

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
QUEZON CITY



SIXTEENTH CONGRESS
First Regular Session

House Bill No. 4135

Introduced by: **HONORABLE AL FRANCIS BICHARA**

EXPLANATORY NOTE

This bill seeks to transfer the maintenance and operations of the Philippine National Railways to the private sector through the Public-Private Partnership (PPP) Program of the government.

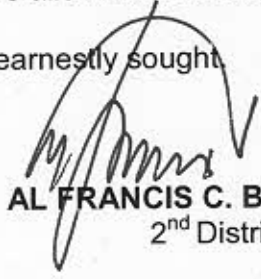
It is both a fact and common knowledge that we have failed to maximize the utilization of our railway system due mainly to lack of funds. Short of totally neglecting this asset, the government has allowed this transport system to deteriorate to the brink of extinction.

In developed and industrialized countries, such railway systems are continuously upgraded because it is a critical component in ensuring continuous development. Transport of people, machinery and products are more efficient and faster using trains due mainly to its huge carrying capacity and traffic-less runs between its points of destination.

Imagine if our PNR trains are upgraded and well maintained, commuters and cargo can be transported faster and safer. Time saved translates to productivity. Agricultural produce by the bulk can be easily brought from the rural areas to the urban centers both for local consumption as well as for export. We have failed to maximize our export potential also because of the lack of means to transport highly perishable agricultural produce at the fastest possible time.

Ports can be connected by railways thus cargoes can be transported from the ports to the points of destination faster, thereby cutting precious delivery time that is wasted in using slow moving trucks, traffic and truck bans. A lot of problems related to land transportation could be solved by the rehabilitation, upgrade and efficient maintenance of this railway system if the private sector will be allowed to handle it.

For this reason, the immediate approval of this bill is earnestly sought.


AL FRANCIS C. BICHARA
2nd District, Albay

H.B. No. 4135

Introduced by **HONORABLE AL FRANCIS C. BICHARA**

AN ACT PRIVATIZING THE PHILIPPINE NATIONAL RAILWAYS, ITS MANNER OF TRANSFER, PAYMENT, MAINTENANCE AND FOR OTHER PURPOSES

Section 1. *Statement of Policy.* – In accordance with Section 20, Article II of the 1987 Constitution, it is the policy of the State to recognize the indispensable role of the private sector, to encourage private enterprise, and to provide incentives to needed investments.

Section 2. *Purposes, Incentives, and Objectives.* – The purpose of this Act is to privatize the Philippine National Railways (PNR) as a means of encouraging private enterprise. This Act also aims to improve the service of the PNR by delegating its maintenance to a private enterprise while maintaining its control through regular inspections.

Section 3. *Manner of Transfer.* – The PNR will be sold through public auction after publication of at least twice a week for three weeks in a newspaper of general circulation and after a selection process made by the Privatization Council created under Executive Order 323. The provisions of the 1997 Rules of Court regarding Execution shall apply to the conduct of the auction. The highest bidder will obtain the license to operate the PNR.

In accordance with the Rules on Privatization previously established, the transfer shall take effect through the execution of a Deed of Assignment by the government agency in charge of PNR in favor of the person who got the highest bid.

Section 4. *Manner of Payment; Bond.* – Payment for the license to operate the PNR may be made by installments, provided that a Surety Bond is executed by the assignee from a bonding company which is approved by the Assignor.

Section 5. *Mandatory, Update, Revision, and Improvement of PNR.* – The assignee is required to update, revise, and improve the machinery, processing systems, and other materials and equipments used for the proper functioning of the PNR in order to efficiently cater to the needs of the public faster and more efficiently, as well as to reduce under-the-table transactions.

The expenses to be used for the update, revision, and improvement of the PNR are to be borne by the assignee.

Section 6. *Compulsary Submission to Inspection.* – The premises of the principal office of the PNR shall be subject to regular inspections by the Department of Transportation and Communication with intervals of six (6) months and special inspections to be conducted as often necessary. After every inspection, the DOTC is required to make a report as to their findings based on the standard set for the assignor prior to the assignment.

The objects which are subject to the inspection include but are not limited to the following: documents, financial statements, computers, processing systems, machinery and equipment.

Section 7. *Compulsory Renewal of License (yearly).* – The assignee is required to renew his license every year from the time of the assignment. The basis for the renewal comprise of the reports made by the DOTC after their every inspection. If the assignee has been faithfully complying with the standard, the license shall be renewed automatically. If the assignee's services fall below the standard, the assignee has to improve its services until it complies with the standard set for the assignor. Until then, the DOTC shall take over the management of the PNR. If the compliance of the assignee takes longer than one (1) year, a new public bidding shall take place following the provisions of Section 3 of this Act.

Section 8. *Prohibition on Change of Fare.* – The assignee shall not impose a fare higher or lower than the standard set for the assignor. Any change in the fare should be approved by the DOTC after careful inspection of the records which should accompany the written request by the assignee explaining the reason for the intended change of fare.

Section 9. *Consequence on case of Breach; Applicable Laws.* – Any breach of the Deed of Assignment between the assignor and the assignee shall be dealt with following the provisions of the Civil Code of the Philippines on Contracts. All other laws of the Philippines, civil or criminal, shall apply insofar as necessary.

Section 10. *Separability Clause.* – The provisions of this Act are declared to be separable and if any part, sentence, or provision should be held invalid or unconstitutional, the remaining portions which are not declared to be such, shall not be affected by the invalidity or unconstitutionality.

Section 11. *Repealing Clause.* – All laws, decrees, charters, executive orders, administrative orders, proclamations, rules and regulations, or parts thereof insofar as they are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Section 12. *Effectivity.* – This Act shall take effect fifteen (15) days from its publication in the Official Gazette or in any newspaper of general circulation.

Approved,