

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

House Bill No. 16

Introduced by Honorable Roilo Golez

EXPLANATORY NOTE

No less than the 1987 Philippine Constitution, Section 24, Article II thereof, declares that the State recognizes the vital role of communications and information in nation-building. The Department of Transportation and Communications was thus created under the Administrative Code of 1987 to implement this state policy charged with the regulating and adjudicatory and expand a viable, efficient, safe and dependable transportation and communications systems as effective instruments for national recovery and economic progress.

To meet the needs of an increasingly complex transportation and communications sector and to keep up with the rapid pace of technology development particularly in the field of communications technology, the present Department of Transportation and Communications must be divided into two specialized agencies: one to focus on the needs of the transportation sector, both regulatory and adjudicatory, and the other to meet the increasingly complex requirements of the communications technology sector.

With the adoption of this legislative measure, the Department of Information and Communications will be the primary government department tasked to formulate national policies on information and communications technology related projects and programs of the government, and charged with the coordination, planning, and implementation of regulatory and administrative functions of the present DOTC.

In view of the foregoing, the immediate passage of this bill is earnestly sought.


ROILO GOLEZ

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AN ACT
CREATING THE DEPARTMENT OF INFORMATION AND COMMUNICATIONS TECHNOLOGY,
DEFINING ITS POWERS AND FUNCTIONS, APPROPRIATING FUNDS THEREFOR, 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 "Department of Information and Communications Technology Act."

SEC. 2. Creation of the Department - There is hereby created the Department of Information and Communications Technology, hereinafter referred to as the Department.

SEC. 3. Declaration of Policy. – It is the policy of the state to promote the utilization of Information and Communications Technology (ICT) as a vital tool for nation-building and economic growth that is government-enabled, private sector-led, citizen-centric and market-based. Towards this end, government shall prioritize the effective coordination and implementation of its national and local ICT and ICT-enabled services, programs, projects and other related initiatives and reorganize and revitalize all relevant governmental institutions in order to achieve a streamlined and efficient structure that is responsive and attuned to national goals and objectives. It shall likewise be the policy of the State to provide an environment that will support investments in cost-efficient ICT infrastructure, systems and resources, to ensure universal access and high-speed connectivity at fair and reasonable costs; a level playing field for strategic alliances with investors in order to have balanced investments between high-growth and economically depressed areas; ensure consumer protection and welfare as well as preserve the rights of individuals and entities to privacy and confidentiality of information; to promote accountability through transparent governance, and effective delivery of government frontline services.

SEC. 4. Definition of Terms. - As used in this Act, the following terms are defined as follows:

a) "E-Governance or Electronic Governance" – shall mean the application of information communications technology to the processes of government functioning to bring about efficient, ethical, accountable, responsive and transparent governance;

- b) "ICT Sector or ICT Industry" - shall mean all telecommunications carriers /operators, ICT equipment and solutions manufacturers and providers, internet service providers, ICT training institutions, software developers and ICT-enabled service providers;
- c) "ICT-Enabled Service Providers" – shall mean offshoring and outsourcing service providers, including contact centers, medical or legal transcription, animation, engineering or architectural design services, software development, business process outsourcing services, and other providers of services that require the intrinsic use of a networked information infrastructure;
- d) "Information and Communications Technology" – shall mean the totality of electronic means to collect, store, process and present information to end-users in support of their activities and services. It consists of computer systems, office systems and consumer electronics, as well as networked information infrastructure, the components of which include the telephone system, the Internet, fax machines and computers;
- e) "M-Governance or Mobile Governance" – shall mean the application of mobile technology to the process of government functioning to bring about efficient, ethical, accountable, responsive and transparent governance.

SEC. 5. Mandate -The Department shall be the primary policy, planning, coordinating, implementing, regulating and administrative entity of the executive branch of the Government that will promote, develop and oversee the government's integrated and strategic ICT systems and ensure reliable and cost-efficient communications facilities and services.

The Department shall likewise be responsible for improving the acquisition, utilization and optimization of government's information and communications technologies in order to improve the productivity, efficiency, effectiveness, and responsiveness of national and local government programs. The Department shall furthermore be responsible for ensuring the application of information communications technology to the various processes of government functioning.

In fulfilling its mandate, the Department shall be guided by the following strategic objectives:

- a) Ensure the provision of a strategic, reliable, cost-efficient, and citizen-centric ICT infrastructure, systems, and resources as instruments of nation-building and global competitiveness;
- b) Foster a policy environment for ICT sector that will promote market-led, broader development of the ICT and ICT-enabled services sector; a level playing field, partnerships between the public and the private sectors, strategic alliance with foreign investors and balanced investments between high-growth and economically-depressed areas;
- c) Foster and accelerate convergence of ICT facilities such as, but not limited to, the development of networks;
- d) Ensure universal access and high-speed connectivity at fair and reasonable costs;
- e) Ensure the availability and accessibility of ICT services in areas not adequately served by the private sector;
- f) Promote and encourage the widespread use, creative development, access to, ICT with priority consideration on the requirements for growth of the Philippine ICT industry;
- g) Promote and assist the development of local and national content application and services in the area of ICT by sourcing or providing funds and construction assistance for ICT-hubs and/ or technical support to local-based providers in these endeavors and in the marketing of the local products to the global community;

- h) Establish a strong and effective regulatory and monitoring system that will ensure investor and consumer protection and welfare and foster a healthy competitive environment ;
- i) Promote the technical training and scholarships, and the development and use of expertise in ICT and ICT-enabled services in the country's human capital to enable Filipinos to compete in a fast-evolving information and communication age;
- j) Ensure the growth of the ICT and ICT-enabled industries including mobile technologies, application and services;
- k) Preserve the rights of individuals to privacy and confidentiality of their personal information;
- l) Encourage the use of ICT in support of efforts or endeavors for the development and promotion of the country's arts and culture, history, education, public health and safety, and other socio-civic purposes;
- m) Sustain the development of the nationwide postal system as an integral component of the overall development of ICT in the country;
- n) Ensure the security of ICT infrastructures and assets of individuals and businesses; and
- o) Empower, through the use of ICT, the disadvantaged segments of the population, including persons with disabilities (PWD) or who are differently-abled. .

SEC. 6. Powers and Functions. – To carry out its mandate, the Department shall exercise the following powers and functions:

- a) Formulate, recommend, and/or implement national policies and guidelines in the ICT sector that will promote wider use and development of information and communications technologies, and applications, and increased and convenient access by the citizens to the same;
- b) Initiate, harmonize and/or coordinate all ICT plans and initiatives of government departments/agencies to ensure overall consistency and harmony with the objective of electronic governance, in particular, and national objectives and goals in general;
- c) Represent and negotiate for Philippine interests on matters pertaining to ICT in international bodies;
- d) Develop and maintain national ICT development plans and establish and administer comprehensive and integrated programs for ICT with due consideration to advances in convergence and other emerging technologies; and for this purpose, may invite any agency, corporation or organization, whether public or private, whose development programs in ICT are an integral part thereof, to participate and assist in the preparation and implementation of various programs among which is an integrated National Government Portal;
- e) Leverage resources and activities in the various National Government agencies for data base building activity, information and resource sharing and agency networking linkages;
- f) Design, implement, and ensure the protection of an integrated government information and communications infrastructure development program that will coordinate all relevant government entities, taking into consideration, the inventory of existing and projected manpower, plans, programs, proposals, software and hardware, and the installed systems and programs;
- g) Provide an integrated framework in order to optimize all government ICT resources and networks and the identification and prioritization of all e-government systems and applications as provided for in the Government Information Systems Plan and/or the Medium Term Philippine Development Plan (MTPDP);

- h) Coordinate and support the generation and/or acquisition of all necessary resources and facilities as may be appropriate in and for the development, marketing, growth and competitiveness of the Philippine ICT and ICT-enabled services;
- i) Develop, implement and improve, in coordination with concerned government agencies and industry associations, the government's ICT application capabilities and determine the personnel qualification and other standards essential to the integrated and effective development and operation of government information and communications infrastructure;
- j) Encourage and establish guidelines for private sector funding of ICT projects for government agencies in order to fast-track said projects which provide reasonable cost-recovery mechanisms for the private sector, including but not limited to Build-Operate-Transfer (BOT) mechanisms;
- k) Assess, review and provide direction to ICT research and development programs of the government in coordination with the Department Of Science And Technology and other institutions concerned;
- l) Establish and prescribe rules and regulations for the establishment, operation and maintenance of ICT facilities in areas not adequately served by the private sector, in consultation with the private business sector, local government units and the academe;
- m) Support, assist, and prescribe rules and regulations on ICT-related aspects for the operation and maintenance of a nationwide postal system that shall include mail processing, delivery services, and money order services;
- n) Administer and enforce all laws, standards, rules, and regulations governing ICT, and in coordination with the Intellectual Property Office (IPO), ensure the protection of ICT-related intellectual property rights;
- o) In coordination with concerned agencies, ensure consumer protection and welfare, and protect the rights of consumer and business users to privacy, security and confidentiality;
- p) Harmonize, synchronize and coordinate with appropriate agencies all ICT and e-commerce policies, plans and programs;
- q) Coordinate with the Department of Trade and Industry in the promotion of trade and investment opportunities in ICT and ICT-enabled services;
- r) In coordination with concerned agencies, promote strategic partnership and alliances among and between local and international ICT firms and institutions, research and development, educational and training institutions, and technology providers, developers and manufacturers, to speed up industry growth and enhance global competitiveness;
- s) In coordination with concerned agencies, plan and/or implement such activities as may be appropriate and/or necessary to enhance the competitiveness of Philippine workers, firms, and small to medium enterprises in the global ICT market and ICT-enabled services market;
- t) In coordination with the Department of Education, Commission On Higher Education (CHED) and Technical Education And Skills Development Authority (TESDA), undertake initiatives to promote ICT and ICT-enabled services in education and training and the development, promotion and application of ICT in education in a manner that is consistent with national goals and objectives, and responsive to the human resources needs of the ICT and ICT-enabled services sector in particular.

SEC. 7. Composition. - The Department shall be headed by a Secretary to be appointed by the president, subject to the confirmation by the Commission on Appointments. The President shall also appoint not more than four (4) Undersecretaries and four (4) Assistant Secretaries.

Any person appointed as Undersecretary or Assistant Secretary of the Department must be a citizen and resident of the Philippines, of good moral character, of proven integrity, and with experience or expertise in either of the following: electronic governance, cyber services, information technology infrastructure, or human capital development.

The Assistant Secretaries referred to herein shall be career officers with appropriate eligibilities as prescribed by the Civil Service Commission.

SEC. 8. Secretary of Information and Communications Technology. - The authority and responsibility for the exercise of the mandate of the Department and for the discharge of its powers and functions shall be vested in the Secretary of Information and Communications Technology, hereinafter referred to as the Secretary, who shall have supervision and control over the Department. For such purposes, the Secretary shall:

- a) Provide executive direction and supervision over the entire operations of the Department and its attached agencies;
- b) Establish policies and standards for the effective, efficient, and economical operation of the Department, in accordance with the programs of Government;
- c) Rationalize delivery systems necessary for the effective attainment of the objectives of the Department, including the creation of regional and/or field offices;
- d) Review and approve requests for financial and manpower resources of all operating offices of the Department;
- e) Designate and or appoint all officers and employees of the Department, except the Undersecretaries, Assistant Secretaries and Regional and Assistant Regional Directors, in accordance with Civil Service laws, rules and regulations;
- f) Coordinate with local government units (LGUs), other agencies, and public and private interest groups, including non-government organizations (NGOs) and people's organizations (POs) on Department policies and initiatives;
- g) Advise the President of the Republic of the Philippines on the promulgation of executive and administrative orders and regulatory and legislative proposals on matters pertaining to ICT development and promotion;
- h) Formulate such rules and regulations and exercise such other powers as may be necessary to implement the objectives and purposes of this Act; and
- i) Perform such other tasks as may be provided by law or assigned by the President of the Republic of the Philippines from time to time.

SEC. 9. Council of Chief Information Officers – Every department and agency of the national government or its equivalent office in any constitutional body, state college or university, and government-owned and -controlled corporation, is hereby directed to designate at least the third ranking official as a Chief Information Officer. The said Officers shall collectively form the Council of Chief Information Officers. The Secretary shall be the Chairman of the Council.

The Council shall serve as a coordinating body to assist the Secretary in implementing plans for a unified government-wide portal, set standards for government web sites, and establish rules and guidelines for the provision of information and other ICT e-government initiatives.

In performing its duties, the Council shall also consult regularly with Chief Information Officers of local government units on ICT-related activities through their national association and/or through the leagues of local governments.

The Secretary shall convene the Council en banc or by sector at least once every semester within a calendar year.

SEC. 10. E-government Fund - There shall be an e-government fund to be administered by the Department, which is a Special Account in the General Fund, created specifically to fund cross-agency government ICT projects which shall be used to support and co-finance projects that enable the government to expand its ability to conduct activities electronically and provide frontline services through the development and implementation of innovative uses of the internet or other emerging technologies. The Fund may be augmented by donations, contributions and grants from local or international funding agencies.

In order to ensure full transparency, accountability and integrity on the use of e-government funds, a set of guidelines for the disbursement and management of the fund, including the monitoring and evaluation system of projects funded under the e-government fund, shall be formulated, developed, and published by the Department, in coordination with the Department of Budget and Management. In the preparation of said guidelines, consultations shall also be made with the respective umbrella organizations of the information technology and communications sector.

The implementing agencies granted funding under the e-government fund shall maintain primary responsibility over the use and management of the allocated funds. The agency concerned shall regularly submit performance and monitoring reports on the use of said funds to the DICT.

In connection with the implementation of the e-government fund, the Department shall provide or arrange the appropriate or relevant ICT education or training program for government ICT in order to enable the trainees to comprehend the ICT development cycle appropriate to a given project, as well as to ensure that government project managers shall acquire expertise for the timely delivery of systems according to a prescribed content and budget.

SEC. 11. Periodic Performance. - The Secretary is hereby required to formulate and enforce a system of measuring and evaluating periodically and objectively the performance of the Department and to submit the same annually to the President of the Republic of the Philippines and to appropriate Congressional Committees.

SEC. 12. Implementing Rules and Regulations.-- The Department shall promulgate and issue such rules and regulations and other issuances within 90 days from the approval of this Act as may be necessary to ensure its effective implementation.

SEC. 13. Transfer of agencies and personnel. -

The following agencies and institutions are hereby absorbed in the Department:

- a) All operating units currently existing in the Commission on Information and Communications Technology (CICT), which directly support communications, including the Telecommunications Policy Planning Office.

b) The National Computer Center under the Department of Science and Technology and

c) All offices, services, divisions, units, and personnel of the DOTC with functions and responsibilities dealing with communication;

All offices, services, divisions, units and personnel not otherwise covered by this Act for transfer or absorption into the new Department shall continue to perform their transportation-related functions and therefore, shall be retained under the Department of Transportation and Communications which is hereby named the Department of Transportation.

The foregoing transfer of powers and functions shall include all applicable funds and appropriations, records, equipment, property, and personnel as may be necessary.

The following agencies are hereby attached to the Department for policy and program coordination and shall continue to operate and function in accordance with their charters, laws or orders creating them, and with such other functions and responsibilities mandated by law and insofar as they are consistent with this Act:

a) National Telecommunications Commission;

b) Philippine Postal Corporation; and

c) Telecommunications Office (TELOF).

The Department shall not exercise any power which will have the effect of modifying the exercise by the NTC of its quasi-judicial function.

SEC. 14. Separation from Service – Employees separated from the service as a result of the reorganization shall, within ninety (90) days therefrom, receive the retirement benefits to which they may be entitled under existing laws, rules and regulations.

Those incumbents whose positions are not included in the new position structure and staffing pattern of the Department, or who are not re-appointed shall be deemed separated from the service, whether permanent, temporary, contractual or casual employees, and shall, within ninety (90) days therefrom, receive the retirement benefits to which they may be entitled under existing laws, rules and regulations.

SEC. 15. Appropriations – The amount needed for the initial implementation of this Act shall be taken from the current year's appropriations of the Commission on Information and Communications Technology and all Government agencies herein absorbed or attached to the Department. Thereafter the amount needed for the operation and maintenance of the Department and its Line Agencies shall be included in the annual General Appropriations Act.

The budget of the Philippine Postal Corporation shall be charged from its internally generated funds.

SEC. 16. Transitory Provisions – Within three (3) months after the approval of this Act, the organizational structure including the creation of new division or units as may be deemed necessary for the Department to carry out its powers and functions under this Act, shall be determined by the Secretary through a Committee that he shall establish for the purpose.

The new organizational structure and staffing pattern of the Department shall be evaluated and approved by the DBM.

The authorized positions created under the organizational or reorganization plan shall be filled with regular appointments, as the exigencies of the service will require and depending upon the position involved, by the President of the Philippines or the Secretary of the Department as the case may be, in accordance with the Civil Service rules and regulations.

SEC. 17. Repealing Clause - All laws, decrees, executive orders, rules and regulations and other issuances or parts thereof which are inconsistent with this Act are hereby repealed, amended or modified accordingly.

SEC. 18. Separability Clause - If any provision of this Act shall be declared unconstitutional or invalid, the other provisions not otherwise affected shall remain in full force and effect.

SEC. 19. Effectivity Clause - This Act shall take effect after fifteen (15) days from its publication in at least two (2) papers of general circulation.

Approved