

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

House Bill No. 3361

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

EXPLANATORY NOTE

This bill seeks to support Pres. Benigno Aquino's mantra against graft and corruption in the Philippines.

In fact, his campaign slogan was "Kung walang corrupt, Walang mahirap," (Without corruption, there will be no poor). He buttressed also his strong advocacy with a bold statement against corruption during his inaugural address on June 30, 2010.

The President further strengthened his resolve to fight graft and corruption during his first State of the Nation Address (SONA) on July 26, 2010. The message is thus crystal clear: corruption must be taboo in this country under his watch.

In this bill, Pres. Aquino's sincerity on his drive against graft will be provided with more teeth in the Department of Public Works and Highways (DPWH) and other government institutions undertaking horizontal infrastructures such as roads, bridges and airports, where reforms are being proposed herein.

For the Department of Public Works and Highways had, in the past, been reported to be graft-ridden with sub-standard infrastructure projects. Hence, the proposed reforms therein.

Accordingly, the alleged corruption in the Department started from the planning and programming, through bidding and awarding of contracts, to the implementation and payment of the project concerned.

This measure proposes certain reforms in DPWH to address the root of corruption therein and imposes stiff penalties with special disqualification to hold any public office as deterrents for both the government personnel and private parties to obey in order to avoid any infraction of the legislation, if approved into law.

Among the reforms being proposed herein are: (a) the strict adherence to the DPWH Standard Specifications of 2004 and onwards, especially on base preparation for foundations, layer by layer soil compaction and drilling test; (b) punishment of those involved in collusion in bidding and award to the winning contractor; (c) pre-qualification of blacklisted contractors and those with 15% negative slippage or who had abandoned any previous project; (d) the mandatory use of computerized batching plants for portland cement concrete pavement (PCCP) and asphalt roadworks to ensure the quality standard of the project; (e) timelines in payment of billings; (f) prohibition in either consolidation of projects or splitting of projects; (g) the mandatory use of cement paver and asphalt paver for Official Development Assistance (ODA)-funded or locally funded project worth not less than P200 million to ensure quality standard of PCCP and asphalt roadwork as addendum to the requirement under item (d) of Section 3 of the bill; and, (h) banning DPWH personnel to enter and gamble in any gambling den or casino even during off hours while in government service, and public empowerment to monitor the project for transparency and accountability.

The empowerment of our people to monitor and report irregularities is being provided in this bill. The provision requires the publication in a billboard, for transparency and accountability the following specifications: Name of Project, Cost of the Project, Length of Project, Starting Date, Completion Date, Name of Contractor, and, Implementing Agency, whether central office, regional office or district office, as the case may be. The billboard shall be placed in conspicuous places from the project starting point to its completion point.

The DPWH shall endeavor to establish a point system in any bidding to include quality of equipments for more efficient and effective implementation of the project, environmental compliant equipments and camps. Whenever there is a requirement for a cement paver or an asphalt paver in PCCP and asphalt project, respectively, the ISO with an international auditor such as TUV of Germany may be required by DPWH.

Wherefore, the approval of this bill is most respectfully and earnestly recommended.



ERICO B. AUMENTADO

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AN ACT

PROVIDING FOR REFORMS IN THE DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS AND OTHER GOVERNMENT INSTITUTIONS IMPLEMENTING SIMILAR PUBLIC INFRASTRUCTURES, PENALIZING VIOLATIONS THEREOF, 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 Department of Public Works and Highways Reform Act of 2010.**

SECTION 2. DECLARATION OF POLICY. – It is the policy of the State to eradicate graft and corruption in the government and the private sector dealing with it in order to avoid the wastage of public funds which could have gone to provide for poverty alleviation to the poor and needy in the country.

Towards this end, the state hereby adopts the policy of cleansing the DPWH – a vital and strategic department for the construction of roads, bridges, flood controls, buildings and other infrastructures and other government institutions implementing similar public infrastructures – from graft and corruption; and insure faithful implementation of government projects under their respective jurisdiction with efficiency, effectiveness and cost-saving processes.

SECTION 3. ACTS PUNISHABLE. – In addition to acts or omissions of public personnel already penalized by any existing law, the following shall constitute acts committed by any public personnel and private person in conspiracy with such government personnel are hereby declared to be unlawful:

- a. Deliberate planning and programming of any infrastructure project to favor a certain contractor, consortium or joint venture; or grossly erroneous planning and programming where the project cannot be completed because the infrastructure is constructed in a place not suited for the purpose and just to accommodate a request or instruction by any party other than the planning officials' superior which results to damage and prejudice to the government.
- b. Collusion in a bidding and awarding of contract, including, but not limited to an arrangement on who wins among the participating contractors in a public competitive bidding; or pre-qualifying any blacklisted contractor and those with negative slippage of not less than 15% or who had abandoned any previous project.

For this purpose, the bids and awards committee shall conduct pre-qualification process to eliminate any notoriously undesirable contractor previously blacklisted, who had abandoned or incurred a 15% negative slippage in any previous project to bid under its jurisdiction.

The DPWH shall endeavor to establish a point system in any bidding to include quality of equipments for more efficient and effective implementation of the project, environmental compliant equipments and camps. Whenever there is a requirement for a cement paver or an asphalt paver in PCCP and asphalt project, respectively, the ISO with an international auditor such as TUV of Germany may be required by DPWH.

- c. The public works personnel shall see to it that the DPWH Standards Specifications of 2004 and onwards shall be strictly followed especially on base preparation for foundation, layer by layer soil compaction and drilling test.
- d. The mandatory use of computerized batching plants for portland cement concrete pavement (PCCP) and asphalt roadworks.
- e. Project billings shall be paid within 30 days from submittal thereof, excluding delays in COA pre-audit and other extraordinary circumstances beyond the control of the personnel concerned.
- f. The consolidation or splitting of projects in the implementation thereof under the jurisdiction of the regional office or district office is hereby prohibited. For this purpose, the maximum limit of contract under the Engineering District shall be in the amount of P75,000,000.00, and that of the Regional Office, in the amount of P150,000,000.00, provided, however, that the latter shall assign from its engineering staff a project engineer to supervise the implementation of the regional project. All public works contracts in excess of P150,000,000.00 shall be exclusively under the Department of Public Works and Highways (DPWH) Central Office.
- g. The mandatory use of cement paver and asphalt paver for Official Development Assistance (ODA)-funded PCCP and asphalt roadwork, respectively, is hereby ordained to ensure further quality standard of work and non-compliance herewith is an offense under this Act. The same equipment shall be required for P200,000,000.00 worth of locally funded similar projects.
- h. DPWH personnel are hereby prohibited to enter into and gamble in any gambling den especially casinos even during off hours while in government service; and
- i. Deliberate and unjustified change orders, extra work or suspension of work to favor the contractor and prejudicial to the interest of the government is hereby prohibited except for extraordinary reasons such as natural calamities, including but not limited to, floods, landslides, typhoons, and movements of land by reason of earthquakes.

The foregoing unlawful acts shall apply to the construction of airports and similar horizontal public infrastructures under other departments or agencies of the government, including local government units.

Section 4. PUBLIC MONITORING. – The implementing agency shall install billboards in the starting point of the project and in the completion point of the project for transparency and accountability with the following specifications stated therein: Name of

Project, Cost of the Project, Length of Project, Starting Date, Completion Date, Name of Contractor, and, Implementing Agency.

Section 5. PENALTIES FOR VIOLATION. – Any public officer or private person committing any of the unlawful acts enumerated under Section 4 hereof, shall be imposed the penalty of six (6) years and one (1) day to twelve (12) years of *prision mayor*, with an accessory penalty of disqualification to hold public office or be elected thereto, and in the case of a public officer, automatic suspension after arraignment until such time as the court lift the said suspension.

Section 6. SEPARABILITY CLAUSE. – If any provision of this Act or the application of such provision to any person or circumstance is declared void by the proper court, the remainder of this Act or application thereof to other persons or circumstances shall not be affected by such declaration of nullity.

Section 7. EFFECTIVITY. – This Act shall take effect upon its approval and publication in the Official Gazette or newspaper of nationwide general publication.

APPROVED.