage, the DENR shall:

a. Adopt a general policy which aims to give the cultural and natural heritage a function in the life of the community and to integrate the protection of that heritage into comprehensive planning programs;

b. Set up within its territories, where such services do not exist, one or more services for the protection, conservation and presentation of the cultural and natural heritage with appropriate staff possessing the means to discharge their functions;

c. Develop scientific and technical studies and research and to work on such operating methods as will make the State capable of counteracting the dangers that threaten its cultural or natural heritage;

d. Take the appropriate legal, scientific, technical, administrative and financial measures necessary for the identification, protection, conservation, presentation and rehabilitation of this heritage; and

e. Foster the establishment or development of national or regional center for training in the protection, conservation and presentation of the cultural and natural heritage and encourage scientific research in its field.

SEC. 16. Alternative Fuels. – Detailed studies shall be undertaken to determine the optimal use of incentives to spur the adoption of alternative fuels and technologies. Pricing and taxation measures that correctly integrate the environmental costs of fuels shall be developed so that alternative fuels and technologies can compete in the market. Oil companies or refineries are hereby required to provide or develop processes that will produce alternative non-pollutant fuels such as coco-diesel, hydrogen fuel and similar product.

SEC. 17. Renewable Energy. – The provision of clean and efficient energy fuels and infrastructures shall be the continuing thrust of the government. The increased utilization of cleaner fuels such as geothermal, natural gas, other renewable energy and alternative clean fuels and technology will be pursued to decrease greenhouse gas emissions.

There shall be established a framework for the implementation of the renewable energy program including support to non-power uses of renewable energy systems. It shall produce a green pricing mechanism to promote consumer choice of power supply, allocation of a minimum amount of generation capacity from renewable energy, promotion of the use of hybrid systems and applications, conduct sustained information dissemination on renewable energy development, and the utilization and provision of financial and fiscal incentives to developers and implementers.

ARTICLE IV

ENVIRONMENTAL IMPACTS AND SYTEMS

SEC. 18. *Environmental Impacts.* – Negative impacts are the risks or hazards to ecological endowments. If any activity poses negative impacts on an ecological endowment, such activity shall be stopped and the damage resulting there from shall be repaired and restored. If the is caused willfully or through negligence, the offender shall be penalized accordingly in addition to repair or restoration of the damaged ecological endowment.

Positive impacts are the activities which enhance the value of ecological endowments. In the assessment of an environmental impact, the present and future condition of the ecological endowment should be considered. In determining its value, the degree that the ecological endowment contributes to the individual and collective well being of the people shall be primarily considered. Activities shall be allowed in accordance with Section 2 of Republic Act No. 7586, otherwise known as the National Integrated Areas System Act of 1992.

SEC. 19. *Environmental Management System* – An environmental management system shall be prepared which shall contain, among others, the following:

- 1) The legal requirements
- 2) Scientific and technological basis
- 3) Customary law and practices
- 4) Cultural and historical values
- 5) Positive and negative impacts
- 6) Promotion of sustainable development

ARTICLE V

WASTE MANAGEMENT

SEC. 20. *Domestic Waste.* – The management of domestic wastes or wastes generated by households which are organic by nature shall be in accordance with the provisions of Republic Act No. 9003, otherwise known as the Ecological Solid Waste Management Act of 2000

SEC. 21. *Hazardous and Toxic Wastes.* – The regulation and control of hazardous and toxic wastes shall be in accordance with Republic Act No. 6969, otherwise known as the Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990.

SEC. 22. *Liquid Wastes.* – The management of liquid wastes shall be in accordance with the provisions of Republic Act No. 9275, otherwise known as the Clean Water Act of 2004.

The DENR in coordination with National Water Resources Board (NWRB) shall:

- a) Set standards for wastewater discharge;
- b) Set standards for classification of rivers, lakes and other receiving bodies of water;
- c) Set mandatory requirements for setting up wastewater treatment plants; and
- d) Provide for requirements for waste minimization and recycling.

ARTICLE VI

ENVIRONMENTAL JUSTICE AND EQUITY

SEC. 23. *Intragenerational Equity.* – Whenever risks are posed to the value of an ecological endowment, or to others affected by their management, administration, utilization or governance, a fund of sufficient amount shall be created for the purpose of redressing any occurrence of the risk of causing damage or decreasing the value of the endowments. The fund shall be in such amount and for such duration as may be necessary for the damage caused by such occurrence and within a reasonable time after completion of the project or activity.

SEC. 24. *Intergenerational Equity.* – Whenever risks are posed to the value of an endowment or to others so affected by the management, administration, utilization and governance thereof, a fund shall be created in public trust to answer for any damage caused by an occurrence of the risk in such amount and for such duration as may be reasonable taking into consideration the nature and extent of the activity or project.

ARTICLE VII

GOVERNANCE

SEC. 25. *Government.* – The Department of Environment and Natural Resources (DENR) and its successor shall be the primary agency that is tasked to implement the provisions of this Act and the rules and regulations that may be promulgated concerning the ecological endowments.

Other government agencies shall coordinate with the DENR in the implementation of their respective mandates affecting the ecological endowments.

Conflicts in the implementation of their respective mandates relative to ecological endowments shall be resolved in favor of the DENR.

SEC. 26. *Decision-Making Process.* – The following shall have the right to participate in the decision-making process involving utilization, management, administration and governance of ecological endowments within their respective jurisdictions, expertise and area of concern:

- a) Non-government organization;
- b) People's organizations;

c) Indigenous Peoples; and

d) Scientific organizations, cultural organizations, professional and other organizations.

These organizations shall be held liable on any action undertaken by their respective members, individually or collectively, causing damage on the ecological endowments.

ARTICLE VIII

ENFORCEMENT AND ADMINISTRATION

SEC. 27. *Enforcement Mechanisms.* - In the enforcement of its mandate, the DENR may deputize non-government organizations, people's organizations, indigenous communities, and professional, civic, cultural, scientific and technological organizations within their respective area of activity or expertise and under such terms and conditions it may deem reasonable and proper.

SEC. 28. *Incentives.* - Tax exemptions and holidays, rewards and other incentives that are aimed to encourage compliance with law and the rational utilization as well as preservation of the ecological endowments shall be granted as may be determined by the DENR.

ARTICLE IX

ADJUDICATION AND APPEAL

SEC. 29. *Adjudication.* - Conflicts involving the administration of a rule or regulation including standards, tests and valuation of ecological endowments, shall be resolved by the Department of Environment and Natural Resources and its attached agencies. In resolving conflicts, the DENR may avail of the services of experts or professionals with the consent of the parties involved and under accepted rules of mediation and arbitration.

Violations of anti-pollution law and its implementing rules shall be referred to the Pollution Adjudication Board or its successor.

The Court shall resolve conflicts on the interpretation of law, rule and regulation. Costs shall be shouldered by the parties involved.

SEC. 30. *Appeal.* - Decisions of the DENR involving administrative conflicts may be appealed to the Office of the President.

Decisions of the Pollution Adjudication Board and other quasi-judicial bodies shall be appealed to the Court of Appeals.

ARTICLE X

FINAL PROVISIONS

SEC. 31. *Implementing Rules and Regulations.* - The DENR shall issue the implementing rules and regulations for the effective implementation of this Act which shall include, but not limited to, the following:

1. Standards and parameters for monitoring environmental impacts;

2. Standards and parameters for effective assessment and monitoring of domestic wastes;

3. Market based instruments in the promulgation of environmental regulations.

SEC. 32. Appropriations. – The amount necessary for the initial implementation of this Act shall be charged to the appropriations of the Department of Environment and Natural Resources under the current General Appropriations Act. Thereafter, the amount necessary for the continuous implementation of this Act shall be included in the annual General Appropriations Act.

SEC. 33. Fines and Penalties. – Fines, imprisonment and other penalties for violation of this Act, its rules and regulations shall be in accordance with existing laws covering the specific ecological endowments.

SEC. 34. Repealing Clause. – All laws, decrees, orders, rules and regulations or parts thereof inconsistent with I\this Act are hereby repealed or amended accordingly.

SEC. 35. Separability Clause. – If any provision of this Act is held invalid or unconstitutional, all other provisions not affected thereby shall remain in full force and effect.

SEC. 36. Effectivity Clause. – This Act shall take effect 15 days after publication in two (2) newspapers of general circulation in the Philippines.

Approved.