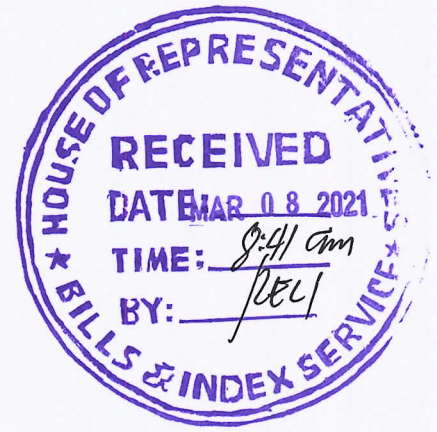


Republic of the Philippines
House of Representatives
Quezon City, Metro Manila

THE EIGHTEENTH CONGRESS
Second Regular Session



HOUSE BILL NO. 8921

AN ACT GRANTING THE DEPARTMENT OF EDUCATION A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE AND MAINTAIN A RADIO AND TELEVISION BROADCASTING STATION TO BE SITUATED IN REGION XII, PROVIDING FUNDS FOR THE ESTABLISHMENT OF THE NECESSARY INFRASTRUCTURES, PROCESSES, AND OTHER WORKS REQUIRED THERE FOR AND FOR OTHER PURPOSES

Introduced by Representative Shirlyn L. Bañas-Nogales

EXPLANATORY NOTE

This Bill seeks the granting of a franchise to construct, install, establish, operate and maintain a radio and television broadcasting stations, *motu proprio*, in favor of the Department of Education (DepEd) to be situated in Region XII, complete with the necessary infrastructures, funds, processes, and other works required there for.

This initiative proceeds from the Constitutional provision which directs the State to give priority to education, science and technology, arts, culture, and sports, to foster patriotism and nationalism, accelerate social progress, and promote total human liberation and development¹, more so, amid this prolonged state of pandemic that has seriously affected the country's basic education sector.

Acting as the supreme guardian of the youth and children, it is therefore imperative upon this 18th Congress to assert its plenary authority and, by its own, cause the immediate provision of the needed alternative support infrastructures to education in far-flung indigenous communities within the perspective of a "whole-of-nation approach" to development, particularly in Region XII, where internet services are more often out of reach, if only to make sure that the State does not and will never relent in protecting and promoting the right of citizens to quality education at all levels, and shall take appropriate steps to make such education accessible to all².

In view whereof, immediate approval of this Bill is most sincerely sought.


SHIRLYN L. BANAS-NOGRALES

¹ Section 17, Article II, 1987 Constitution

² Section 1, Article XIV, 1987 Constitution

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Introduced by Representative Shirlyn L. Bañas-Nogralles

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

Section 1. Nature and Scope of Franchise. – Subject to the provisions of the Constitution and applicable laws, rules and regulations, there is hereby granted to the Department of Education (DepEd), hereunder referred to as the grantee, its successors or assigns, a franchise to construct, install, establish, operate and maintain for educational and revenue-generating purposes and in the public interest, a radio and/or television broadcasting stations to be situated in Region XII where frequencies and/or channels are still available for radio and/or television broadcasting, including digital radio and television system, internet protocol-related services and internet protocol-value-added services, through microwave, satellite, or whatever means, including the use of any new technology that may hereafter or in the future be developed in the field of radio and television broadcasting, with the corresponding technological auxiliaries and facilities, special broadcast and other program and distribution services and relay stations.

Section 2. Manner of Operation of Stations or Facilities. – The stations or facilities of the grantee shall be constructed and operated in a manner as will, at most, result only in the minimum interference on the wavelengths or frequencies of existing stations or other stations which may be established by law, without in any way diminishing its own right to use its selected wavelengths or frequencies and the quality of transmission or reception thereon as should maximize rendition of the grantee's services and/or availability thereof. In no way shall the operator of the grantee nor the radiated power of its stations or facilities exceed that required to cover the area where it is allowed to operate.

Section 3. Prior Approval of the National Telecommunications Commission (NTC). – The grantee shall secure from the NTC the appropriate permits and licenses for the construction and operation of its stations and facilities and shall not use any frequency in the radio and television spectrum without having been authorized by the Commission. The Commission, however, shall not unreasonably withhold or delay the grant of any such authority.

Section 4. Responsibility to the Public. – The grantee shall provide adequate public service time to enable the government, through the said broadcasting stations or facilities, to reach the population on important public issues: provide at all times sound and balanced programming; spearhead the functions of public information and education; conform to the ethics of honest broadcasting; and not use its stations and facilities for the broadcasting of obscene and indecent language, speech, act or scene; or for the dissemination of deliberately false information or willful misrepresentation, to the detriment of the public interest, or to incite, encourage or assist in subversive or treasonable acts.

Section 5. Right of Government. – A special right is hereby reserved to the President of the Philippines, in times of war, rebellion, public peril, calamity, emergency, disaster or disturbance of peace and order, to temporarily take over and operate the stations or facilities of the grantee, to temporarily suspend the operation of any station or facility in the interest of public safety, security and public welfare, or to authorize the temporary use and operation thereof by any agency of the government, upon due compensation to the grantee, for the use of said stations or facilities during the period when they shall be so operated.

The radio spectrum is a finite resource that is part of the national patrimony and the use thereof is a privilege conferred upon the grantee by the State and may be withdrawn at any time after due process.

Section 6. Term of Franchise. – This franchise shall be for a term of twenty-five (25) years from the date of effectivity of this Act, unless sooner revoked or cancelled. This franchise shall be deemed *ipso facto* revoked in the event the grantee fails to comply with any of the following conditions:

- a. Commence operations within one (1) year from the approval of its operating permit by the NTC;
- b. Operate continuously for two (2) years; and
- c. Commence operations within three (3) years from the effectivity of this Act.

Section 7. Acceptance and Compliance. – Acceptance of this franchise shall be given in writing within sixty (60) days from the effectivity of this Act. Upon giving such acceptance, the grantee shall exercise the privileges granted under this Act. Nonacceptance shall render the franchise void.

Section 8. Bond. – The grantee shall file a bond issued in favor of the NTC which shall determine the amount, to guarantee the compliance with and fulfillment of the conditions under which this franchise is granted. If, after three (3) years from the date of the approval of its permit by the Commission, the grantee shall have fulfilled the same, the bond shall be cancelled by the Commission. Otherwise, the bond shall be forfeited in favor of the government and the franchise *ipso facto* revoked.

Section 9. Self-regulation by and Undertaking of the Grantee. – The grantee shall not require any previous censorship of any speech, play, act or scene, or other matter to be broadcast from its stations: *Provided*, that the grantee, during any broadcast, shall cut off from the air the speech, play, act or scene, or other matter being broadcast if the tendency thereof is to propose and/or incite treason, rebellion or sedition; or the language used therein or the theme thereof is indecent or immoral; and willful failure to do so shall constitute a valid cause for the cancellation of this franchise.

Section 10. Obligation of the Grantee. – Any person aggrieved by any remark, report, statement, commentary or the like by a broadcaster using the same facilities of the grantee shall have the right to reply in the same program or any other program the aggrieved party may choose.

Section 11. Warranty in Favor of National and Local Governments. – The grantee shall not hold the national, provincial, city and municipal governments of the Philippines liable from all claims, accounts, demands or actions arising out of accidents or injuries, whether to property or to persons, caused by the construction or operation of the stations of the grantee.

Section 12. Nontransferability of Franchise. – The grantee shall not lease, transfer, grant the usufruct of, sell nor assign this franchise or the rights and privileges acquired thereunder to any person, firm, company, corporation or other commercial or legal entity, nor merge with any other corporation or entity, nor shall the controlling interest of the grantee be transferred, whether as a whole or in parts and whether simultaneously or contemporaneously, to any such person, firm, company, corporation or entity without the prior approval of the Congress of the Philippines. Any person or entity to which this franchise is sold, transferred or assigned, shall be subject to the same conditions, terms, restrictions and limitations of this Act.

Section 13. Equality Clause. – Any advantage, favor, privilege, exemption or immunity granted under existing franchise, or which may hereafter be granted for radio and television broadcasting, shall *ipso facto* become part of this franchise and shall be accorded immediately and unconditionally to the herein grantee: *Provided*, however, that the foregoing shall neither apply to nor affect provisions of broadcasting franchises concerning territory covered by the franchise, the life span of the franchise or the type of service authorized by the franchise.

Section 14. General Broadcast Policy Law. – The grantee shall comply with and be subject to the provisions of a general broadcast policy law, which Congress may hereafter enact.

Section 15. Reportorial Requirement. – The grantee shall submit, an annual report to the Congress of the Philippines on its compliance with the terms and conditions of the franchise and on its operations within sixty (60) days from the end of every year.

Section 16. Budgetary Provision. – All budgetary requirements for the planning, organization, processing, construction, installation, implementation, management, and continued operation and maintenance of the necessary protocols or infrastructures required under this Act shall be appropriated immediately in the General Appropriations Act (GAA).

Section 17. Joint Interim Technical Working Group. – Within fifteen (15) days after this Act shall have been approved, the President shall issue an Order thereby constituting a Joint Interim Technical Working Group (JITWG) composed of some scientists, engineers and professionals of other related fields of expertise coming from the Department of Education (DepEd), the National Telecommunications Commission (NTC), The Department of Science and Technology (DOST), The Department of Information and Communications Technology (DICT), The Department of Budget and Management (DBM), and The Civil Service Commission (CSC) to devise, organize, and carry out programs and projects necessary for the immediate construction, installation, and operation of such radio and television broadcasting stations authorized by this Act, the same to be clothed with the following responsibilities, to wit:

- a. For the time-being oversee the immediate, efficient, and effective implementation of the provisions of this Act;
- b. Come up with some frameworks that will cause to determine and direct the strategic construction, geographic location, installation, management, and operation of such radio and television broadcasting stations including its facilities or other activities related therewith;

- c. Prepare plans, programs of works (POWs), and other related details or components thereof;
- d. Set forth and propose the necessary budgetary requirements there for;
- e. Act as Secretariat to a Special Bids and Awards Committee (SBAC) to be constituted for the purposes thereof;
- f. Pursuant to Civil Service Rules come up with some lean and mean organizational structure and staffing pattern or *plantilla* thereof;
- g. Monitor the progress thereof and certify as to its completion;
- h. Facilitate the immediate turn-over of each completed project, complete with all its necessary components or facilities, to the Department of Education (DepEd) for subsequent operation and management; and
- i. Perform such other related responsibilities as the President of the Republic may require or authorize from time to time.

The JITW, in the conduct of the foregoing responsibilities or day-to-day affairs, shall be made to report its accomplishments directly to the President of the Republic for consent or approval. Its members to hold office during their terms at any viable government office or facility as the President may authorize. Their official roles and responsibilities to continue or terminate immediately upon the President's discretion or advice.

Section 18. Disbursement of Revenues. – All revenues generated from the operation of such radio and television stations shall accrue to the coffers of the Department of Education (DepEd), to be utilized for no other purposes: *Except*, to facilitate the continued improvement or maintenance of these same facilities including its human resources, equipment or services.

Section 19. Separability Clause. – If any of the sections or provisions of this Act is held invalid, all other provisions not affected thereby shall remain valid.

Section 20. Repealability and Nonexclusivity Clause. – This franchise shall be subject to amendment, alteration or repeal by the Congress of the Philippines when the public interest so requires and shall not be interpreted as an exclusive grant of the privileges herein provided for.

Section 21. Effectivity Clause. – This Act shall take effect fifteen (15) days from the date of its publication in the Official Gazette and, upon the initiative of the grantee, in at least two (2) newspapers of general circulation in the Philippines.