

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS

Second Regular Session

House Bill No. 5304



Introduced by Rep. Erico Aristotle C. 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 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.

A handwritten signature in black ink, appearing to read "Erico Aristotle C. Aumentado".

ERICO ARISTOTLE C. AUMENTADO

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

16th Congress

House Bill No. **5304**

Introduced by REP. ERICO ARISTOTLE C. AUMENTADO

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

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 “National Bureau of Investigation Reorganization and Modernization Act”.

SEC. 2. Declaration of Policy. – It is the policy of the State to promote and maintain a modern, competent and highly trained investigative body, functionally integrated and national in scope.

Towards this end, the State shall formulate plans and programs to enhance and modernize the National Bureau of Investigation (NBI), with expanded structure, capability and manpower, responsive to the demands of the times.

SEC. 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 National Bureau of Investigation (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 Director for Administration and Office of the Deputy Director for Operations, Office of the Assistant Directors for Investigation Service, Intelligence Service, Comptroller Service, Internal Audit Service, Forensic and Scientific Research Service, Legal Service, and Information and Communications Technology Service. Each service shall be composed of the necessary divisions and sections.

The NBI shall establish a Regional Office in every region and a Sub-Office in every province, to be headed by a Regional Director and Head Agent, respectively. Field offices in Congressional Districts shall likewise be established/maintained.

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 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.

SEC. 4. Qualifications of NBI Agents:

- a) Citizen of the Philippines;
- b) Of good moral character;
- c) A member of the Philippine Bar or a Holder of a Baccalaureate Degree who passed the necessary Government licensure examination; and
- d) Other qualifications for appointment as may be required by the NBI.

SEC. 5. Compensation. – The Director, for purposes of salary and benefits, shall have the equivalent rank of an Undersecretary.

Salaries and benefits of other Bureau officials and personnel shall be reckoned from the salary level of the Director.

Subject to availability of funds, salaries and privileges of NBI personnel may be further increased in amounts to be determined by the Department of Budget and Management (DBM) and the NBI Director.

SEC. 6. Powers and Functions.– The NBI shall have the following powers and functions:

a) Undertake investigation and detection of crimes and other offenses against the laws of the Philippines, upon its own initiative and as public interest may require. 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, NBI shall assume the lead role in the investigation until its final determination.

b) 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;

c) Act as repository for the following:

1. All derogatory and criminal records and civilian identification records, including their identifying marks and characteristics;
2. Ballistic records of firearms including but not limited to data ownership, possession, and other related identifying circumstances;
3. Dental records pursuant to Presidential Decree No. (P.D. No.) 1575; and
4. National deoxyribonucleic acid (DNA) database.

For this purpose, a modern NBI Clearance and Identification Center shall be established;

d) Render technical assistance to judicial, quasi-judicial and administrative bodies, all prosecuting and law enforcement entities of government, as well as, the Legislative and Executive branches of the Government when so requested;

e) Establish an NBI Academy which shall be responsible for the recruitment, training and development of all NBI agents and personnel;

f) 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;

g) Establish and maintain a Cyber Investigation and Assessment Center which shall serve as the nerve center for computer, information technologies, data on cyber crime cases, computer intrusion, threats and other related crimes or activities;

h) Establish and maintain a Forensic and Scientific research Center which shall serve as the primary center for forensic and scientific research in furtherance of scientific knowledge in criminal investigation, detection and evidence collection and preservation; and provide the necessary training thereof;

i) Establish, control, supervise and administer a National Deoxyribonucleic Acid (DNA) Databank System;

j) 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 upon prior approval of the head of the agency concerned;

k) Conduct intelligence operations in furtherance of the foregoing powers and functions;

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

m) Perform such other related functions as the President or the Secretary of Justice may assign.

SEC. 7. Jurisdiction. – The NBI shall have primary jurisdiction to investigate the following cases:

a) Public Corruption

- 1) Anti- Graft and Corrupt Practices Act (Republic Act (R.A.) No. 3019);
- 2) Anti- Plunder Act (R.A. No. 7080); and
- 3) Anti- Red Tape Act of 2007 (R.A. No. 9485);

b) Organized/Syndicated Crimes

- 1) Violation of the "Anti-Money Laundering Act of 2001" (R.A. No. 9160 as amended by R.A. No. 9194);
- 2) Pyramiding Networking Scams (Presidential Decree (PD) No. 1689 [Increasing the Penalty for Certain Forms of Estafa]);
- 3) Fake Land Titles; and
- 4) Kidnap-for-Ransom

c) Cyber Crimes

- 1) Computer Intrusions;
 - 2) On-Line Sexual Predators (i.e. Child Pornography);
 - 3) Intellectual Property Theft;
 - 4) Internet Fraud; and
 - 5) Identity Theft/Identity Fraud
- d) Offenses Involving Economic Sabotage
- 1) Syndicated/Large Scale Illegal Recruitment;
 - 2) Unfair Trade Practices (i.e. Violation of R.A. No. 7581 "Price Act")
- e) Post-Blast Investigation;
- f) Human Trafficking (R.A. No. 9208);
- g) Illegal Interception of Communications (i.e. Violation of the "Anti-Wire-Tapping Law"[R.A. No. 4200]);
- h) Commercial Crimes
- 1) Anti-Dummy Law (Commonwealth Act No. 108, as amended);
 - 2) Access Devices Regulation Act (R.A. No. 8484);
 - 3) E- Commerce Act of 2000 (R.A. No. 8792)
- i) Kidnapping, Assault and assassination of the President, Vice President, Members of Congress and the Cabinet, and Supreme Court Justices;
- j) The NBI shall be primary in charge of identification of the dead/victims in case of mass fatality incident caused by natural disasters.

Provided, however, That the President, Secretary of Justice or NBI Director may direct investigation of any crime when public interest so requires; and *Provided further,* that the NBI shall have authority to investigate all crimes not assigned exclusively to other law enforcement agency.

The NBI may likewise extend its services, whenever properly requested, in the investigation of cases of administrative or civil nature in which the government is interested.

SEC. 8. The NBI Director, Other Officials and the Personnel Selection Board (PSB). – The NBI shall be headed by a Director and assisted by two (2) Deputy Directors, one Deputy Director for Administration and another Deputy Director for Operations, and an Assistant Director for each of the following seven (7) Services; Investigation Service, Intelligence Service, Comptroller Service, Internal Audit Service, Forensic and Scientific Research Service, Legal Service and Information and Communications Technology Service.

Rank and Classification of NBI Officials and Members of the Investigative Staff shall be as follows:

- a) Director
- b) Deputy Director
- c) Assistant Director
- d) Regional Director
- e) Assistant Regional Director
- f) Head Agent
- g) Supervising Agent
- h) Senior Agent
- i) Agent III
- j) Agent II
- k) Agent I

No person shall be appointed Director unless he is a natural-born citizen of the Philippines, a member of the Philippine Bar and should come from the ranks of Deputy

Directors and Assistant Directors. He shall serve for a term of three (3) years without reappointment.

Bureau officials, from Director I to bureau Director, shall be appointed by the President of the Philippines upon the recommendation of the Personnel Selection Board (PSB) as approved by the NBI Director.

Forensic Doctors, Chemists and other experts shall be called Special Agents. Their ranks shall be equal to regular agents.

The Personnel Selection Board (PSB) shall be composed of the Deputy Directors and Assistant Directors and such other members as may be required by law. It shall be chaired by the Deputy Director for Administration. The PSB shall have the power to recommend, for approval by the NBI Director, all promotions and selections and the criteria thereof.

SEC. 9 . Powers and Function of the Director. – The Director shall have the following powers and functions:

a) Formulate policies, guidelines and programs to effectively carry out the purpose of the Act;

b) Direct, control and supervise the administration and operations of the NBI;

c) Promulgate rules and regulations as may be necessary of proper for the effective exercise of the powers and function as well as the discharge of the duties and responsibilities of the NBI, its officials and personnel;

d) Determine, from time to time, subject to availability of funds, the limits to which, in terms of amount and period covered, reasonable allowances, incentives, bonuses, privileges and other benefits may be given to Bureau employees;

e) Create or abolish any division/unit as may be required by the exigencies of the service;

f) Deploy any of its official or personnel for out-of-country missions including, but not limited to, assignment as functionaries attached to any Philippine Embassy, consulate or any other diplomatic office abroad in coordination with the Department of Foreign Affairs: *Provided*, That any expense incurred by the NBI representative in the establishment of his or her office, including operation and maintenance, is shouldered by the NBI;

g) Hire consultants for such length of time as may be deemed required by the exigencies of the service;

h) Issue mission orders and permits to carry firearms outside residence to each agent;

i) Designate NBI informants;

j) Remove, suspend or otherwise discipline NBI Personnel for cause accordance with existing Civil Service Rules and Regulations and other pertinent laws, in any of the following circumstances;

- 1) When the charge is serious and the evidence of guilt is strong, or
- 2) When the respondent is notoriously undesirable.

k) Perform any and all acts necessary, proper or incidental to the attainment of the purposes and objectives of this Act; and

l) Perform such other related functions as may be provided by law or authorized by the Secretary of Justice.

SEC. 10. Powers and Functions of the Investigative Staff. – The Investigative Staff of the NBI shall have the following powers and functions:

- a) Conduct searches, arrest and seizures in accordance with existing laws, rules and regulations;
- b) Issue subpoena or subpoena *duces tecum* for the appearance 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;
- c) Take and require sworn statements of any person or persons so summoned in relation to cases under investigation;
- d) Administer oaths in cases under investigation;
- e) 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; Provided, that no previous special permit for such possession shall be required;
- f) 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 of the court in cases involving verified complaint for Malversation of Public Funds or Property, as defined and penalized under the Revised Penal Code, as amended, violation of the Anti- Graft and Corrupt Practices Act (R.A. No. 3019), the Anti-Money Laundering Law of 2001 (R.A. No. 9160 as amended by R.A. 9194), Code of Conduct and Ethical Standards of Public Officials and Employees (R.A. No. 6713) Comprehensive Dangerous Drugs Act of 2002 (R.A. No. 9165), Anti- Plunder Act (R.A. No. 7080), and the Human Security Act of 2007 (R.A. No. 9372);

The refusal to allow NBI access to and/or to examine/handle records mentioned in this paragraph shall render the person concerned liable for obstruction of justice under PD No. 1829.

SEC. 11. Benefits and Privileges. – The NBI shall provide its employees with the following benefits:

- a) Health care services through a Health Maintenance Organization (HMO). Expenses for the mandatory annual executive check-up of all regular employees shall be for the account of the NBI;
- b) Accident insurance policies for all employees, procured by the NBI at its own expense, while in the performance of their official duties and functions;
- c) Without prejudice to efficiency in the service, grant trainings, scholarships and seminars to deserving employees, on official time and at the expense of the NBI, to upgrade their knowledge and skills: Provided that, grantees under this provision shall be selected on the basis of merit as determined by competitive examination;

- d) Longevity Pay subject to guidelines that shall hereafter be issued by the NBI Director, in accordance with existing laws and regulations; and
- e) A Provident Fund which shall consist of contributions made by both the management and member-employees to a common fund to provide additional benefits to NBI employees. The fund shall be provided with a capital to be sourced from, among others, retained collection from clearance fees. Said Fund shall be augmented by counterpart contributions of NBI personnel at an amount to be agreed upon by the Management and member-employees.

SEC. 12. Retirement Benefits. —Upon attaining sixty (60) years of age with at least fifteen (15) years of continuous government service, or upon accumulation of thirty (30) years of satisfactory continuous service, whichever is earlier, an NBI personnel shall be compulsorily retired and shall be entitled to receive benefits provided by law. Monetary incentives/special allowances shall, for retirement purposes, be an integral part of a retiree's basic salary.

SEC. 13. Legal Assistance.— A Special trust fund shall be established to assist NBI personnel who are criminally charged in connection with the performance of their official functions.

SEC. 14. Seminar and Other Professional Fees.— Subject to availability of funds, fees for relevant seminars, as well as professional membership fees for lawyers, registration fees, and related miscellaneous expenses incurred in completing the Mandatory Continuing Legal Education (MCLE) course shall be borne by the NBI. Moreover, professional membership, registration fees, including the mandatory continuing professional education (CPE), and related miscellaneous expenses of other employees holding positions for which a professional license is required by the NBI, shall be borne by the NBI.

SEC. 15. Transportation 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.

SEC. 16. Franking Privilege. - All official mail matters 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; *Provided* further, That use of this privilege for non-official purposes shall be a ground for disciplinary action.

SEC. 17. Grant of Special Allowance. — The investigative and non-investigative personnel of the NBI shall be granted special allowances in amounts to be determined by the NBI Director and the Department of Budget and Management (DBM).

That 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 19 hereof: *Provided*, That said special allowance shall not exceed One Hundred percent (100%) of the basic salary of the NBI personnel concerned as provided for in R.A. No. 6758 otherwise known as the Salary Standardization Law of 1989, as amended.

SEC. 18. Use of NBI Clearance Fees and other Fees. – The NBI shall be authorized to use all of its collections from clearance fees to augment its operational expenses such as but not limited to capital outlay, expenses of health care services, career advancement and professionalization, legal assistance, seminars and other professional fees, among others.

SEC. 19. Funding Source. – The funds required for the implementation of this Act including employee benefits shall be taken from:

- 1) All Collection from NBI clearance and certified fees;
- 2) All Service incomes from training, DNA, Drugs tests, Confirmatory and Neuro tests and the like;
- 3) Seizures;
- 4) Other miscellaneous incomes; and
- 5) Appropriations by Congress, as maybe necessary.

SEC. 20. Effect of Subsequent Salary Increase. – Upon implementation of any subsequent increases in the salary rates provided under R.A. No. 6758, as amended, all special allowances granted under Section 17 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.

Sec. 21. 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.

Sec.22 Transitory Provisions. – All unexpended appropriations, real and personal property, contracts, records and documents relating to the existing NBI shall be transferred to the reorganized NBI.

All rights, obligations and liabilities of the existing NBI shall be deemed to be rights, obligations and liabilities of the reorganized NBI.

All incumbent personnel of the NBI shall continue in office and perform their duties as such; Provided, That the designated Deputy Director shall continue in office as Deputy Director and the incumbent Assistant Directors shall assume as Assistant Directors of their respective or equivalent Services.

Incumbent Special Investigators shall be deemed Regular Agents provided they meet the qualifications set forth under Section 4 hereof within two (2) years from effectivity of this Act.

Sec. 23. Repealing Clause. – Pertinent provisions of Executive Order 292, the Revised Administrative Code of 1987, as amended, Executive Order No. 460 dated December 3, 1997, Executive Order 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.

Sec. 24. 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.

Sec. 25. Effectivity. This Act shall take effect after fifteen (15) days from its publication in the Official Gazette or in two (2) newspapers of general circulation in the Philippines.

Approved.