

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SIXTEENTH CONGRESS
Second Regular Session

House Bill No. **5850**



Introduced by HON. CESAR V. SARMIENTO

EXPLANATORY NOTE

On June 20 1964, Republic Act No. 4156 entitled, "An Act Creating the Philippine National Railways, Prescribing its Powers, Functions and Duties, and providing for the Necessary Funds for its Operation" was approved.

Since the 1960's, the Philippine National Railways ("PNR") has been the only operator of a railway link from Luzon to the Bicol Region. PNR's operations to the Bicol region is presently under rehabilitation but its operations in Luzon are well-patronized and provide a relatively fast commute in and around the Metro Manila area.

The PNR however is in need of massive rail reforms. Its system is obsolete and results to losses in revenue potential. More importantly, the aged railway system may one day pose a threat to the safety of its riders.

Thus, the great need for rail reform in PNR was seen by the country's legislators. On June 16, 2014, Republic Act 10638 was approved and extended PNR's corporate existence for another fifty (50) years. This was merely the first step towards a better railway system for the PNR.

Going beyond what was achieved by RA 10638, this bill seeks to amend certain provisions of Republic Act No. 4156 in order to adopt with the country's present circumstances by introducing reforms that will rehabilitate and modernize the railway system operated by PNR and give the said operator the necessary powers and resources to do just this.

In view of the foregoing, passage of the bill is earnestly sought.

CESAR V. SARMIENTO

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AN ACT PROMOTING RAIL REFORMS IN THE PHILIPPINE NATIONAL RAILWAYS, AMENDING FOR THE PURPOSE CERTAIN PROVISIONS OF R.A. NO. 4156 ENTITLED "AN ACT CREATING THE PHILIPPINE NATIONAL RAILWAYS, PRESCRIBING ITS POWERS, FUNCTIONS AND DUTIES, AND PROVIDING FOR THE NECESSARY FUNDS FOR ITS OPERATION

Be it enacted by the House of Representatives of the Philippines in Congress assembled.

SECTION 1. Section 3 of Republic Act Four thousand One Hundred Fifty Six, as amended by Republic Act Six Thousand Six Hundred Sixty Six and Presidential Decree Seven Hundred Forty One is hereby replaced to read as follows:

"SEC. 3. AUTHORIZED CAPITAL STOCK OF THE PHILIPPINE NATIONAL RAILWAYS. THE AUTHORIZED CAPITAL STOCK OF THE PHILIPPINE NATIONAL RAILWAYS SHALL BE FIFTY BILLION PESOS DIVIDED INTO THREE MILLION ONE HUNDRED THIRTEEN THOUSAND COMMON SHARES ALL WITH PAR VALUE OF TWO HUNDRED PESOS EACH, WHICH SHALL INCLUDE THE PRESENT AUTHORIZED CAPITALIZATION OF THE PHILIPPINE NATIONAL RAILWAYS: PROVIDED, THAT THE INCREASE IN THE AUTHORIZED CAPITAL SHALL BE FULLY SUBSCRIBED BY THE GOVERNMENT: PROVIDED FURTHER, THAT ALL EXISTING LONG TERM OBLIGATIONS OF THE PHILIPPINE NATIONAL RAILWAYS TO THE GOVERNMENT OF THE PHILIPPINES INCLUDING ITS AGENCIES OR INSTRUMENTALITIES AS WELL AS ITS TAX OBLIGATION TO ANY LOCAL GOVERNMENT UNIT SHALL BE CONVERTED INTO CAPITAL STOCKS OF THE PHILIPPINE NATIONAL RAILWAYS AND MADE A PART OF THE SUBSCRIPTION: PROVIDED, STILL FURTHER, THAT THE INCREASE IN AUTHORIZED CAPITAL STOCK HEREIN PROVIDED IS DISTINCT AND SHALL NOT PREJUDICE THE ANNUAL APPROPRIATION PROVIDED IN THE YEARLY GAA. THE AMOUNT RAISE BY VIRTUE OF THE INCREASE IN THE AUTHORIZED

CAPITAL STOCK, IN ADDITION TO THE EXISTING SINKING FUND OF THE PNR ESTABLISHED FROM ITS EXISTENCE, SHALL BE USED FOR THE CONSTRUCTION OF NEW RAILROAD LINE AND WHENEVER ECONOMICALLY AND TECHNICALLY FEASIBLE, THE REHABILITATION AND/OR MODERNIZATION OF MOST OF THE ENTIRE RAILWAY SYSTEM OF PNR THROUGHOUT THE COUNTRY.

SECTION 2. A new subsection, Section 2-E, shall be inserted to read as follows:

“SEC. 2-E. THE PHILIPPINE NATIONAL RAILWAYS SHALL BE ALLOWED TO ENTER INTO A JOINT VENTURE WITH A QUALIFIED PRIVATE SECTOR PARTNER, PARTICULARLY AND EXCLUSIVELY FOR THE PURPOSE OF OPERATIONS AND MAINTENANCE SUBJECT TO THE APPROVAL OF THE BOARD, WITH AT LEAST TWO-THIRDS (2/3) VOTE, IN A MEETING CALLED FOR THE PURPOSE. PROVIDED, THAT SUCH PLANS AND/PROGRAMS OF ENTERING TO A JOINT VENTURE WERE CONSISTENT WITH THE OVERALL OBJECTIVES OF THE CORPORATION AS RECOMMENDED BY THE GENERAL MANAGER, PROVIDED FINALLY, THAT THE PROCUREMENT PROCEDURE SHALL COMPLY WITH THE EXISTING GOVERNMENT PROCUREMENT LAW. IN ANY EVENT THAT INCREASE IN FARE RESULTED BY REASON OF THE PRIVATIZATION OF PNR'S OPERATIONS AND MAINTENANCE, THE INCREMENTAL INCREASE IN VALUE BETWEEN THE REAL FARE AND NOMINAL FARE SHALL BE SUBSIDIZED AND PAID FOR BY THE PHILIPPINE GOVERNMENT AND SHALL BE COVERED BY YEARLY AUTOMATIC APPROPRIATIONS PROVIDED IN THE GENERAL APPROPRIATIONS ACT.”

SECTION 3. A new subsection, Section 2-F, shall be inserted to read as follows:

“SEC. 2-F. TO DEPUTIZE AND/OR OBLIGATE LGU'S TO ENFORCE AND IMPLEMENT, IN COLLABORATION WITH THE GOVERNMENT CORPORATE COUNCIL (GCC), THE RESTORATION OF PNR'S RIGHT-OF-WAY SO AS TO RETURN THE LAND AROUND THE STATIONS AND RESTORATION OF PNR'S RIGHTS TO USE. IN PROCESS, REWARDING THE LGU'S FOR THEIR EFFORT AND PENALIZING LGU'S FOR THEIR REFUSAL OR INABILITY TO IMPLEMENT THE RESTORATION OF PNR'S RIGHTFUL USE AND POSSESSION OF LAND ON THE RIGHT-OF-WAY AND AROUND STATIONS SHALL BE THE BASIC POLICY FOR ENFORCEMENT.”

SECTION 4. A new subsection, Section 2-G, shall be inserted to read as follows:

"SEC 2-G. TO PENALIZE CRIMINALLY AND/OR CIVILLY ANY PERSON(S)' INTERFERENCE WITH THE FREE FLOW, UNHAMPERED USE, AND PASSAGE OF PNR TRAINS ALONG THEIR LEGAL RIGHT OF WAY (TRACKS, BRIDGES, TURNOUTS, INTERCONNECTIONS, AND ALL ASSOCIATED LINKAGES), SUCH AS DISREGARDING SIGNALS AND TRAIN CROSSINGS DANGEROUSLY ON THE PATH OF ONCOMING TRAINS, PLACING DEAD BODIES ALONG OR ON TOP OF THE TRACKS AND ITS LINKAGES, WHETHER AS A CONSEQUENCE OF A CRIME OR NOT, SLEEPING, PLAYING ON, IDLING ON RAILROAD TRACKS AND ITS LINKAGES, PLACING BOULDERS OR OBJECTS THAT OBSTRUCT, THROWING OBJECTS AT PASSING TRAINS, AND SIMILAR ACTS OF DESTRUCTION AND OBSTRUCTION. COMMITTING OR ATTEMPTING TO COMMIT SUICIDE ALONG THE RAILROAD TRACKS AND ITS LINKAGES, BUILDING STRUCTURES-PERMANENT OR OTHERWISE ALONG THE PNR LEGAL RIGHT-OF-WAY AND/OR REFUSING TO VACATE THE SAME UPON DEMAND. IF SUCH ACT(S) CAUSES OR HAS POTENTIAL TO CAUSE, OR RESULT IN DEATH OR INJURY TO PERSONS AND/OR DAMAGE TO PROPERTY/IES SUCH PARTY/IES WHO, WITH INTENT TO CAUSE, OR ACTUALLY CAUSED SUCH INTERFERENCE, OBSTRUCTION, WHETHER OR NOT RESULTING IN INJURY OR DEATH, DAMAGE TO PNR TRAINS, TRACKS, LINKAGES, AND/OR PNR PROPERTY, SHALL BE HELD CRIMINALLY AND CIVILLY LIABLE BY PNR. DEVOID OF ANY EVIDENCE TO THE CONTRARY, PNR IS PRESUMPTIVELY ABSOLVED FROM CRIMINAL AND CIVIL LIABILITY."

SECTION 5. Section 3-A of Republic Act Four thousand One hundred Fifty Six, as amended is hereby amended to read as follows:

Sec. 3-A. Foreign Loans. The PHILIPPINE NATIONAL RAILWAYS[Corporation] is hereby authorized to contract loans, credits and indebtedness IN DOMESTIC CURRENCYOR in any convertible foreign currency, or capital goods from foreign governments, their agencies instrumentalities or financial institutions, or any governmental national or international financial institutions or firms extending supplier's credit, deferred payment arrangements or other funds sources, or to issue bonds, [the total outstanding amounts of which, exclusive of interests, shall not exceed two hundred million United States dollars or the equivalent thereof and other currencies,] on such terms and conditions as it shall deem appropriate for the accomplishment of its purposes and to enter into and execute agreements and other documents specifying such terms and conditions.

The President of the Philippines, through the Secretary of Finance, is hereby authorized to guarantee, absolutely and unconditionally, as primary obligor and not as surety merely, in the name and on behalf of the Republic of the Philippines, the payment of the loans, credits, indebtedness and bonds issued [up to the amount herein authorized,] which shall be over and above the amount which the President of the Philippines is authorized to guarantee under Republic Act Numbered Sixty-One Hundred and Forty-Two as amended, as well as the performance of all or any of the obligations undertaken by the Corporation in the territory of the Republic of the Philippines pursuant to loan agreements entered into with foreign governments or any international financial institutions or fund sources.

The loans, credits and indebtedness contracted under this subsection and the payment of the principal, interest and other charges thereon, as well as the importation of machinery, equipment, materials, supplies and services, by the Corporation, paid from the proceeds of any loan, credit or indebtedness incurred under this Act, shall also be exempted from all charges and restrictions previously and presently imposed, and to be imposed by the Republic of the Philippines, or any of its agencies and political subdivisions.

SECTION 6. Section 9 of Republic Act Numbered Four thousand One hundred and Fifty-Six as amended by Republic Act Numbered Sixty-Three Hundred and Sixty-Six and PD 741 is hereby amended to read as follows:

"Sec. 9. Managing Head. The Management of the Corporation shall be vested in the General Manager who shall be appointed by the President of the Philippines. He shall possess technical competence in management preferably in railroad transport management, have demonstrated executive ability, and be of good moral character. He shall hold office for a term of SIX (6) [eight (8)] years.

In the performance of his functions, he shall be assisted by Assistant General Managers who shall be appointed by him with the approval of the Board of Directors and the President.

SECTION 7. Section 12 of Republic Act Four thousand One hundred Fifty Six, as amended is hereby amended to read as follows:

Sec. 12. Exemption from taxes, duties, [and] port charges or dues AND customs bonds [and port charges]. The PHILIPPINE NATIONAL RAILWAYS [Corporation] is hereby exempt from payment of all taxes of any kind [every name] and nature. INCLUDING THOSE IMPOSED BY municipal, city, provincial or national upon its capital stock, franchise, right of way, earnings, and all property owned or operated by it and all import duties on all railway materials, rolling stocks, spare parts,

supplies and equipment imported in the Philippines for and/or by the said corporation, and this exemption shall extend to wharfage dues, storage charges, arrastre, and shipside charges, and special duties on such importations, and other port charges upon the carrying vessels whose entire cargo consists of materials for the construction of its projects and rehabilitation of its lines, facilities and to such proportion of the prescribed port charges on other vessels as the tonnage of materials for such constructions or equipment may bear to the tonnage of the entire cargo of the vessel; and such exemption shall further extend to the filing of general importer's and general documentary bonds and warehouse bonds for the operation of its warehouses, whether general bonded warehouses or general order store.

NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAWS TO THE CONTRARY, THE EXEMPTION FROM TAXES, DUTIES AND PORT CHARGES OR DUES, CUSTOMS BONDS PORT CHARGES ENJOYED BY THE PHILIPPINE NATIONAL RAILWAYS AS PROVIDED FOR IN SECTION 12 OF REPUBLIC ACT FOUR THOUSAND ONE HUNDRED FIFTY SIX AS AMENDED BY RA 6366 AND PD 741 IS HEREBY REAFFIRMED

SECTION 8. *Separability Clause.* – If any portion or provision of this Act is declared unconstitutional or invalid, the other provisions hereof not affected thereby shall remain valid and effective.

SECTION 9. *Repealing Clause.* – All laws, executive orders, presidential decrees, presidential proclamations, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 10. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,