

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS

First Regular Session

House Bill No. 385

Introduced by **Rep. Erico B. Aumentado**

EXPLANATORY NOTE

The Philippine contemporary scene presents a nation battered by a crime wave that continues to escalate in magnitude and intensity. Law enforcement does not seem able nor capable to deliver and respond fast enough or good enough.

The latest killings of mediamen, judges, elective officials, and other government officials have caught the attention of international organizations and those concerned sectors of the country on the government's inability to solve the crimes. Thus, this bill is filed to respond to the need of the hour.

A version of this bill was adopted by both chambers of Congress. Unfortunately, it was overtaken by the adjournment of Congress without the bicameral conference action thereof being ratified.

It is difficult to imagine how law enforcement can truly be efficient and effective if its growth and expansion are stifled by age-old organizational system and procedures and chained by too much financial restrictions.

The National Bureau of Investigation — the equivalent of the FBI in the United States of America is passionately eager to face the challenges of the present and the approaching millennium but it needs to be adequately equipped in terms of developed human resources, state-of-the-art equipment and facilities, and necessary logistics for mobilization.

Reorganization, modernization and expansion of the NBI are long overdue. While operating firmly on foundations of **NOBILITY, BRAVERY** and **INTEGRITY**, the NBI cannot hope to achieve **SIGNIFICANT** strides forward and move onward if it is not allowed to grow and expand. The NBI has to be dynamic to be able to respond to the urgent call of times.

This bill entitled **THE NATIONAL BUREAU OF INVESTIGATION REORGANIZATION AND MODERNIZATION ACT** proposes to reorganize and modernize the NBI to provide the agency the much needed capability to successfully address the "**high tech**" level at which criminals pursue their "**trade**".

The NBI vision is to be "**capable**" of getting results at the "**flick of a finger**" to be capable to respond quickly to the **CALL TO ACTION** of the people — all the time.

WHEREFORE, the approval of this **BILL** is **URGENTLY** recommended.


ERICO B. AUMENTADO

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AN ACT

REORGANIZING AND MODERNIZING THE NATIONAL BUREAU OF INVESTIGATION, PROVIDING NECESSARY FUNDS THEREFOR, AND FOR OTHER PURPOSES

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

SECTION 1. Title – This Act shall be known as the **THE NATIONAL BUREAU OF INVESTIGATION REORGANIZATION AND MODERNIZATION ACT of 2010**.

SECTION 2. Declaration of Policy – It is the policy of the state to promote and maintain a modern investigative body, functionally integrated and national in scope.

Towards this end, the state hereby adopts the policy of implementing plans and programs to ensure respect for the rule of law, modernization, professionalism, competence and efficiency.

SECTION 3. Reorganization, Modernization and Expansion of the National Bureau of Investigation – The National Bureau of Investigation, hereinafter referred to as the NBI, is hereby reorganized and modernized.

The NBI shall implement a modernization program geared towards the acquisition of state-of-the-art investigative and intelligence equipment and the establishment of forensic and scientific laboratories. The program shall include provisions for the training of its personnel in this regard.

The investigative and non-investigative staff of the NBI shall be increased and their positions upgraded to adequately meet the increasing demands of an expanded investigative and detective work.

The present organizational structure of the NBI shall be reorganized into the Office of the Director, Office of the Deputy Directors, Office of the Assistant Directors for Special Investigation Services, Intelligence Services, Comptroller Services, Administrative Services, Technical Services, Legal Services and Information and Communications Technology Services. Each of these shall be composed of the necessary divisions and sections.

The investigative and non-investigative staff of the NBI occupying the positions affected by the changes embodied in this Act at the time of its approval shall thereafter occupy the positions mandated by this Act, and discharge the duties and functions of their new positions and receive the corresponding salary and benefits without the necessity of any new appointment.

The NBI shall be under the administrative supervision of the Secretary of the Department of Justice (DOJ).

SECTION 4. Compensation. – The basic monthly compensation of the Director, Deputy Directors, Assistant Directors, Regional Directors and Assistant Regional Directors shall be as follows:

POSITION	SALARY GRADE	
	FROM	TO
Director	30	31
Deputy Director	29	30
Assistant Director	28	29
Regional Director	27	28

The basic monthly compensation of the NBI investigative staff shall be as follows:

POSITION	SALARY GRADE	
	FROM	TO
Head Agent	25	26
Supervising Agent	24	25
Senior Agent	23	25
Special Investigator V	24	25
Special Investigator IV	23	24
Agent III	23	24
Agent II	22	23
Agent I	18	22
Special Investigator III	18	21

The entity level of lawyers, who do not belong to the investigative staff, and other highly specialized technical personnel such as physicians, chemists, and the like, shall be Salary Grade 24. They shall have the same incremental steps as those of the investigative staff.

The positions and salaries of the non-investigative staff in the NBI shall be raised to the level of their counterparts in the Office of the Solicitor General.

Subject to the availability of funds, the salaries and privileges of personnel of the NBI granted under this Act may be further increased to match any corresponding increase in salaries, and privileges later granted to their respective counterparts in the Office of the Solicitor General.

SECTION 5. Powers and Functions. – The NBI shall have the following powers and functions:

1) Undertake investigations and detection of crimes and other offenses against the laws of the Philippines, upon its own initiative or upon the request of a government agency or private party.

Once the NBI commences the investigation of any crime or offense, it shall continue to be the lead agency in the investigation until its conclusion. Where the investigation of any crime or offense is vested in another agency which has already commenced its own investigation, the NBI shall exercise a supportive and coordinative role: *Provided*, however, that when otherwise directed by the President or the Secretary of Justice, or when so requested by the agency concerned or the victim's family, the NBI shall assume the lead role in the investigation until its final determination.

2) Act as national clearing house of criminal records and other related information for the benefit of judicial, quasi-judicial and administrative bodies, all prosecuting and law enforcement entities, as well as, the Legislature and Executive branches of the Government.

3) Act as repository for the following:

- a) Identification records of all persons without criminal convictions, including their identifying marks and characteristics;
- b) Ballistic records of firearms including but not limited to data ownership, possession, and other related identifying circumstances;

c) Dental records pursuant to PD 1575; and

d) A national deoxyribonucleic acid (DNA) database.

4) Render technical assistance to judicial, quasi-judicial and administrative bodies, all prosecuting and enforcement entities of the government, as well as, the Legislature and Executive branches of the Government, when so requested.

5) Establish an NBI Academy, which shall be responsible for the recruitment, training and development of all NBI agents and personnel. The Academy may also accept personnel of the Philippine National Police (PNP) and Philippine Drug Enforcement Agency (PDEA), among others, for skills training and development.

6) Establish and maintain modern forensic and scientific laboratories nationwide and to conduct research in furtherance of scientific knowledge in criminal investigation, detection and evidence gathering.

7) Establish and maintain an integrated, comprehensive and state-of-the-art network, equipment and facilities to be used by the NBI in its criminal investigation, detection and evidence gathering, and to provide the corresponding training in this regard.

8) Enlist the assistance of the Philippine National Police, Armed Forces of the Philippines or any other agency of the Government, including government-owned-and/or-controlled corporations, in its anti-crime drive. Such assistance may include the use of the enlisted agency's personnel and facilities: *Provided*, That the use of such personnel and facilities shall require the prior approval of the head of the agency concerned.

9) Conduct intelligence operations in furtherance of the foregoing powers and functions.

10) Enter into any contract of loan or any other transaction for the acquisition, administration, lease, disposition or acceptance of real or personal property in its name; and

11) Perform such other related functions as the Secretary of Justice may assign from time to time.

SECTION 6. The NBI Director and Other Officials – The NBI shall be headed by a Director assisted by three Deputy Directors and an Assistant Director for

each of the following eight services: Special Investigation Services, Intelligence Services, Comptroller Services, Administrative Services, Technical Services, Legal Services, and Information and Communications Technology Services.

The NBI is authorized to operate and maintain a Regional Office in each of the administrative regions of the country, to be headed by a Regional Director who shall be assisted by an Assistant Regional Director.

SECTION 7. Powers and Functions of the Director – The Director shall have the following powers and functions:

- 1) Establish policies and standards for the efficient and effective operation of the NBI in accordance with the programs of the Government;
- 2) Exercise direct supervision and control over all NBI employees, their functions, responsibilities and activities;
- 3) Promulgate rules and regulations necessary to carry out the NBI's objectives, policies, plans and programs;
- 4) Establish as many district offices and divisions as the exigencies of the service may require;
- 5) Deploy any of its official or personnel for out-of-country missions including, but not limited to, assignments as functionaries attached to any Philippine Embassy, consulate or any other diplomatic office abroad in coordination with the Department of Foreign Affairs;
- 6) Hire consultants for such length of time as may be deemed required by the exigencies of the service;
- 7) Issue permits to carry firearms outside residences;
- 8) Deputize or assign any organic personnel of the Philippine National Police to assist in investigative or intelligence activities;
- 9) Designate NBI informants;
- 10) Subject to Civil Service laws, rules and regulations, order the dismissal of any NBI employee (non-presidential appointee), in any of the following circumstances:

- a) When the charge is serious and the evidence of guilt is strong;
or
- b) When the respondent is notoriously undesirable.

- 11) Exercise other related functions as may be provided by law or as authorized by the Secretary of Justice.

SECTION 8. Qualifications and Appointment of the Director – The Director shall be appointed by the President and shall hold office for a term of seven years without reappointment to start from the time of assumption of office. He shall have the same rank, salary and privileges of a senior undersecretary of a department. No person shall be appointed Director unless he is a natural-born citizen of the Philippines, a member of the Philippine Bar and with at least fifteen years experience in the law enforcement, prosecutorial or judicial arm of the Government.

SECTION 9. Qualifications and Appointment of Deputy Director and Assistant Directors. – The Deputy Director shall be appointed by the President. He shall have the same rank, salary and privileges of an undersecretary of a department. No person shall be appointed Deputy Director unless he is a natural-born citizen of the Philippines, a member of the Philippine Bar or a Certified Public Accountant (CPA) and must have served as an NBI Assistant Director.

The Assistant Directors shall be appointed by the President. They shall have the same rank, salary and privileges equivalent to an assistant secretary of a department. The qualifications of the Assistant Directors shall be as follows:

- A. **ASSISTANT DIRECTOR FOR SPECIAL INVESTIGATION SERVICES, REGIONAL OPERATIONS SERVICES, INTELLIGENCE SERVICES, COMPTROLLERSHIP SERVICES OR ADMINISTRATIVE SERVICES.** He must be a citizen of the Philippines, a member of the Philippine Bar or a CPA and must have rendered at least ten years of continuous and satisfactory service in the NBI as an agent, and must have served as NBI Regional Director or as Assistant Regional Director.
- B. **ASSISTANT DIRECTOR FOR TECHNICAL SERVICES.** He must be a citizen of the Philippines, a member of the Philippine Bar or a CPA or a holder of a Masters/Doctorate Degree in a related discipline and must have rendered at least ten years of continuous service in the NBI, five years of which have been as a Division Chief.

C. **ASSISTANT DIRECTOR FOR LEGAL SERVICES.** He must be a citizen of the Philippines, a member of the Philippine Bar, and who must have rendered at least ten years of at least ten years of continuous service in the NBI, five years of which have been as a Division Chief, or must have served as NBI Regional Director or as Assistant Regional Director for at least three years.

D. **ASSISTANT DIRECTOR FOR INFORMATION AND COMMUNICATIONS TECHNOLOGY.** He must be a citizen of the Philippines, a member of the Philippine Bar or a CPA or a holder of a Masters/Doctorate Degree in a related discipline and must have rendered at least ten years of continuous service in the NBI, and with five years experience in computer-media technology.

SECTION 10. Qualifications and Appointments of Regional Directors. –

The Regional Director shall be appointed by the President. No person shall be appointed Regional Director unless he is a citizen of the Philippines, a member of the Philippine Bar and must have rendered at least ten years of continuous service in the NBI, and must have served as Assistant Regional Director.

SECTION 11. Qualifications and Appointments of Assistant Regional Directors. – The Assistant Regional Director, in every NBI Regional Office, shall be appointed by the President. No person shall be appointed Assistant Regional Director unless he is a citizen of the Philippines, a member of the Philippine Bar or a CPA, and must have rendered at least ten years of continuous service in the NBI as an agent, three years of which have been as Head Agent.

SECTION 12. Qualifications and Appointment of Head Agents. – The Head Agent in each Investigative, Legislative and District Offices of the NBI shall be appointed by the Director. No person shall be appointed head agent unless he is a citizen of the Philippines, a member of the Philippine Bar or a CPA, and must have rendered at least ten years of continuous service in the NBI as an agent.

SECTION 13. Qualifications and Appointment of Supervising Agents, Senior Agents and Agents. – All supervising agents, senior agents and agents of the NBI shall be appointed by the Director. No person shall be appointed supervising agent, senior agent or agent unless he is a citizen of the Philippines, a member of the Philippine Bar or a CPA: *Provided*, That said agents shall be issued a permanent appointment only after they have successfully passed the rigid physical examination and training conducted by the NBI Academy.

SECTION 14. Qualifications and Appointment of Special Investigators. –

The agents mentioned in the immediately preceding section shall be supported, assisted and complemented by special investigators in the investigation of cases. All special investigators shall be appointed by the Director. No person shall be appointed special investigator unless he is a citizen of the Philippines, a graduate of a four-year course, must have at least completed two years of Bachelor of Laws, and must have passed a government licensure examination or a holder of a first grade civil service eligibility.

SECTION 15. Powers and Functions of the Investigative Staff. – The investigative staff of the NBI shall have the following powers and functions:

1. Conduct searches, arrests and seizures in accordance with existing laws, rules and regulations;
2. Issue subpoena or *subpoena duces tecum* for the appearance at Government expense of any person for investigation.

Deliberate and unjustified failure to obey the subpoena herein mentioned shall render the person concerned liable for obstruction of justice under PD 1829;

3. Receives statements under oath of any person or persons so summoned in the conduct of such investigation;
4. Administer oaths in cases under investigation;
5. Own, possess and carry, outside their office and residence, suitable and adequate firearms for their personal protection in connection with their duties and for the proper protection of witnesses and persons in custody; and
6. Have access, examine, secure, take custody of and photocopy public records: *Provided*, That as regards public and/or bank records such access need not be upon prior approval with the court in cases involving a verified complaint for malversation penalized under the Revised Penal Code, violation of the Anti-Graft and Corrupt Practices Law (RA 3019), the Anti-Money Laundering Law of 2001 (RA 9160), Code of Conduct and Ethical Standards of Public Officials (RA 6713), Comprehensive Dangerous Drugs Law of 2002 (RA 9165), Plunder Law (RA 7080) or the Human Security Act of 2007 (RA 9372).

The refusal to allow NBI any access to, examination and/or handling of records mentioned in this paragraph shall render the person concerned liable for obstruction of justice under PD 1829.

SECTION 16. Benefits and Privileges. – Subject to availability of funds, the NBI may provide its employees with the following benefits:

- (1) Health care services through a health maintenance organization (HMO). Expenses for the mandatory annual executive check-up of the Director, Deputy Director and Assistant Deputy Directors shall be for the account of the office;
- (2) Accident insurance policies for all employees procured by the office at its own expense during travels while in the performance of their official duties and functions; and
- (3) Without prejudice to efficiency in the service, grant scholarships to deserving employees on official time and at the expense of the Office to upgrade their knowledge and skills; *Provided that*, scholars under this provision shall be selected on the basis of merit as determined by competitive examination.

SECTION 17. Legal Assistance. – A special trust fund shall be established to assist NBI personnel who are criminally charged with acts in the performance of their official functions. Two percent (2%) of NBI's yearly collection from clearance fees and any interest accruing thereto shall be appropriated for the implementation and maintenance of said special trust fund.

SECTION 18. Seminar and Other Professional Fees. – Subject to the availability of funds, fees for relevant seminars, as well as professional membership fees for lawyers, registration fees, and related miscellaneous expenses incurred in competing the mandatory continuing legal education (MCLE) course shall be borne by the office. Moreover, professional membership, registration fees, including the mandatory continuing professional (MCLE), and related miscellaneous expenses of other employees holding positions for which a professional license is required by the office, shall be borne by the office.

SECTION 19. Transportaion Benefits. – Subject to the availability of funds, employees shall be provided with contracted transportation services until such time that the office can procure additional motor vehicles for this purpose.

SECTION 20. Franking Privilege. – All official mail matters and telegrams of the NBI addressed for delivery within the Philippines shall be received, transmitted, and delivered free of charge: *Provided*, That such mail matters when addressed to private persons or non-government offices shall not exceed one hundred and twenty (120) grams.

SECTION 21. Grant of Special Allowances. – The investigative staff of the NBI occupying positions with Salary Grade 24 and above shall be granted special allowances in amounts to be determined by the NBI Director and the Department of Budget and Management (DBM).

The grant of special allowances shall be implemented uniformly in such sums and amounts and to the extent that can be supported by the funding source as specified in Section 22 hereof: *Provided*, That said special allowance shall not exceed One Hundred percent (100%) of the basic salary of NBI personnel concerned as provided in Republic Act No. 6758, otherwise known as the Salary Standardization Law.

SECTION 22. Funding Source. – The funds required for the implementation of this Act including employee benefits shall be taken from:

- 1) Collection from NBI clearance and certification fees;
- 2) Service incomes from trainings, DNA, Drug tests, Confirmatory and Neuro tests and the like;
- 3) Seizures; and
- 4) Other miscellaneous incomes.

SECTION 23. Effect of Subsequent Salary Increases. – Upon implementation of any subsequent increases in the salary rates provided under Republic Act No. 6758, as amended, all special allowances granted under Section 21 hereof shall be considered as an implementation of said salary increases as provided by law. The special allowances equivalent to the increase in the basic salary as may be provided by law shall be converted as part of the basic salary: *Provided*, That the amounts converted as basic salary shall be funded from the regular appropriations of the NBI. Any excess in the allowances granted under this Act not converted to basic salary shall continue to be granted as such and shall continue to be funded under the immediately preceding Section.

SECTION 24. Implementing Rules and Regulations. – Within sixty (60) days from the approval of this Act, the NBI Director in coordination with the Secretary of Budget and Management shall promulgate such rules and regulations as may be necessary to carry out the provisions of this Act.

SECTION 25. Repealing Clause. – Pertinent provisions of Executive Order 292, the Revised Administrative Code of 1987, as amended, Republic Act No. 460 dated December 3, 1997, Republic Act No. 157 dated June 19, 1947, Executive Order No. 482 dated May 7, 1998, Administrative Order No. 117 dated February 17, 1994, and all laws, decrees, orders, rules and regulations or parts thereof which are contrary to or inconsistent with the provisions of this Act, are hereby repealed or amended accordingly.

SECTION 26. Separability Clause. – If any provision of this Act is declared invalid or unconstitutional, the provisions not affected thereby shall continue to be in full force and effect.

SECTION 27. Effectivity. – This Act shall take effect after fifteen (15) days from its publication in two (2) national newspapers of general circulation.