

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

NINETEENTH CONGRESS
 First Regular Session

HOUSE BILL NO. 900 422



Introduced by Representative **CARLITO S. MARQUEZ**

EXPLANATORY NOTE

This refiled bill seeks to amend and/or repeal pertinent provisions of Republic Act 8749 or the *Philippine Clean Air Act of 1999* and Republic Act 9003 or the *Ecological Solid Waste Management Act of 2000* with regard to the ban on incineration of waste.

The proposed measure was approved and passed by the House of Representatives on Third and Final Reading both in the 17th and 18th Congress. In the 18th Congress, this was approved on 24 November 2020 and was both transmitted to and received by the Senate on 25 November 2020.

The Philippines is a beautiful country that unfortunately has a number of focal environmental concerns which need to be dealt with. One of these critical issues is with regard to the mismanagement of garbage and wastes which cause other types of environmental disasters such as flooding, erosion, landslides and other dangers on landfills and dumpsites that include health concerns among the people living nearby. Since the inception of these two (2) relevant laws, the local government units, especially in the metropolis are unrelenting in executing these two regulations. However, the LGUs can just do so much. According to the National Economic Development Authority, only 26% of LGUs nationwide implement the Solid Waste Management Act.

Look at Metro Manila – it stinks to high heavens. Metro Manila residents had become such prolific litterbugs that the supposedly local problem of household garbage had become a national concern. They generate so much garbage that they are responsible for one-fourth of the country's daily output of solid waste, according to the Department of Environment and Natural Resources (DENR). The DENR said Metro Manila produced about 8,400 to 8,600 tons of trash per day. That volume already accounts for about 25% of the country's daily solid waste generation of some 35,000 tons an average of 0.7 kilogram of waste a day, about "130% higher" than the global average of 0.3 kilogram per person per day. However, only 6,000 tons end up in legal waste facilities while the rest

are illegally dumped in private lands, creeks, rivers and at times, are even burned openly. The more waste in the Philippines causes the increase in global warming, high temperature and less oxygen because of the air pollution. From flooding to dengue, from polluted rivers and creeks to mountains of trash, from the unnecessary death of fishes that accidentally swallowed plastic bags in the seas to global warming, garbage is the common denominator. The paradise island of Boracay is also threatened by this dilemma. Businessmen fear that a Smokey Mountain similar to the mountain of trash that used to obscure Tondo, Manila could rise up if the temporary garbage dump in Sitio Bulabog, Barangay Balabag is closed down. This poses a health and environmental hazard in Malay, Aklan.

Given the perennial garbage problems in the Philippines which harm the environment, waste management is indeed a necessary step to resolve and minimize all garbage-related problems in the country. Apparently, most landfills and garbage dumpsites filled up very fast. As such, there is a great danger that the country may run out of proper dumpsites and waste facilities which will ultimately lead to further environmental and human hazards.

Some of the local government bodies in the Philippines are currently pursuing the best methods to solve the ever-increasing garbage problem in the country. Some provinces in the country pursue the privatization of their solid waste management efforts in order to diminish the negative effects of garbage mismanagement. On the other hand, the Philippine Congress is also actively prioritizing the creation of new laws and policies intended to strengthen proper waste management practices in the country. In fact, just recently, some lawmakers have already filed a bill which requires LGUs to make use of garbage trucks with “onboard compactor” for the proper transportation and collection of solid waste. Basically, the main purpose of this onboard compactor is to compact solid waste while these are in transit and ultimately, reduce the total volume of solid waste and minimize the amount of waste generated in the major cities and localities in the country.

The Philippine government recognizes the fact that there are many possible solutions to address the ever-growing problem on waste generation. Unfortunately, there are also many given constraints to totally eradicate this huge garbage problem in the country.

Section 20 of the Clean Air Act of 1999 specifically prohibits incineration and the Solid Waste Management Act of 2000 makes it a policy for the State to “*adopt a systematic, comprehensive and ecological solid waste management program which shall ensure the proper segregation, collection, transport, storage, treatment and*

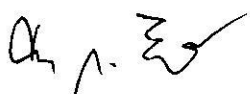
disposal of solid waste through the formulation and adoption of the best environmental practice in ecological waste management excluding incineration."

We refute that incineration of waste is harmful to the environment. Even the Supreme Court has pronounced in its doctrinal ruling in *MMDA vs. JANCOM ENVIRONMENTAL CORPORATION (G.R. No. 147465, January 30, 2002)* which states that the Clean Air Act of 1999 does not absolutely prohibit incinerators as a mode of waste disposal *"rather only those burning processes which emit poisonous toxic fumes are banned."* By the same token, some city councils who are already alarmed by the garbage menace have already passed resolutions of their own asking the repeal of the two laws, citing that a sustainable and long-term solution is necessary for the setting up of an in-city, state-of-the-art WTE (waste-to-energy) facility, similar to those extensively used in the US, Japan, South Korea and developed countries in Europe.

The anti-incinerator coalition should take note that the myth about this technology is already proven wrong. There is no scientific fact that it emits over 200 toxic or potentially toxic substances, including dioxin and furans, which are chemicals that cause cancer, birth defects, and neurological disorders. It is not also correct to say that incinerators have high operating costs and pose environmental risks.

This proposed measure will pave the way for the necessary and modern solution to the perennial garbage problem that has been the major headache of the government and in the process would serve to attract more investors in the country. The waste-to-energy projects will have safety features in consonance with the terms of reference based on its alleged advantages of greatly reduced waste volume, prolongation of the service life of the disposal site, and generation of electricity.

Immediate passage of this bill is earnestly sought.


ENGR. CARLITO "Lito" S. MARQUEZ

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HOUSE BILL NO. 422

Introduced by Representative **CARLITO S. MARQUEZ**

AN ACT
REGULATING THE USE OF TREATMENT TECHNOLOGY FOR MUNICIPAL
AND HAZARDOUS WASTES, REPEALING FOR THE PURPOSE SECTION 20
OF REPUBLIC ACT NO. 8749, ENTITLED "THE PHILIPPINE CLEAN AIR ACT
OF 1999"

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

SECTION 1. Title. - This Act shall be known and referred to as the **"Waste Treatment Technology Act"**.

Sec. 2. Regulation of Waste Treatment Technology. — Thermal and other treatment technologies for the disposal of municipal and hazardous wastes, or for the processing of any waste material for fuel, whether for commercial use or not, shall be designed and operated to meet the standards established pursuant to this Act and its implementing rules and regulations. These technologies shall be fitted with equipment that will continuously monitor, record and make publicly available the reported data on their emissions or air pollutant concentrations. Proposed facilities that recover energy shall be given priority over other treatment technologies. Entities utilizing such technologies shall incorporate in their facilities or operations appropriate material recovery program. Thermal treatment units shall treat wastes at a temperature of not less than eight hundred fifty degrees centigrade (**850°C**).

Sec. 3. Role of the Department of Environment and Natural Resources (DENR).
 — The DENR shall be primarily responsible for the implementation and enforcement of this Act. It shall promote the use of state-of-the-art, environmentally-sound, and safe technologies for the handling, treatment, thermal or non-thermal destruction, utilization, and disposal of residual wastes.

Pursuant to Sec. 15 of R.A No. 8749, otherwise known as the "Clean Air Act of 1999", the Pollution Research and Development Program shall likewise include the continuous monitoring, evaluation, and development of more appropriate air quality guideline values and standards for the treatment of municipal and hazardous wastes, or for the processing of any waste material for fuel.

Sec. 4. *Role of Local Government Units (LGUs) in Setting Up Treatment Facilities.* — The LGUs are hereby mandated to promote, encourage and implement in their respective jurisdictions a comprehensive solid waste management plan that includes waste reduction, segregation, recycling, composting, and recovery. The establishment of treatment facilities shall be facilitated by LGUs within a region, province, or strategically clustered LGUs in consonance with their respective ten-year solid waste management plans: *Provided*, That these are consistent with the national solid waste management framework established pursuant to R.A. No. 9003, otherwise known as the Ecological Solid Waste Management Act of 2000.

Sec. 5. *Role of the National Solid Waste Management Commission (NSWMC).* — The solid waste management plans and supplemental disposal plans of all LGUs, including those which may carry out treatment projects, shall be submitted to the NSWMC which shall render a decision within ten (10) working days from submission thereof. The NSWMC shall put in writing the reasons for either approving or denying such plans.

Sec. 6. *Role of the Department of Science and Technology (DOST).* — The DOST shall undertake the necessary verification of the technology that will be used for the treatment or waste processing projects. The verification shall be completed and reported in writing within ten (10) working days from receipt of the application, or twenty (20) working days if the application is for a new technology.

Sec. 7. *Role of the Department of Energy (DOE).* — The DOE, in addition to its powers and functions under R.A. No. 7638, otherwise known as "The Department of Energy Act of 1992," shall, insofar as the establishment and operation of facilities that recover energy:

(a) Accredite and classify facilities that recover energy based on the energy output, and determine the standards, criteria and requirements applicable therefor pursuant to R.A No. 9136, otherwise known as the "Electric Power Industry Reform Act (EPIRA) of 2001," R.A. No. 9367, otherwise known as the "Biofuels Act of 2006," and R.A. No. 9513 otherwise known as the "Renewable Energy Act of 2008," whichever is applicable;

(b) Include a strategy in the Philippines Energy Plan, taking into consideration the National Solid Waste Management Framework;

(c) Make available to the public, especially to potential investors for these facilities, local and national information on the following:

(i) current and potential uses of facilities in relation to solid waste management;

(ii) inventory of existing facilities; and,

(iii) other relevant information.

Sec. 8. Responsibility of Owner and Operator. - Responsibility for compliance with the standards promulgated for the establishment and operation of waste treatment facilities shall rest with the owner and/or operator thereof. If, by virtue of a contract, the operator is primarily and solely responsible for compliance with the standards, the same shall not relieve the owner of the requirement to exercise due diligence to ensure the operator's compliance. In the event that the ownership of the facility is transferred to another person, the previous owner shall notify the new owner of the standards and the conditions set for the operation of said facility, and the laws and regulations that the new owner or operator has to comply with.

These standards for operation of waste treatment or processing facility may be made more stringent by not more than five percent (5%): *Provided*, That the more stringent standards shall be effected ten (10) years following the commencement of the operation of the facility that is established after the effectivity of this Act.

Sec. 9. Grant of Incentives. - Fiscal and non-fiscal incentives shall be granted to registered investors and hosts of waste treatment programs.

(a) *Fiscal and Non-Fiscal Incentives.* - Upon certification by the DOE, waste-to-energy projects, as defined in this Act, shall be included in the strategic investments priority plan (SIPP) of the Board of Investments (BOI) and shall be entitled to the incentives provided under Executive Order No. 226, otherwise known as the "Omnibus Investments Code of 1987", as amended, and any other applicable laws for ten (10) years from the effectivity of this Act: *Provided*, That after the aforementioned period, the inclusion of waste-to-energy projects in the annual investment priorities plan shall be reviewed and may be extended by the BOI: *Provided, further*, That waste-to-energy projects shall be exempt from Article 32(1) of Executive Order No. 226.

(b) *Financial Assistance Program.* - Government financial institutions such as the Landbank of the Philippines, Development Bank of the Philippines, Government Service Insurance System, and such other government institutions providing financial service shall, in accordance with and to the extent allowed by the enabling provisions of their respective charters or applicable laws, accord high priority in the extension of financial services to individuals, enterprises, or private entities engaged in putting up treatment facilities: *Provided*, That these institutions shall allocate five percent (5%) of their loan portfolio to waste treatment projects.

(c) *Extension of Grants and Incentives to LGUs.* - Provinces, cities and municipalities, the treatment facilities plans of which have been duly approved by the NSWMC for adopting innovative waste treatment programs, may be entitled to receive grants for the purpose of developing their technical capacities toward actively participating in the waste treatment projects. The LGUs that host common treatment facilities shall be entitled to incentives as may be determined by the NSWMC.

Sec. 10. Fines and Penalties. - Violations of the provisions of this Act, or the standards or rules and regulations promulgated for treatment facilities shall be fined or penalized under the provisions of P.D. 1586, otherwise known as the Environmental Impact Statement System; R.A. No. 6969, otherwise known as the Toxic Substances and Hazardous and Nuclear Waste Control Act of 1990; R.A. No. 8749; R.A. No. 9003; and R.A. No. 9275, otherwise known as the Philippine Clean Water Act of 2004. For waste-to-

energy facilities, the penal schemes established under the Philippine Grid Code and Philippine Distribution Code pursuant to RA No. 9136, shall likewise apply.

Sec. 11. Congressional Oversight. — The Joint Congressional Oversight Committee created under R.A. No. 9003 shall exercise oversight powers over the solid waste management aspect of the implementation of this Act. The Joint Congressional Energy Commission, created under R.A. No. 9136 or the EPIRA of 2001 and renamed under R.A. No. 11285, otherwise known as the "Energy Efficiency and Conservation Act," shall exercise oversight powers over the energy aspect of the implementation of this Act.

Sec. 12. Implementing Rules and Regulations. — The DENR, in coordination with the NSWMC, DOE, BOI, DTI, Bureau of Internal Revenue, the Bureau of Customs, academe or research institutions, and other concerned agencies, shall promulgate the implementing rules and regulations for this Act within three (3) months after its approval.

Sec. 13. Report to Congress. — The DENR, in coordination with NSWMC, shall submit to the President of the Philippines and to Congress an annual report, which includes the appropriate monitoring, evaluation, and recommendation, on the implementation progress of this Act not later than March 30 of every year following the approval of this Act.

Sec. 14. Separability Clause. — If any part or section of this Act is declared unconstitutional, such declaration shall not affect the other parts or sections of this Act.

Sec. 15. Repealing Clause. — Section 20 of R.A. No. 8749 otherwise known as the "Philippine Clean Air Act of 1999" is hereby repealed. The pertinent provision of R.A. No. 9003 otherwise known as the Ecological Solid Waste Management Act of 2000", and other laws, presidential decrees, executive orders, rules and regulations inconsistent with any provisions of this Act shall be deemed repealed or modified accordingly.

Sec. 16. Effectivity. — This Act shall take effect fifteen (15) days after publication in the Official Gazette or in a newspaper of general circulation.

Approved,