

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
QUEZON CITY

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. **4880**



Introduced by the Honorable Representative Jose T. Panganiban, Jr.
ANAC-IP Partylist

EXPLANATORY NOTE

The Philippines is a country rich with biological resources, recognized as one of the world's mega-diversity countries, with more than 50,000 species of flora and fauna and is host to one of the world's richest concentration of marine life with more than 500 coral reef species, 2,000 marine fish species, 40 mangrove species and 16 sea grass species. However, these biological resources are under threat because the ecosystems that support them are continually being severely degraded and compromised. The country has lost much of its original forest cover with only less than 18% or about 5 million hectares of the 21 million original hectares remaining. The marine environment is likewise suffering from extreme degradation with only 4% of its coral reefs in excellent condition. The fast pace of population growth, urbanization and industrialization in the country have resulted in the conversion of the natural ecosystems to other uses to make way for the ever increasing needs of a growing population for food, shelter, clothing and the demands of growth and development. Air pollution has worsened, rising living standards have contributed to the accumulation of wastes and unabated industrial and agricultural activities have caused extensive pollution of water bodies.

To add to this dismal state, the effects of climate change have taken its toll on the country's environment and natural resources, the Philippines being one of the most vulnerable countries to the effects and impact of climate change in Asia. Extreme weather conditions, more severe typhoons, landslides, erosions, flooding and drought have been experienced in the recent past and these have led to food and water scarcity, health problems and infrastructure damages costing billions of pesos.

To address and combat this situation, the Philippine government has, through the years, enacted a plethora of laws and established institutions to regulate the country's environment and natural resources. Command and control measures in the form of laws and regulations on environmental protection, pollution emissions, human health, land use, among others have been introduced. Still, such environmental regimes failed to abate the destruction of the natural resources and of the environment.

Nonetheless, random initiatives from the private sector and a handful of Local Government Units (LGUs) have shown that caring for the environment and the natural resources may be a promising "industry" or enterprise through the creation of markets/incentives, by developing markets for environmental services and by introducing improved and environment friendly livelihood. It has been proven that as a community/organization/LGU CARES for the environment and natural resources, it may CLAIM equitable shares from the economic benefits generated from the use or exploitation of the natural resources that they have been caring for (benefits to a supplier). Likewise, as stewards of the environment and its natural resources, it may be given the opportunity to CREATE economic wealth without compromising the long term viability of its ecosystems.

Similarly, it has been shown from isolated cases in the country that people, institutions or corporations are willing to reward, compensate or pay the caretakers of the resources as an assurance for the availability of the resource (e.g. water, plants/trees for pharmaceutical purposes or scenery) they require. In a way, some refer to it as an investment, much the same way as a corporation, through its Corporate Social Responsibility, would willingly support a community for the damage that it has brought about to the community in the pursuit of its business objectives.

These snippets of successful endeavors are just a few of the forms or models of the concept "Payment for Environmental Services", which, if institutionalized in the country promises to address environmental degradation and natural resource depletion. Environmental services refer to those provided by forests and forestry plantations that have an impact on environmental protection and improvement. They are the following: mitigation of greenhouse gas emissions (fixing, reduction, sequestration, warehousing and absorption); protection of water for urban, rural or hydroelectric use; biodiversity protection to conserve it and for sustainable scientific and pharmaceutical use; genetics research and improvement; protection of ecosystems, life forms and natural scenic beauty for tourism and scientific ends. Payment for Environmental Services or PES is a voluntary transaction in which a well-defined environmental service, or land use likely to provide that service is 'bought' by a buyer from a provider/seller if and only if provider ensures the continuous provision of that service (SVEN Wunder, 2005).

International interest in PES has been growing in recent years due to a number of factors, including the increasing value of ecosystem services due to their growing economic demand, the need to tap into new sources of finance for conservation, growing corporate interest in making environmentally responsible investments, and supportive changes in the governance of natural resources (Scherr et al. 2006). Likewise, international and local events and concerns such as climate change resulting in extreme weather conditions and severe calamities, increasing levels of greenhouse gases that cause global warming, water scarcity, and the ever pervasive poverty and inequality issues that have led to agreements in the Millennium Development Goals, the United Nations Framework Convention on

Climate Change, Rio de Janeiro +20, the Philippine Agenda 21, the National Climate Change Action Plan, Carbon Trading and the REDD plus, all the more make PES implementation in the Philippines a MUST.

PES is one of the new approaches seeking to support positive environmental externalities through the transfer of financial resources from beneficiaries of certain environmental services to those who provide these services or as fiduciaries of environmental resources, thus internalizing the benefits and creating the missing incentives for the provision of environmental services. PES can lead to more sustainable outcomes by generating a continuous flow of payments. PES is considered as a means of attaining environmental protection and justice, social justice and inter-generational justice.

This, no less, is the command of the Constitution when it mandates in Article II, Section 9 that "The State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all"; in Section 10 that "The State shall promote social justice in all phases of national development"; and in Section 16 that "The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature."

Upon the above constitutional mandate, the passage of this bill is urgently proposed.



JOSE T. PANGANIBAN, JR.

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

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **4880**

Introduced by: **HON. JOSE T. PANGANIBAN, JR.**
ANAC-IP Partylist

**AN ACT INSTITUTIONALIZING AND MAINSTREAMING
PAYMENT FOR ENVIRONMENTAL SERVICES (PES) IN POLICY
AND INVESTMENT PROGRAMS**

*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 and cited by the short title "Payment for Environmental Services Act".

Section 2. *Definition of Terms.* As used in this act, the following terms shall be defined as follows:

1. **Ancestral domains** refer to all areas generally belonging to indigenous cultural communities/indigenous peoples (ICCs/IPs) comprising lands, inland water, coastal waters and resources therein, held under a claim of ownership, occupied or possessed by ICCs/IPs, by themselves or by their ancestors, communally or individually.
2. **Biological diversity or biodiversity** refers to the variability and variety among living organisms including terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are a part. This includes diversity within the species (species diversity) and among ecosystems (ecosystem diversity).
3. **Carbon sequestration** refers to the process when trees and other vegetation absorb carbon into the atmosphere during their growth. It may involve active absorption through reforestation or avoided emissions of carbon through conservation of forests.

4. **Climate change** refers to a change in climate that can be identified by changes in the mean and/or variability of its properties and that persist for an extended period of time typically decades or longer, whether due to natural variability or as a result of human activity.

5. **Community-based forest management strategy** refers to the strategy to improve the well-being of forest dependent communities and at the same time ensure sustainable management, rehabilitation and protection of forestlands and the resources therein, through the active participation of various stakeholders.

6. **Conservation** refers to the planned protection and management of forests, wildlife and other forest resources so as to prevent waste and ensure future use.

7. **Department** refers to the Department of Environment and Natural Resources.

8. **Environmental externalities** refer to unintended benefits (positive) and/or costs (negative) which are not incorporated into the price of products or services that are sold in the market.

9. **Environmental services** refer to those provided by forests and forestry plantations that have an impact on environmental protection and improvement.

They are the following: mitigation of greenhouse gas emissions (fixing, reduction, sequestration, warehousing and absorption); protection of water for urban, rural or hydroelectric use; biodiversity protection to conserve it and for sustainable scientific and pharmaceutical use; genetics research and improvement; protection of ecosystems, life forms and natural scenic beauty for tourism and scientific ends.

10. **Indigenous cultural communities/indigenous peoples or ICCs/IPs** refers to a group of people or homogenous societies identified by self-ascription and ascription of others, who have continuously lived as organized community on bounded and defined territory, and who have under claims of ownership immemorial, occupied, possessed and utilized such territories, sharing common bonds of language, customs, traditions and other distinctive cultural traits, or who have, through resistance to political, social and cultural inroads of colonization, non-indigenous religions and cultures, became historically differentiated from the majority of the Filipinos.

11. **Landscape beauty services** refer to the aesthetic and/or cultural value given to specific sites. It may involve the protection of natural heritage sites, coral reefs, cultural sanctuaries, or even traditional livelihoods as part of a combined cultural/environmental landscape protection approach.

12. **Non-government organization or NGO** refers to a non-stock, non-profit and voluntary organization.

13. Payment for environmental services or PES is a voluntary transaction in which a well-defined environmental service, or land use likely to provide that service is 'bought' by a buyer from a provider/seller if and only if the provider ensures the continuous provision of that service (SVEN Wunder, 2005)

14. Compensation and incentives refers to direct cash payments or payments in kind such as provision of infrastructure, livelihood support, market preferences, health and educational services, skills training, scholarship programs, technical assistance or land tenure security given to provider/supplier of service to ensure its continuous provision

15. Sellers refer to providers/suppliers of an environmental service in a PES scheme

16. Buyers refer to the users or beneficiaries of the environmental services in a PES scheme

17. Broker refers to an intermediary in a PES scheme which facilitates the transaction between seller and buyer and usually undertaken by the government or an NGO

18. Water services refer to water flow regulation, water quality maintenance, erosion and sedimentation control, land salinization reduction/water table regulation and maintenance of aquatic habitats.

Section 3. *Basic Policies.* Pursuant to the provisions of the Constitution to promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all; to promote social justice in all phases of national development; and to protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature, the State hereby adopts the following policies relative to the institutionalization of Payment for Environmental Services:

a) *Sustainable use of the country's environment and natural resources.* – In line with the spirit of sustainable development, extraction/harvest/utilization of the natural resources must not exceed the rate of the renewal of these natural resources. In the same manner, the use of the environment as waste sink and for other services must not threaten its natural carrying capacity.

b) *Common rights but differentiated responsibilities and accountabilities of environment and natural resource (ENR) suppliers/providers and users/beneficiaries.* – The ENR providers must assure continuing provision and increasing value of services at minimal cost and the buyers must be willing to pay the maximal amount that captures the value of the environmental service. Fairness must always be observed in all PES agreements (voluntary).

PES systems will work best when the value of environmental services for beneficiaries is high and the cost of providing services is low. Therefore the benefits of environmental services cannot be set arbitrarily but must result from studies on demand and economic valuation of the resource to capture full benefit. The design of a PES scheme must be based on clear and consensual scientific evidence linking land uses to provision of services which must be clearly defined. The valuation process must involve economic analysis and extensive consultations with suppliers/providers and users/beneficiaries in order to set up contributions that are both acceptable to both parties and sufficient to fund the PES system and the provision of needed services.

Capability-building must always be done to allow participants (suppliers/providers and users/beneficiaries) to be flexible enough to allow adjustments to improve their effectiveness and efficiency and adapt to changing conditions.

c) *Climate Change Mitigation and Adaptation.* – PES implementation must always lead to climate change mitigation and adaptation, the latter being the supreme/over-arching objective as it is recognized that climate change represents an urgent and potentially irreversible threat to societies and the planet, and thus requires to be urgently addressed by all.

Section 4. *Objectives.* The objectives of this law shall be the following:

1. Create awareness and appreciation of PES as a strategy in attaining sustainable development and the realization that PES may bring about business and livelihood opportunities to the stakeholders;
2. Provide a platform/entry point/legal/institutional framework for use and management of resources aside from energy and mining under a PES scheme. PES schemes for energy and mining are already embedded in the Electric Power Industry Reform Act (EPIRA) or Republic Act 9136 and Executive Order 79, Series 2012: Institutionalizing and Implementing Reforms in the Philippine Mining Sector, Providing Policies and Guidelines to Ensure Environmental Protection and Responsible Mining in the Utilization of Mineral Resources, respectively.
3. Develop capacity of major stakeholders regarding PES implementation to enable the country to participate fully in, and to implement effectively, the country's commitment to attain sustainable development under the Philippine Agenda 21 and United Nations Framework Convention on Climate Change;
4. Conduct environmental and natural resources accounting in every community/LGU as a preparatory activity for PES implementation; and
5. Mainstream a PES mechanism in policy and investment programs of the Philippine Council for Sustainable Development and other relevant institutions.

Section 5. *Forms or Modes of PES.* Different forms and modes of PES are encouraged such as, but not limited to, the following:

1. Rewarding Upland Peoples for Ecosystem Services (RUPES) given to Indigenous Communities who serve as stewards of watersheds.
2. Carbon Trading where firms or countries buy and sell carbon to reduce carbon emissions. Carbon trade is intended to be an attempt to reduce overall carbon emissions while still allowing companies or countries that may have difficulty doing so to have an outlet for transition. It is also called emissions trading. In the international arena, carbon is now traded and monitored like any other commodity. The Philippines, a country rich in forests and as such a "carbon sink", will benefit from this PES scheme. Carbon trading is a better approach than direct taxation or regulation. It can be cheaper and more politically acceptable for existing industries since the initial allocation often considers rights issued in proportion to historical emissions. Most of the income generated goes to environmental activities and helps developing countries.
3. Reduction of Emissions from Deforestation and Degradation (REDD+) describes a range of actions to reduce emissions from deforestation and forest degradation and the role of conservation of carbons stocks, sustainable management of forests and enhancement of forest carbon stocks in developing countries, supported by financing from industrialized nations. As the global initiative on REDD+ has come to the forefront of international climate change mitigation policy, opportunities for pilot projects have emerged across Southeast Asia, including in the Philippines. In early 2009, several NGOs noted the potential of REDD+ in the Philippines and the need for domestic climate change mitigation actions. Initial estimates suggest that the Philippines has a total emissions mitigation potential of approximately 38,540,000 tons of CO₂ between 2011-2030 (CIF, 2010). In addition, REDD-plus in the Philippines could generate multiple social and biodiversity co-benefits (Phelps et al., 2010a) in alignment with broader national goals. Such co-benefits are especially relevant to the Philippines, as most remaining forests are under community management, notably within the lands of Indigenous Peoples.
4. Conditional Cash Transfer for environmental protection and management, a social development strategy that provides conditional cash grants to extremely poor households on the condition that these households work for the protection and management of the environment and natural resources.
5. Green Corporate Social Responsibility (CSR) is the corporate initiative to assess and take responsibility for the company's effects on the environment and social welfare by providing the affected communities livelihood projects, scholarship grants, schools, hospitals and other support systems or services.

6. Ecological Fees also known as User Fees for landscape beauty, natural and cultural heritage, recreation and tourism services.

7. Polluter fees following the polluter pays principle.

Section 6. *Role of the Government.* Government acts as regulator and enabler to ensure an adequate and sustainable supply of public goods. In many cases, government acts as the intermediary or broker between sellers and buyers of environmental services. The government likewise provides the necessary funds for capacity-building, monitoring, and negotiations for international transactions such as the REDD+.

This role of the government shall be mainstreamed with the Philippine Council for Sustainable Development. Specifically, a sub-unit for PES concerns shall be created in the Committee on Social and Economic Dimensions (CSED). The sub-unit for PES shall closely coordinate with the Committee on the Conservation and Management of Resources for Development (CCMRD), Committee on Strengthening the Role of Major Groups (CSRMG) to synchronize such other activities as environmental and natural resource accounting and capacity building through massive information and education ventures.

The sub-unit on PES shall have the following functions:

1. Identify areas covering locations from areas from one or several regions in which schemes along the principle of "payments for environmental services" can be established with the following features:

- a) Communities which are instrumental in producing or maintaining the quality of an environmental resource are able to acquire a share from the payments of users of the environmental resource;
- b) Users of an environmental resource are made to pay communities which produce or have the potential to maintain the quality of environmental resource; and
- c) Practical user's fee and sharing schemes that capture the full benefit of the resource and adequate in enhancing the quality of environmental resources from source communities.

2. Identify areas covering one or several regions in which schemes and arrangements can be developed for protecting environmental resource quality in a manner that communities are given adequate, efficient, and workable incentives to genuinely protect the environment and preserve the quality of environmental goods.

3. Act as the lead agency for developing schemes and arrangements along the line of payments for environmental services in select areas.

4. Related to the preceding section, the following authority is hereby vested in the PESA Sub-Unit:

- a) Convene multi-agency and inter-LGU meetings;
- b) Develop memoranda of agreement among several agencies and among several LGUs for the purpose of identifying, developing, and implementing schemes along the line of payments for environmental services;
- c) Accept bids and proposals along the line of payments of environmental services consistent with the authority vested into the sub-unit by participating agencies wherein schemes on payments for environmental services are being developed;
- d) Lead multi-agency meetings to secure the concurrence of participating agencies; and
- e) Assist single LGU units on developing schemes for environment services.

This Act shall take effect fifteen (15) days after its publication in a newspaper of general circulation or in the official gazette.

Approved,