



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Constitution Hills, Quezon City

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 5270



Introduced by **REPRESENTATIVE PANTALEON D. ALVAREZ**

EXPLANATORY NOTE

This bill seeks the amendment of Republic Act (R.A.) No. 6957, as amended by R.A. 7718, otherwise known as, "An act authorizing the financing, construction, operation and maintenance of infrastructure projects by the private sector and for other purposes."

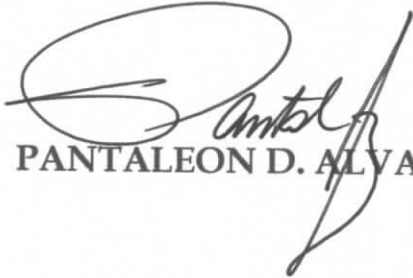
Presently, Sec. 5. of R.A. 6957, as amended, *automatically grants* the winning project proponent a franchise to "operate and maintain the facility, including the collection of tolls, fees, rentals, and charges..." This arrangement, however, has been suspect of serving private interests instead of that of the general public.

As an additional safeguard in order to protect the Filipino people, this bill removes the automatic grant of franchise. Instead, it requires a project proponent to first secure a legislative franchise for public utilities from Congress for it to qualify as a bidder and in order to construct, "operate and maintain the facility, including the collection of tolls, fees, rentals, and charges..."

Entities presently operating and maintaining public utilities shall be given one (1) year from the effectivity of this law to secure a legislative

franchise for public utilities from Congress in order to continue their operations. Further, there shall be a limit to the validity period of said franchise. It shall only be valid for a period of twenty-five (25) years subject to renewal.

In view of the foregoing, approval of this bill is highly and earnestly recommended.



PANTALEON D. ALVAREZ



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Introduced by **REPRESENTATIVE PANTALEON D. ALVAREZ**

**AN ACT FURTHER AMENDING REPUBLIC ACT. NO. 6957, AS
AMENDED BY R.A 7718, OTHERWISE KNOWN AS "AN ACT
AUTHORIZING THE FINANCING, CONSTRUCTION, OPERATION
AND MAINTENANCE OF INFRASTRUCTURE PROJECTS BY THE
PRIVATE SECTOR, AND FOR OTHER PURPOSES"**

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

SECTION 1. Section 5 of Republic Act No. 6957, as amended by R.A. 7718, is hereby further amended to read as follows:

**"SEC. 5. Public Bidding of Projects. - THE PROJECT
PROPONENT MUST FIRST SECURE A LEGISLATIVE
FRANCHISE FOR PUBLIC UTILITIES FROM CONGRESS IN
ORDER TO QUALIFY AS A BIDDER AND IN ORDER TO
CONSTRUCT operate and maintain the facility, including the
collection of tolls, fees, rentals, and charges in accordance with
Section 5 hereof.**

Upon approval of the projects mentioned in Section 4 of
this Act, the head of the infrastructure agency or local

government unit concerned shall forthwith cause to be published, once every week for three (3) consecutive weeks, in at least two (2) newspapers of general circulation and in at least one (1) local newspaper which is circulated in the region, province, city or municipality in which the project is to be constructed, a notice inviting all prospective infrastructure or development project proponents to participate in a competitive public bidding for the projects so approved.

“In the case of a build-operate-and-transfer arrangement, the contract shall be awarded to the bidder who, having satisfied the minimum financial, technical, organizational and legal standards required by this Act, has submitted the BID THAT IS MOST ADVANTAGEOUS TO THE GOVERNMENT and PROVIDES THE most favorable terms for the project, based on the present value of its proposed tolls, fees, rentals and charges over a fixed term for the facility to be constructed, rehabilitated, operated and maintained according to the prescribed minimum design and performance standards, plans and specifications.

ALL EXISTING OPERATORS MUST OBTAIN SAID FRANCHISE FOR PUBLIC UTILITIES FROM CONGRESS WITHIN ONE (1) YEAR FROM THE TIME THIS LAW TAKES EFFECT. OTHERWISE, THE FRANCHISES THEY PRESENTLY HOLD SHALL EXPIRE AND CEASE TO HAVE ANY LEGAL EFFECT.

FURTHER, SAID LEGISLATIVE FRANCHISE SHALL BE FOR A PERIOD OF TWENTY-FIVE (25) YEARS ONLY SUBJECT TO A RENEWAL.

THE ABOVEMENTIONED LEGISLATIVE FRANCHISES SHALL BE SUBJECT TO AMENDMENT, ALTERATION, OR REPEAL BY THE CONGRESS WHEN THE COMMON GOOD REQUIRES AS PROVIDED FOR IN SECTION 11 OF ARTICLE XII OF THE 1987 CONSTITUTION.

"In the case of build-and-transfer or build-lease-and-transfer arrangement, the contract shall be awarded to the BID THAT IS MOST ADVANTAGEOUS TO THE GOVERNMENT AND PROVIDES THE MOST ADVANTAGEOUS TERMS based on the present value of its proposed schedule of amortization payments for the facility to be constructed according to the prescribed minimum design and performance standards, plans, and specifications: *Provided*, however, That a Filipino contractor who submits an equally advantageous bid with exactly the same price and technical specifications as those of a foreign contractor shall be given preference.

"In all cases, a consortium that participates in a bid must present proof that the members of the consortium have bound themselves jointly and severally to assume responsibility for any project. The withdrawal of any member of the consortium prior to the implementation of the project could be a ground for the cancellation of the contract.

"The public bidding must be conducted under a two-envelope/two-stage system: the first envelope to contain the technical proposal and the second envelope to contain the financial proposal. The procedures for this system shall be outlined in the implementing rules and regulations of this Act.

"A copy of each contract involving a project entered into under this Act shall forthwith be submitted to Congress for its information."

THE ABOVE REQUIREMENTS SHALL ONLY APPLY FOR PROPONENTS SEEKING TO BID, OPERATE, AND MAINTAIN PUBLIC UTILITIES THROUGH THIS ACT.

SEC. 2. If any part of provision of this Act be considered as invalid or unconstitutional, the remaining parts not affected shall remain valid and in full effect.

SEC. 3. All laws, decrees, orders, issuances, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 4. This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,