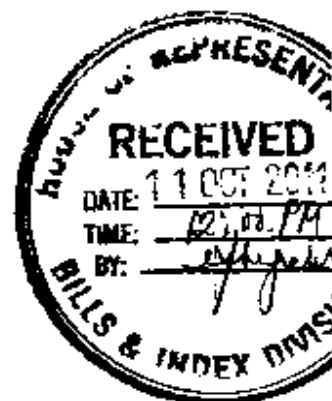


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS

Second Regular Session
House Bill No. 5406



Introduced by: HON. MA. VICTORIA SY-ALVARADO, Representative, 1st District of Bulacan

AN ACT INSTITUTING A NATIONAL DAM SAFETY PROGRAM, ESTABLISHING THE NATIONAL DAM SAFETY AUTHORITY, PENALIZING VIOLATIONS THEREFOR AND FOR OTHER PURPOSES.

Explanatory Note

The tragic, destructive and costly experience of the Philippines in the past two years with floods arguably aggravated by the release of water from dams brought to attention the procedures, processes, systems and protocols observed (or not observed) by different agencies tasked to manage or operate dams in the country.

There is no denying that dams are essential for development. Its importance for power generation, water supply for domestic use and irrigation is unquestionable. However, recent experience also point to the fact that it can also cause destruction and untold misery. In the case of the recent flooding in Bulacan and Pampanga, destruction to property has reached to about 10 Billion peso estimate, not to mention the loss of lives.

In the latest flooding in Central Luzon following the heavy rains caused by Typhoons "Pedring" and "Quiel", Local Government Units point to the release of water from the dams as the main cause of the flooding. While agencies tasked to manage and operate dams deny the accusation asserting that they followed dam protocols, certain sectors blame the lack of a national dam safety program and the observance of an outdated dam protocol for the problem.

It is high time to end the blame game on dams. Our people and country cannot afford to keep on debating while the people continue to suffer. It is time we have a single government agency that is tasked to control, manage and operate dams and institute a national dam safety program. This maybe a reactionary move as a result to the recent flooding but this is also a pre-emptive and pro-active move to prevent recurrence of the problems our country experienced in the past.

To address certain concerns in Metro Manila, the government created the Metro Manila Development Authority (MMDA). For Laguna Lake, the Laguna Lake Development Authority (LLDA) was established. For Mindanao, the Mindanao Development Authority (MinDA) was created.

The country is home to more than a dozen dams. Surely, it is time for an agency that where operation and management is placed.

The passage of this bill is therefore most earnestly sought.


MA. VICTORIA SY-ALVARADO

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Introduced by: HON. MA. VICTORIA SY-ALVARADO, Representative, 1st District of Bulacan

AN ACT INSTITUTING A NATIONAL DAM SAFETY PROGRAM, ESTABLISHING THE NATIONAL DAM SAFETY AUTHORITY (NDSA), PENALIZING VIOLATIONS THEREFOR AND FOR OTHER PURPOSES.

Be it enacted by the House of Representatives in session assembled that:

Section 1. Short title. This Act shall be known "Dam Safety Act of 2011".

Section 2. Declaration of Policy. It shall be the policy of the State to:

(a) Uphold the people's constitutional rights to life and property by instituting a National Dam Safety Program that observes that is pro-active, consultative, transparent, responsible and gives due regard to the possible occurrence of disasters, and destruction to property and loss of lives;

(b) Adhere to universal norms, principles, and standards of humanitarian assistance and the global effort on risk reduction as concrete expression of the country's commitment to overcome human sufferings due to recurring disasters;

(c) Incorporate internationally accepted principles of management in the creation and implementation of national dam safety program;

(d) Adopt a national dam safety program that is holistic, comprehensive, integrated, and proactive in lessening the socio-economic and environmental impacts of dams including possible destruction to property and loss of lives and promote the involvement and participation of all sectors and all stakeholders concerned, at all levels, especially the local community;

(e) Recognize and strengthen the capacities of LGUs and communities in mitigating and preparing for, responding to, and recovering from the impact of disasters;

Section 3. Definition of terms. For purposes of this Act, the following terms shall refer to:

- (a) "Early warning system"- the set of capacities needed to generate and disseminate timely and meaningful warning information the set of capacities needed to generate and disseminate timely and meaningful warning information to enable individuals, communities and organizations threatened by a hazard to prepare and to act appropriately and in sufficient time to reduce the possibility of harm or loss. A people-centered early warning system necessarily comprises four (4) key elements: knowledge of the risks; monitoring, analysis and forecasting of the hazards; communication or dissemination of alerts and warnings; and local capabilities to respond to the warnings

received. The expression "end-to-end warning system" is also used to emphasize that warning systems need to span all steps from hazard detection to community response.

- (b) "Emergency" -unforeseen or sudden occurrence, especially danger, demanding immediate action.
- (c) "Emergency Management" -the organization and management of resources and responsibilities for addressing all aspects of emergencies, in particular preparedness, response and initial recovery steps.
- (d) "National Dam Safety Plan" – a set of procedures, processes or protocols as promulgated by the National Dam Safety Authority to be observed in the management and control of dams specially during emergency situations;

Section 4. The National Dam Safety Authority. The National Dam Safety Authority (NDSA) is hereby created, hereinafter referred to as the Authority, which is tasked to control, manage, coordinate operations of all dams in the country.

Section 5. Principal Office and Term. The Authority shall have its main office in Metro Manila and may establish area offices as may be determined by it, if necessary, to achieve the objectives of this Act. The Authority shall have a term of twenty five (25) years from the effectivity of this Act and may be renewed for the same period unless otherwise provided by law.

Section 6. Powers and Functions of NDSA. The Authority shall have the following powers and functions:

- (a) Exclusive power to control, manage and operate all dams in the country in coordination with proper agencies. It may however delegate to agencies currently managing dams, provided that, such delegated agencies shall be under the direct control and management of the Authority during emergency;
- (b) Formulate a comprehensive and holistic national dam safety plan that is consistent with the declared principles of this Act which shall include provisions on early warning systems, consultation and coordination with all concerned agencies including LGUs and private sector;
- (c) Integrate, prioritize, program and implement, whenever allowed and authorized by applicable laws, in relation to control, management and operation of dams;
- (d) Recommend to and, whenever necessary, call upon the proper agencies on the technical support, physical assistance and, generally, the level of priority to be accorded to agricultural, industrial, commercial, and infrastructure, environmental, and technological programs and projects soliciting or requiring direct or indirect help from or through the national government or any of its instrumentalities;
- (e) Explore sources for financing priority on the control, management and operations of dams;
- (f) To sue and be sued, enter into contracts, acquire, purchase, hold, lease, transfer, dispose of property of any kind or nature to carry out the purposes to this Act; and

(p) Discharge other functions that may be deemed necessary or as may be provided by law;

The Authority, through the Chairperson, shall submit to the President and both Houses of Congress annual reports on its accomplishments and activities.

Section 7. Chairperson. The Chairperson shall be appointed by the President of the Philippines with an Undersecretary rank and shall act as the Head of office. He/She shall serve a term of six (6) years from the date of his/her appointment unless removed for cause: Provided, That no person shall be appointed as Chairperson unless he/she is a holder of a degree in law or a masteral degree in any of the following fields: Hydrology, Environmental Planning, Public Administration, Law, Management or Engineering, or their equivalent and have at least ten (5) years relevant experience in said fields.

The Chairperson shall have the following duties and functions:

(a) Call and preside meetings of the Board and see to it that the policies, programs and rules and regulations are implemented properly;

(b) Call on formidable players in the formulation and implementation of a comprehensive and integrated national dam safety program and the preparation of budget and programming priorities, annual reports and other pertinent documents approved by the Authority;

(c) Identify solutions to key issues and concerns, taking into account related risks, affected parties and impact, in coordination with the Board and key stakeholders;

(d) Advocate the Authority's work among the various concerned sectors and stakeholders;

(e) Call on any agency, group, individual member of the Board, local government unit, and host community to address issues and concerns relating to implementation of major programs, projects and activities;

(f) Endorse to the Board all policy recommendations, plans and programs for approval;

(h) Represent the Board in regular and special Cabinet meetings;

(g) Accept, on behalf of the Authority, donations, contributions, grants and bequests or gifts, in cash or in kind, from members, foreign governments, international agencies, private entities or any individual for purpose that will realize the functions of the Authority;

(h) Supervise administrative operations including disbursement of any fund of the Authority, subject to the usual accounting and auditing procedures, and submit reports thereon;

(i) Execute and administer the policies and measures approved by the Board;

(j) Appoint all employees of the Authority, and remove, dismiss or otherwise discipline for cause, such employees in accordance with the standard guidelines for recruitment, employment, and discipline in the Civil Service Code;

(k) Represent the Authority in all dealings with other offices, agencies, and instrumentalities of the government and with all persons and entities, public or private;

(l) Sign agreements and/or contracts on behalf of the Authority, including those for expert and consultant services and other reports of accountabilities emanating from the Authority; and

(m) Perform such other functions that the Board may direct to carry out the provisions of this Act.

Section 8. Executive Director. - An Executive Director shall be appointed by the President of the Philippines upon recommendation by the Chairperson: Provided, That no person shall be appointed as Executive Director unless he/she is a holder of a degree in any of the fields provided for in the preceding section.

The Executive Director shall assist the Chairperson in carrying out the functions of the Authority and shall, likewise, serve as the Secretary of the Board.

Section 9. Board of Directors. - The Authority's overall directions and thrusts shall be provided and approved, unless provided otherwise in this Act, by the NDSA Board of directors, hereinafter referred to as the Board. It shall be composed of the following members:

- (a) The Secretary of the Department of National Defense;
- (b) The Secretary of the Department of Public Works and Highways;
- (c) The Secretary of the Department of Energy;
- (d) The Secretary of the Department of Health;
- (e) The Secretary of the Department of Social Welfare and Development;
- (f) The Secretary of the Department of Agriculture;
- (g) The Secretary of the Department of Environment and Natural Resources;
- (h) The Secretary of the Department of Interior and Local Government;
- (i) A Senator, upon designation by the Senate President, who shall be an ex officio member;
- (j) The Chairperson of the House Committee on Environment, who shall be an ex officio member;

- (k) The Chairperson of the House Committee on Ecology, who shall be an ex officio member;
- (l) The Chairperson of the House Committee on Energy who shall be an ex officio member;
- (m) A Local Chief Executive (LCE) designated by the Union of Local Authorities of the Philippines (ULAP),
Provided that the Governor of the Province where the Dam is located shall be represented in the Board;
- (n) The respective Presidents of the League of Cities and the League of Municipalities;
- (o) The Administrator of MWSS;
- (p) A Representative from the NWRB;
- (q) Three (3) representatives from the private sector to be appointed by the President, upon the recommendation of the Board comprising of one (1) representative each from the:

(1) Energy Sector;

(2) Water Sector; and

(3) Irrigator's Sector.

The term of the three (3) representatives from the private sector shall be six (6) years: Provided, That at the initial appointment of such members, the second member to be appointed shall only serve a term of four (4) years and the third member to be appointed shall only serve a term of two (2) years: Provided, further, That they shall continue to hold office until their successors shall have been appointed. All vacancies, prior to the expiration of the term, shall be filled for the unexpired term only.

Members of the Board shall receive a per diem of not more than Five thousand pesos (P5,000.00) for every Board meeting: Provided, however, That the per diem collected per month does not exceed the equivalent of four (4) meetings: Provided, further, That the amount of per diem for every Board meeting may be increased by the President but such amount shall not be increased within two (2) years its last increase.

The Board shall have the following functions:

- (a) Provide direction and guidance for the Authority's work on dam safety;
- (b) Ensure that the goals and policies of the Authority are consistent with the overall national development goals and objectives;

(c) Ensure that the programs of the Authority are consistent with regional and local development plans, programs and projects and vice versa for purposes of harmonization;

(e) Create committees/task forces as may be deemed necessary in the accomplishment of duties and functions;

(f) Determine schedules, establish voting procedures, criteria for the constitution of a quorum and other rules and regulations in the conduct of Board meetings; and

(g) Perform such functions as may be necessary to carry out the purposes of this Act.

Section 10. *Executive Committee.* - The Board shall constitute an Executive Committee, hereinafter referred to as the ExeCom, from among its membership to act, for and on its behalf when the Board is not in session, on urgent matters as may be deemed necessary by the Chairperson. To ensure inter-regional representation and participation, the following shall comprise the ExeCom:

(a) The Chairperson;

(b) The Executive Director;

(c) The Representative from the Private Sector; and

Section 11. *Organizational Structure.* - The Chairperson, upon approval of the Board, shall determine the organizational structure, staffing pattern and pay scales of the Authority subject to existing civil service and compensation laws. The Chairperson may reorganize the Authority and may create or abolish divisions, units or branches therein as the exigencies of the affairs of the Authority may require.

Section 12. *Merit System.* - All officials and employees of the Authority shall be selected and appointed on the basis of merit and fitness in accordance with civil service law, rules and regulations. The recruitment, transfer, promotion, and dismissal of all its personnel including temporary workers shall be governed by a merit system that will be established by the NDSA in compliance with existing laws, rules and regulations.

Section 13. *Transitory Provision.* - The present agencies tasked to manage and operate dams shall make the necessary preparations and turn-over the management, control and operation of the dams under the control and management to the Authority one year after the effectivity of this Act. Provided, that such present agencies may retain management and control of dams if the Authority shall delegate the same as may be determined by the Board. Within one (1) year from the effectivity of this Act, the Authority shall submit to the President and to both houses of Congress the National Dam Safety Plan.

Section 14. Penalties. The consultation with all stakeholders shall be mandatory upon the Authority particularly in times of emergency. In times of calamities, typhoons and other disasters which affect dams, it shall be mandatory that the Authority, through the Executive Committee shall confer with concerned agencies and stakeholders on the status of dams, including water levels and other information that are relevant to ensure the safety of the people. The Authority shall conduct a massive public information on their action during emergency situations including issuance of early warning devices. Failure to conduct consultations and the disclosure of relevant information to the public is hereby penalized with imprisonment of not less than three (3) months to six (6) years imprisonment and a fine ranging from One Million Pesos (1 M) to Ten Million Pesos (10M) upon the discretion of the court.

Section 15. Appropriations. - The amount necessary to finance the initial implementation of this Act shall be charged against the current year's appropriations of the Department of Public Works and Highways. Thereafter, the current budget shall be increased by one hundred percent (100%), which shall be included in the annual General Appropriations Act (GAA) for its continued implementation.

Section 16. Implementing Rules and Regulations. - The Authority shall adopt rules and regulations to implement the provisions of this Act within sixty (60) days from the date of its approval.

Section 17. Repealing Clause. - All laws, decrees, executive orders, rules and regulations or parts thereof inconsistent with or contrary to the provisions of this Act are hereby repealed or modified accordingly.

Section 18. Separability Clause. - If any part or provision of this Act is held unconstitutional or invalid, other parts or provisions hereof which are not affected shall continue to remain in full force and effect.

Section 19. Effectivity. - This Act shall take effect fifteen (15) days following completion of its publication in at least two (2) newspapers of general circulation.

Approved.