

SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Second Regular Session)

5302

HOUSE BILL NO. _____



Introduced by Representative
JESULITO A. MANALO, ANGKLA Party-List

AN ACT MODERNIZING THE PUBLIC LAND TRANSPORTATION INDUSTRY AND CREATING FOR THIS PURPOSE THE LAND TRANSPORTATION FRANCHISING COMMISSION, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES.

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

EXPLANATORY NOTE

Public transportation service is relevant in all aspects of society. It plays a vital role in social development by transporting people, goods and services. Public transportation service affects land use and development blueprints, creates jobs and triggers economic growth. All of these are important when considering the benefits of public transportation to Philippine society.

Considering the far-reaching impact of an efficient public transportation system, it is imperative that the needs of the riding public, as well as goods and services, are sufficiently met. The transportation of goods, services and the Filipino riding public, whether by taxicab, jeepney, truck, bus or train, must be of such quality that it can serve as the backbone of economic progress.

In 1987, President Corazon C. Aquino, through Executive Order No. 202, created the Land Transportation Franchising and Regulatory Board (LTFRB) with the primary objective of providing world-class land transportation services contributing to the over-all development of the country, improvement of the socio-economic status of its stakeholders, and promotion of the welfare of the general public.

Today, more than a quarter of a century has passed and our public land transportation industry is still lagging behind compared to our Asian neighbours. In the meantime, public transportation continues to require much needed changes to serve the general public. Currently, it is the riding public that continues to carry the burden of an inefficient transportation system, making it difficult for them to go to school, go to work and move around to achieve maximum potential. Thus, there is a need to revisit Executive Order No. 202, as well as the pertinent provisions of Executive Order No. 292, to achieve the goal that brought the law to its existence.

An efficient, modern and reliable public transportation system should be the primary mode of movement for each and every Filipino. It should be the transport of choice.

The bill seeks to modernize and strengthen the public land transport system and the administrative body that manages the same, and ultimately to help the latter accomplish its mission of ensuring that the commuting public has adequate, safe, convenient, environment-friendly and dependable public land transportation services charging reasonable rates, through the implementation of land-based transportation policies, programs, and projects responsive to an investment-led and demand-driven industry. Transportation policies, programs, and projects that are responsive to an investment-led and demand-driven industry can be best achieved by increasing the representation of the private sector and technical experts in public services. Finally, there is a notable absence from the private sector and technical experts, yet they represent a substantial portion of the population that are affected by the actions of the LTFRB.

Accordingly, there is a pressing need to review the current administrative body, the Land Transportation and Franchising Regulatory Board and amend its composition. The expansion of the agency is necessary to include several departments of the government that have an impact on the public land transportation system, which is of national importance. This bill aims to enhance the public land transport industry as a whole so that the industry can properly contribute to the upliftment of the lives of the riding public.

Moreover, the Philippine Congress, the branch of the Government allowed to grant franchises, shall now exercise its oversight functions in the issuance and revocation of franchises to ensure that the administrative body adheres to its mandate.

As the country gears to more economic success, it is imperative that both the public and private sector work hand in hand in improving public transportation. Diverse representation can help better understand the needs of the all sectors involved, especially the riding public. There is an obligation to ensure that there is strong and effective corporate governance. Diversity provides check and balance and avoids the possibility of having a board comprised of individuals who share the same experiences and biases. The vision of the Government is to efficiently cater to the needs of the public, without forfeiting a fair and business-friendly atmosphere that fosters premium service.



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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 "Public Land Transportation Industry Modernization Act".

SECTION 2. Declaration of Policy. - The State recognizes the importance of public land transportation as mover and carrier not just of people, but goods and commodities, and the vital role it plays in the nation's development. It is thus hereby declared the policy of the State to improve, foster and develop an efficient public land transport and consequently increase the productivity of the country, to improve the quality of public land transport conditions and to make it the transport of choice. In so declaring, the State recognizes the essential part of the private sector and the latter's expertise in addressing the ever changing needs of the riding public and in coping with the evolving demands of modern living.

SECTION 3. Definition of Terms. - As used in this Act, the following terms shall mean:

- (a) Commission – shall mean the Land Transportation Franchising Commission.
- (b) Certificate of Public Convenience or CPC – shall mean the license or authority granted for the operation of public and land transportation utilities and services such as trucks, taxicabs, buses, jeepneys, trimobles and other motor vehicles.
- (c) Decision – shall mean the final adjudication issued by the Commission *en banc*, through a written Resolution, bearing the concurrence and signature of at least four of its members, relative to the issuance, amendment, revision, extension, suspension, revocation or cancelation of any CPC.

(d) DOTC or Department – shall mean the Department of Transportation and Communications.

(e) E.O. No. 202 – shall mean Executive Order No. 202 promulgated by President Corazon C. Aquino creating the Land Transportation Franchising and Regulatory Board.

(f) E.O. No. 292 – shall mean Executive Order No. 292, known as the "Administrative Code of 1987" promulgated by President Corazon C. Aquino subsequent to E.O. No. 202.

(g) Public Utility Operator or Operator – shall mean a person or entity that is granted a CPC as defined under this Act.

SECTION 4. Creation of the Land Transportation Franchising Commission. - There is hereby created the Land Transportation Franchising Commission, hereinafter referred to as the "Commission", which is a government owned and controlled corporation (GOCC), wholly owned by the Republic of the Philippines. The Commission shall be under the supervision and control of the Department of Transportation and Communication (DOTC).

SECTION 5. Composition of the Board of Commissioners. - The Commission shall be composed of a Chairman and eight (8) other members, constituted as follows:

(a) Secretary of the DOTC shall serve as *ex-officio* Chairman of the Commission.

(b) The other eight (8) members shall be:

(i) Director General of the National Economic Development Authority (NEDA) who shall sit as *ex-officio* member;

(ii) Secretary of the Department of Public Works and Highways (DPWH) who shall likewise sit as *ex-officio* member;

(iii) Secretary of the Department of Interior and Local Government (DILG) who shall likewise sit as *ex-officio* member;

(iv) Chairman of the Metropolitan Manila Development Authority (MMDA) who shall likewise sit as *ex-officio* member; and

(v) the remaining four (4) members shall be appointed for a term of one (1) year each by the President of the Philippines upon the recommendation of the Governance Commission for Government-Owned Corporations (Governance Commission), pursuant to the provisions of Republic Act (R.A.) No. 10149; *Provided, That* one (1) member shall serve as the Executive Director and Chief Executive Officer of the Commission who shall be elected by the Board of Commissioners from among its ranks pursuant to R.A. No. 10149, and must be a member of the Philippine Bar and shall

have engaged in the practice of law in the Philippines for at least five (5) years, and is knowledgeable in the field of transportation law, transport policy or other related fields;; the remaining three (3) members shall come from nominees to be made by organizations or associations of Public Utility Operators which have been in existence and active for the last five (5) years prior to this Act;

The rank, salary, and privileges of the Executive Director and Chief Executive Officer of the Commission shall be determined likewise by the Governance Commission, pursuant to the compensation and position classification system and the provisions of R. A. No. 10149.

The *ex-officio* members of the Commission may, in their discretion, designate their duly authorized nominees to sit in the Commission on their behalf as *ex-officio* members and in representation of their respective agencies.

Section 6. Executive Director and Chief Executive Officer. - Except as otherwise provided in this Act, the Executive Director and Chief Executive Officer of the Commission shall be prohibited from holding any other position with the Commission, other government agencies and private institutions that may give rise to conflicts of interest.

The Executive Director shall have the following powers and functions:

- (a) To sit as Chairman of the Land Transportation Franchising Division created under Section 10 hereof;
- (b) To assist the Commission in the implementation of the National Public Land Transport Master Plan as described under Section 8 (a) of this Act and the public land transportation development plans and programs prepared by the Commission and duly approved by the DOTC; and
- (c) To implement and enforce of all other policies of the Commission.

SECTION 7. Support Staff. - The Commission and the Executive Director shall be supported by the Support Divisions created under E.O. No. 202 namely (i) the Technical Evaluation Division, (ii) the Legal Division, (iii) the Management Information Division, (iv) the Administrative Division and (v) the Finance Division, all under the direct control and supervision of the Executive Director. Any recommendation from these Support Divisions must be submitted to the Executive Director who shall indorse the same to the Commission for final approval.

The heads of the Support Division are prohibited from holding any other position with the Commission, other government agencies and private institutions that may give rise to conflicts of interest.

SECTION 8. Powers and Functions of the Commission. – The Commission shall have the following powers and functions:

(a) To prepare and develop for the approval of the DOTC, within six (6) months from the effectivity of this Act, a National Public Land Transport Master Plan, in consultation with the Philippine National Railways and operators of the Manila Light Rail Transit System, wherein all existing CPCs and routes shall be accounted for and inventoried, and thereafter forecast the transportation requirements to properly cater to the needs of the riding public for each succeeding year, which forecast shall be used as basis for issuance of new CPCs taking into consideration the existing railroad lines and services;

(b) To formulate, promulgate, administer, implement and enforce rules and regulations on land transportation public utilities, standards of measurements and/or design, and rules and regulations requiring operators of any public land transportation service to equip, install and provide in their utilities and in their stations such devices, equipment facilities and operating procedures and techniques as may promote safety, protection, comfort and convenience to persons and property in their charges as well as the safety of persons and property within their areas of operations; *Provided*, That all these shall be in conformity with the National Public Land Transport Master Plan issued by the Commission developed, approved and enforced in accordance with Section 8 (a) of this Act;

(c) To prescribe the appropriate terms and conditions with respect to the issuance, amendment, revision, extension, suspension, revocation, or cancelation of CPCs authorizing the operation of public land transportation services provided by motorized vehicles in accordance with the National Public Land Transport Master Plan and the public land transportation development plans and programs prepared by the Commission and duly approved by the DOTC, including therein provisions to ensure the performance of obligations under the CPCs such as but not limited to the requirement of surety or cash bonds;

(d) To coordinate and cooperate with other government agencies and entities concerned with any aspect involving public land transportation services with the end in view of effecting continuing improvement of such services;

(e) To require operators to furnish audited annual reports of finances and operations as certified by an independent Certified Public Accountant, with a complete statement of the annual financial operations, and all other information, which the Commission may require that may be useful and necessary for its exercise of its regulatory powers. Said reports shall be sworn to by the officer or functionary of the operator authorized therefor;

(f) To prescribe and regulate routes of service, economically viable capacities and zones or areas of operation of public land transportation services provided by motorized vehicles which shall be in accordance with the National Public Land Transport Master Plan and the public land transportation development plans and programs prepared by the Commission and duly approved by the DOTC; *Provided*, That development plans and programs shall be based on internationally acceptable technical research and data;

(g) To decide in an *en banc* Decision, after due notice and hearing, and taking into consideration the recommendations of the Land Transportation Franchising Division created under

Section 10 of this Act, all cases pending before the Commission relative to the issuance, amendment, revision, extension, suspension, revocation, or cancelation of CPCs authorizing the operation of public land transportation services provided by motorized vehicles;

(h) To suspend prior to hearing, through a majority vote of its members present, any CPC authorizing the operation of public land transportation services whenever such step shall, in the judgment of the Commission, be necessary to avoid serious and irreparable damage or inconvenience to the public or to private interests in accordance with the following procedure:

(i) Upon the recommendation of the Land Transportation Franchising Division created under Section 10 hereof or *motu proprio*, the Commission shall initially issue the preventive suspension only against the specific unit under a particular CPC, which may have caused serious and irreparable damage or inconvenience to the public or to private interests, for a period not to exceed five (5) calendar days. Such preventive suspension may be extended by the Commission to another ten (10) calendar days only upon the recommendation of the Land Transportation Franchising Division which recommendation shall be based on an official report from the relevant government agency stating that there is reasonable ground to extend the period of the aforesaid preventive suspension; otherwise, the five (5) day preventive suspension shall automatically be lifted. During the additional ten (10) day period, the operator of the affected unit shall be allowed to show proof of compliance with any requirement of the Commission as stated in the order of preventive suspension. Should there be sufficient proof of compliance, the ten (10) day preventive suspension shall automatically be lifted.

(ii) Should there be additional official report from the relevant government agency that there is continuing palpable violation and blatant disregard of the terms and conditions of the CPC, and the operator of the affected unit fails to show proof of compliance with said terms and conditions and with the requirements of the Commission, the preventive suspension in the immediately preceding paragraph may be extended to a new period of fifteen (15) calendar days.

(iii) In no case however shall any preventive suspension, which has been issued without prior hearing pursuant to this Section 8 (h) exceed thirty (30) calendar days. Upon the lapse of thirty (30) calendar days, the preventive suspension shall be automatically lifted. Subsequent suspensions, if warranted, shall only be made after due notice and hearing.

(i) To extend the period of preventive suspension pursuant to a fixed system designed by the Commission in consultation with the private sector, which system shall (i) provide for the reasonable grounds to extend the period of preventive suspension, and the palpable violations and blatant disregard of the terms and conditions of a CPC; (ii) define all other just and reasonable standards, guidelines, classification, regulations, practices, in implementing preventive suspensions; and (iii) define all just and reasonable standards, guidelines, classification, regulations, practices, in the cancelation or revocation of a CPC;

(j) To determine, prescribe and approve and periodically review and adjust, reasonable fares, rates and other related charges, relative to the operation of public land transportation services provided by motorized vehicles;

(k) To fix, impose and collect, and periodically review and adjust, reasonable fees and other related charges for services rendered;

(l) To issue preliminary or permanent injunction, whether prohibitory or mandatory, in all cases in which it has jurisdiction, and in which cases the pertinent provisions of the Rules of Court shall apply;

(m) To punish for contempt of the Commission, both direct and indirect, in accordance with the pertinent provisions of, and the penalties prescribed by, the Rules of Court;

(n) To issue subpoena and subpoena duces tecum and summon witnesses to appear in any proceedings of the Commission, to administer oaths and affirmations;

(o) To *motu proprio* conduct investigations and hearings of complaints for violation of the public service laws on land transportation and of the Commission's rules and regulations, orders, decisions and/or rulings and to impose fines and/or penalties for such violations;

(p) To review *motu proprio* the decisions/actions of the Regional Franchising and Regulatory Office as defined in this Act;

(q) To delegate such functions or duties necessary or incidental to the administrative management and operations to the Franchising Division headed by the Executive Director which shall be subject to its final review and/or approval, as it may deem proper;

(r) To promulgate rules and regulations governing proceedings before the Commission, the Land Transportation Franchising Division and the Regional Franchising and Regulatory Office; *Provided*, That in the absence of any applicable provision in the rules and regulations promulgated pursuant to this paragraph, the pertinent provisions in the Revised Rules of Court of the Philippines may, in the interest of expeditious justice and whenever practicable and convenient, be applied in a suppletory character and effect;

(s) To perform such other functions and duties as may be provided by law, or to enter into contracts, as may be necessary, or proper or incidental to the purposes and objectives of this Act; and

(t) To have and assume all corporate powers as enumerated under the Batas Pambansa Bilang 68 and all subsequent amendments thereto, necessary to allow the Commission to carry out its mandate including all the provisions of this Act; *Provided* all the provisions of R.A. No. 10149 shall be made applicable to the Commission; *Provided further*, all the Rules and Regulations issued by the

Governance Commission shall likewise be made applicable to the Commission, its governing board, officers, and employees.

SECTION 9. Decision of the Commission; Appeals and/or Review. - The Commission, in the exercise of its powers and functions in relation to the issuance, amendment, revision, extension, suspension, revocation, or cancelation, shall sit and render its Decisions *en banc*, which Decision shall bear the concurrence and signature of the majority thereof.

The Decisions, or any other order or resolution of the Commission shall be appealable to the President of the Philippines within thirty (30) days from receipt of the decision; *Provided*, That the President may *motu proprio* review any Decision, order or resolution or any other action of the Commission before the same becomes final.

SECTION 10. Land Transportation Franchising Division. - There is hereby created a Land Transportation Franchising Division under the Commission. The Franchising Division shall be composed of the Executive Director appointed in accordance with Section 6 hereof to sit as Chairman, and two (2) members with the same rank, salary and privileges of a Regional Director. The two (2) members shall be appointed by the President of the Philippines upon recommendation of the Secretary of the DOTC; *Provided*, That one (1) member shall be a holder of a degree in engineering and the other a holder of degree in economics, finance, management or law and both of them with at least five (5) years of experience and practice. The two (2) members of the Franchising Division, unless sooner removed for cause, shall have a maximum term of five (5) years.

The duties and functions of the Franchising Division are provided hereunder:

(a) Relative to the issuance, amendment, revision, extension, suspension, revocation, or cancelation of CPCs:

- (i) To examine, investigate, ascertain facts;
- (ii) To receive documentary or testimonial evidence;
- (iii) To preside in the investigatory proceedings; and
- (iv) To issue recommendatory reports to the Commission as to resolution of the dispute.

(b) Relative to the extension of the preventive suspension in accordance with Section 8 (h) of this Act:

- (i) To receive and evaluate the information provided by any relevant government agency claiming that there is reasonable ground to extend the period of the aforesaid preventive suspension or that there is continuing palpable violation and blatant disregard of the terms and conditions of the CPC; and
- (ii) To issue recommendatory reports thereon to the Commission.

(c) To conduct public hearings relative to the determination, prescription, fixing, imposition, approval, collection and the periodical review and adjustment of fares, fees, rates and other charges as provided under Section 8;

(d) To study the recommendatory reports submitted by the Regional Franchising and Regulatory Offices defined under Section 11 hereof and thereafter to make its final recommendatory report for the Commission; and

(e) To conduct investigations and hearings of complaints for violation of the public service laws on land transportation and of the Commission's rules and regulations, orders, decisions and/or rulings and to issue recommendatory reports thereon to the Commission for the imposition of fines and/or penalties and other measures for such violations.

SECTION 11. Regional Franchising and Regulatory Offices. – The Regional Franchising and Regulatory Offices (RFRO) created in each of the administrative regions of the country pursuant to E.O. No. 202 and E.O. No. 292 shall be preserved. The President of the Philippines shall appoint, based on the recommendation of the Commission, the heads of the RFRO who shall have the rank, salary and privileges of a Department Assistant Regional Director. The RFRO shall hear and evaluate any application/petition for routes, within their respective administrative regions and thereafter to prepare recommendatory reports to be submitted to the Franchising Division.

SECTION 12. Congressional Oversight Committee. – So as to ensure that the mandate of the Commission and the objectives of this Act are properly carried out, there is hereby created a Congressional Oversight Committee to oversee and monitor, in such manner as it may deem necessary, the actual implementation of this Act, including the progress of the National Public Land Transport Master Plan and the public land transportation development plans and programs prepared by the Commission and duly approved by the DOTC. The Congressional Oversight Committee shall be composed of five (5) members from the Senate and five (5) members from the House of Representatives. The Committee shall be co-chaired by the chairpersons of the Committee on Transportation and Committee on Public Services of the House and Senate, respectively. Such congressional review and oversight shall be undertaken monthly beginning fifteen (15) days after the effectivity of this Act and thereafter as may be determined by the oversight Committee.

SECTION 13. Implementing Rules and Regulations. – Within thirty (30) days from the effectivity of this Act, the Commission shall be required to promulgate the implementing rules and regulations of this Act.

SECTION 14. Appropriations.—The Secretary of DOTC, through the Land Transportation Franchising Commission, shall immediately include in its programs the operational requirements provided in this Act, the initial funding of which shall be charged against the savings or current year's appropriations of the previous and herein re-organized Land Transportation and Franchising Regulatory Board. Thereafter, such sums as may be necessary for the continued implementation of this Act shall be included in the annual General Appropriations Act.

SECTION 15. Transitory Provisions.

(a) All existing and valid CPCs as of the time of the promulgation of this law shall remain effective. However, all pending applications shall be heard and all subsequent CPCs shall be issued in accordance with the provisions of this Act, which issuance shall take into account the National Public Land Transport Master Plan, as developed, approved and enforced in accordance with Section 8 (a) of this Act, and the public land transportation development plans and programs prepared by the Commission and duly approved by the DOTC.

(b) All existing circulars, rules and regulations and other issuances by the Land Transportation and Franchising Regulatory Board shall remain effective until the same are amended or modified, revoked or superseded by the Commission in compliance with the latter's mandate as provided in this Act.

(c) Upon effectivity of this Act and until the appointment by the President of the Philippines of the necessary members and/or officers in accordance with the Act, the following rules shall apply in the interim:

(i) To complete the seven (7) members of the Commission, the NEDA Director General, the DPWH Secretary and the DILG Secretary shall immediately recommend to the DOTC Secretary one (1) person each who will serve as acting regular member of the Commission, and the DOTC Secretary, upon concurrence, shall in turn endorse the same to the President of the Philippines; *Provided*, That such individual to be recommended shall be knowledgeable in the field of transportation law, transport policy or other related fields;

(ii) the incumbent Executive Director shall serve as Acting Executive Director until the appointment of his successor; *Provided*, That except as otherwise provided in this Act, he shall be prohibited from holding any other position with the Commission, other government agencies and private institutions that may give rise to conflicts of interest;

(iii) the current members of the Land Transportation and Franchising Regulatory Board shall hold office as Acting Members of the Land Transportation Franchising Division, and shall continue to hear and evaluate all pending cases, applications, investigations and matters brought before the Land Transportation and Franchising Regulatory Board and thereafter submit recommendatory reports to the Commission in accordance with the provisions of this Act; and

(iv) the incumbent Regional Directors of the Regional Franchising and Regulatory Offices shall serve as Acting Regional Directors of their respective offices until the appointment of their successors.

(d) The heads of the Support Staff shall be required to divest their interests in entities which may be in conflict with the provisions of this Act pursuant to Section 7 hereof.

SECTION 16. Separability Clause. – If, for any reason, any part or provision of this Act is declared invalid, such declaration shall not affect the other provisions of this Act.

SECTION 17. Repealing Clause. – Except as otherwise provided herein, all provisions of Executive Order No. 202 and the pertinent provisions of Book IV, Title XV, Chapter 5 of Executive Order No. 292, and all other laws, decrees, executive orders or rules and regulations inconsistent with this Act are hereby repealed, amended or modified accordingly.

SECTION 18. Effectivity. – This Act shall take effect after fifteen (15) days following its publication in at least two (2) newspapers of general circulation.

Approved,