



Republic of the Philippines
House of Representatives
Quezon City

TWENTIETH CONGRESS

First Regular Session

House Bill No. 9168



Introduced by Representative Albert S. Garcia

EXPLANATORY NOTE

This bill seeks to earmark the shares of host local government units in the excise taxes from petroleum products and the value-added tax (VAT) on the sale of electricity generated from fossil-fuel related facilities in their area of jurisdiction in addition to their national tax allotment or NTA similar to their share from national wealth, as provided for under the 1991 local government code. The Local Government Code of 1991 affirms that local government units are entitled to a just share in the proceeds derived from the utilization and development of national wealth within their respective areas. Republic Act No. 7171 and Republic Act No. 8240, in turn, recognize that provinces hosting industries that generate substantial national excise revenue from locally-sourced raw materials are entitled to a defined share of those collections, to be used for development purposes within their territories. Republic Act No. 9136, or the Electric Power Industry Reform Act of 2001, applies a parallel principle to communities hosting power generating facilities, recognizing that the host community bears externalities that warrant a dedicated benefit stream.

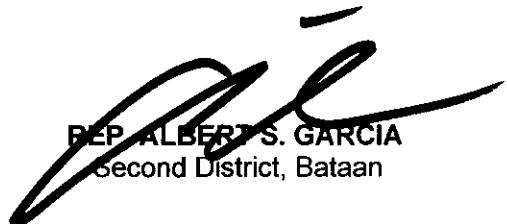
No comparable arrangement exists for local government units that host petroleum refineries, large-scale petroleum depots, and fossil-fuel related facilities such as coal-fired power plants and coal terminals, despite the fact that these facilities are significant points at which national tax revenues — including excise taxes on petroleum products under Section 148 of the National Internal Revenue Code of 1997, as amended, and value-added tax on the sale of electricity generated by fossil-fuel related facilities — are generated. The host local government unit bears, on a continuing basis, the externalities associated with these facilities — including air-quality impact, greenhouse gas emissions, ash and coal dust pollution, fire and explosion risk, marine and land-based spill risk, port and road infrastructure wear, evacuation and emergency-response burden, and constraints on land use — without a corresponding share of the national revenue these facilities enable.

The shift in tax incidence brought about by the increasing reliance on imported finished petroleum products further strengthens the case for a host-community share. Excise tax collections have migrated from the Bureau of Internal Revenue to the Bureau of Customs as more firms now import finished products rather than refine domestically,

1 with the result that large-scale import terminals and depots have effectively become the
2 modern point of collection. The local government units that host these facilities are, in
3 a real and measurable sense, the geographic locus of the taxable event.
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5 This Act provides for a tiered share of national tax collections in favor of local
6 government units hosting petroleum refineries, large-scale petroleum depots, large-
7 scale liquefied natural gas terminals, and fossil-fuel related facilities such as coal-fired
8 power plants and coal terminals, with the share calibrated to reflect the differing degrees
9 of risk and infrastructure burden imposed by each type of facility. The inclusion of large-
10 scale liquefied natural gas terminals reflects the rapid expansion of LNG infrastructure
11 in the country and the comparable host-community externalities such terminals impose,
12 including marine, fire, and explosion risk, port and land-use constraints, and
13 emergency-response burden. The inclusion of fossil-fuel related facilities — a catch-all
14 category that covers coal-fired power plants, coal terminals, coal stockpile facilities, and
15 equivalent facilities principally engaged in the combustion, handling, storage, or
16 processing of coal or other solid fossil fuels — recognizes that host communities of such
17 facilities bear significant and ongoing externalities, including air-quality degradation,
18 coal dust and ash contamination, greenhouse gas exposure, heavy transport burden,
19 and health impacts on surrounding populations, without a corresponding benefit stream
20 from the revenues generated by such facilities. Notably, because the excise tax on coal
21 yields a modest revenue base that would not translate into a meaningful benefit stream
22 for host communities, the share for fossil-fuel related facilities is instead set at ten
23 percent (10%) of the gross collection derived by the national government from the
24 value-added tax on the sale of electricity generated by such facilities, which more
25 accurately reflects the scale of economic activity and national revenue attributable to
26 their operations. This share is granted in addition to the host local government unit's
27 National Tax Allotment. The Act incorporates a hold-harmless mechanism so that any
28 temporary suspension or reduction of fuel excise taxes under Republic Act No. 12316,
29 or of any other component of the Facility-Attributable Tax Collections, does not unduly
30 prejudice host local government units. The authorized uses of the share are restricted
31 to purposes that directly address the externalities for which the share is granted:
32 environmental protection, disaster preparedness, public health, and supporting
33 infrastructure.
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35 In view of the foregoing, the immediate approval of this bill is earnestly sought.
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REP. ALBERT S. GARCIA
Second District, Bataan



Republic of the Philippines
House of Representatives
Quezon City

TWENTIETH CONGRESS

First Regular Session

House Bill No. 9163

Introduced by Representative Albert S. Garcia

AN ACT PROVIDING FOR THE SHARE OF LOCAL GOVERNMENT UNITS HOSTING PETROLEUM REFINERIES, LARGE-SCALE PETROLEUM DEPOTS, LARGE-SCALE LIQUEFIED NATURAL GAS TERMINALS, AND FOSSIL-FUEL RELATED FACILITIES IN THE EXCISE TAXES, CUSTOMS DUTIES, AND OTHER NATIONAL TAXES COLLECTED ON PETROLEUM PRODUCTS, LIQUEFIED NATURAL GAS, AND COAL, AMENDING FOR THE PURPOSE PERTINENT PROVISIONS OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND APPROPRIATING FUNDS THEREFOR

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

SECTION 1. Short Title. — This Act shall be known as the "Petroleum, Natural Gas, and Fossil-Fuel Related Facilities Host Communities Benefit Sharing Act."

SEC. 2. Declaration of Policy. — It is hereby declared the policy of the State to ensure that local government units hosting petroleum refineries, large-scale petroleum depots, large-scale liquefied natural gas terminals, and fossil-fuel related facilities receive an equitable share in the excise taxes, customs duties, and other national taxes generated by such facilities, in recognition of the environmental, public-safety, infrastructure, and land-use externalities continuously borne by the host communities. Toward this end, the State shall provide a dedicated, ring-fenced share of national tax collections to such host local government units, to be applied to programs and projects that directly address the externalities for which the share is granted, consistent with the principles of fiscal autonomy and just sharing in the national wealth under Article X of the Constitution and the Local Government Code of 1991.

SEC. 3. Definition of Terms. — As used in this Act, the following terms shall mean:

(a) "Excise Tax on Petroleum Products" refers to the excise tax imposed under Section 148 of the National Internal Revenue Code of 1997, as amended,

1 on manufactured oils and other fuels, whether locally produced or imported, and
2 whether collected by the Bureau of Internal Revenue or the Bureau of Customs;

3 (b) VAT (Value-Added Tax) refers to an indirect tax on consumption imposed
4 on every sale or exchange of goods or properties;

5 (c) "Petroleum Refinery" refers to any facility engaged in the processing of
6 crude oil into refined petroleum products, duly registered with the Department of
7 Energy as a downstream oil industry refining facility;

8 (d) "Large-Scale Petroleum Depot" refers to any bulk storage facility for
9 petroleum products, including import terminals and bulk plants, that is duly
10 registered with the Department of Energy and that meets such aggregate storage
11 capacity or annual throughput thresholds as may be determined by the
12 Department of Energy through the appropriate issuance;

13 (e) "Large-Scale Liquefied Natural Gas Terminal" refers to any facility for the
14 import, storage, regasification, or distribution of liquefied natural gas, duly
15 registered with the Department of Energy and that meets such aggregate storage
16 capacity or regasification capacity thresholds as may be determined by the
17 Department of Energy through the appropriate issuance;

18 (f) "Fossil-Fuel Related Facility" refers to any coal-fired power plant, coal
19 terminal, coal stockpile facility, or any other facility principally engaged in the
20 combustion, handling, storage, or processing of coal or other solid fossil fuels for
21 the purpose of power generation or industrial use, duly registered with the
22 Department of Energy or the Energy Regulatory Commission;

23 (g) "Host Local Government Unit" or "Host LGU" refers to the province, city,
24 municipality, or barangay within whose territorial jurisdiction a Covered Facility
25 is physically located. Where a Covered Facility spans the territorial jurisdictions
26 of two or more local government units of the same level, the share corresponding
27 to that level shall be apportioned among them on a pro-rata basis using land
28 area occupied by the facility;

29 (h) "Covered Facility" refers collectively to a Petroleum Refinery, a Large-
30 Scale Petroleum Depot, a Large-Scale Liquefied Natural Gas Terminal, and a
31 Fossil-Fuel Related Facility;

32 (i) "Facility-Attributable Tax Collections" refers to: (i) for a Petroleum Refinery
33 or a Large-Scale Petroleum Depot, the Excise Tax on Petroleum Products
34 collected upon the removal of such products from that facility, as certified jointly
35 by the Bureau of Internal Revenue and the Bureau of Customs based on the
36 place of production or release from customs custody indicated in the relevant
37 withdrawal certificates and import entries; (ii) for a Large-Scale Liquefied Natural
38 Gas Terminal, the customs duties collected by the Bureau of Customs on
39 imported liquefied natural gas withdrawn from that terminal, the excise tax
40 collected under Section 151 of the National Internal Revenue Code of 1997, as
41 amended, on natural gas attributable to that terminal, and any other national tax
42 that may be hereinafter imposed on liquefied natural gas attributable to that
43 terminal; and (iii) for a Fossil-Fuel Related Facility, the value-added tax imposed

1 on the sale of electricity generated by that facility, as certified by the Bureau of
2 Internal Revenue based on the registered generation output and electricity sales
3 attributable to that facility pursuant to applicable provisions of the National
4 Internal Revenue Code of 1997, as amended; and

5 (j) "Suspension Period" refers to any period during which the imposition of
6 excise tax on petroleum products, excise tax on coal and coke, or customs duties
7 on coal or other solid fossil fuels has been suspended or reduced pursuant to
8 Republic Act No. 12316 or any subsequent law of similar character.

9 **SEC. 4. Share of Host LGUs in National Tax Collections from Covered**
10 **Facilities.** — There shall be allocated, from the Facility-Attributable Tax Collections of
11 each Covered Facility, the following shares to the Host LGUs of that Covered Facility:

12 (a) For each Petroleum Refinery, ten percent (10%) of the Facility-Attributable
13 Tax Collections of that refinery;

14 (b) For each Large-Scale Petroleum Depot, five percent (5%) of the Facility-
15 Attributable Tax Collections of that depot; and

16 (c) For each Large-Scale Liquefied Natural Gas Terminal, five percent (5%)
17 of the Facility-Attributable Tax Collections of that terminal; and

18 (d) For each Fossil-Fuel Related Facility, the host local government unit shall,
19 in addition to their National Tax Allotment (NTA), have a share of ten percent
20 (10%) of the gross collection derived by the national government from the
21 preceding fiscal year from the value-added tax on the sale of electricity
22 generated by fossil-fuel related facilities located within its respective territorial
23 jurisdiction.

24 The shares provided under this section shall be in addition to, and shall not be
25 charged against, the just share of local government units in the national taxes under
26 Section 284 of Republic Act No. 7160, as amended, nor against the shares of local
27 government units in the proceeds from the development and utilization of national
28 wealth under Sections 289 to 294 of the same Code.

29 **SEC. 5. Distribution Among Host LGUs of a Covered Facility.** — The share
30 allocated to the Host LGUs of a Covered Facility under Section 4 hereof shall be
31 distributed among them as follows:

32 (a) Sixty percent (60%) to the Host Province;

33 (b) Twenty-five percent (25%) to the Host City or Host Municipality; and

34 (c) Fifteen percent (15%) to the Host Barangay or, where the facility is located
35 in more than one barangay, divided equally among such barangays.

36 Where a Host City is highly urbanized or independent component, the share that
37 would otherwise accrue to the Host Province under paragraph (a) shall instead accrue
38 to that Host City, in addition to its share under paragraph (b).

39 **SEC. 6. Authorized Uses.** — The shares received by Host LGUs under this Act
40 shall be used exclusively for the following purposes, and shall not be used for personal
41 services or for the payment of debt service:

1 (a) Environmental protection, monitoring, and rehabilitation programs in
2 areas affected by the operations of the Covered Facility, including air-quality
3 monitoring, water-quality monitoring, oil-spill response, and ecosystem
4 rehabilitation;

5 (b) Disaster risk reduction, fire safety, and emergency preparedness
6 programs and equipment, including the establishment and operation of fire
7 stations, emergency medical services, hazardous materials response capability,
8 and evacuation infrastructure;

9 (c) Public health programs and facilities for residents of communities
10 surrounding the Covered Facility, including health monitoring, occupational
11 health surveillance, and primary health care services;

12 (d) Local infrastructure that mitigates the impact of the operations of the
13 Covered Facility, including roads, drainage, port-access roads, and utilities;

14 (e) Livelihood, scholarship, and community-development programs for
15 residents of host barangays directly affected by the operations of the Covered
16 Facility; and

17 (f) Such other programs as may be prescribed in the implementing rules and
18 regulations, consistent with the policy declared in Section 2 hereof.

19 **SEC. 7. Hold-Harmless Mechanism During Suspension Periods.** — During
20 any Suspension Period, the share of Host LGUs under Section 4 hereof, insofar as it
21 relates to the Excise Tax on Petroleum Products, shall be computed as if the excise tax
22 rates prescribed under Section 148 of the National Internal Revenue Code of 1997, as
23 amended, were in effect. The amount necessary to fund such shares during a
24 Suspension Period shall be sourced from the General Fund and shall be deemed
25 automatically appropriated for that purpose. The Department of Finance, in coordination
26 with the Department of Budget and Management, shall ensure the timely release of
27 such funds. The same hold-harmless principle shall apply to any temporary suspension
28 or reduction by law of customs duties or any other national tax that forms part of the
29 Facility-Attributable Tax Collections of a Covered Facility.

30 **SEC. 8. Release, Reporting, and Audit.** — The Bureau of Internal Revenue
31 and the Bureau of Customs shall jointly certify the Facility-Attributable Tax Collections
32 of each Covered Facility on a monthly basis. The Department of Finance, through the
33 Bureau of the Treasury, shall release the corresponding shares to Host LGUs not later
34 than thirty (30) days from the end of each calendar quarter. The Department of Energy
35 shall maintain and publish an updated registry of Covered Facilities, indicating their
36 type, location, and Host LGUs.

37 All Host LGUs shall submit to the Department of Finance, the Department of
38 Budget and Management, the Department of Energy, the Commission on Audit, and
39 the appropriate committees of both Houses of Congress an annual report on the
40 utilization of the shares received under this Act, in such form as the Commission on
41 Audit may prescribe. The Commission on Audit shall conduct a special audit of such
42 utilization at least once every two (2) years.

1 **SEC. 9. Implementing Rules and Regulations.** — Within sixty (60) days from
2 the effectivity of this Act, the Secretary of Finance, in consultation with the Secretary of
3 Energy, the Secretary of the Interior and Local Government, the Secretary of Budget
4 and Management, the Commissioner of Internal Revenue, the Commissioner of
5 Customs, and the leagues of provinces, cities, municipalities, and barangays, shall
6 promulgate the rules and regulations necessary to implement this Act.

7 **SEC. 10. Appropriations.** — The amount necessary to carry out the initial
8 implementation of this Act shall be charged against the current year's appropriations of
9 the Department of Finance, the Bureau of Internal Revenue, and the Bureau of
10 Customs. Thereafter, such amounts as may be necessary shall be included in the
11 General Appropriations Act.

12 **SEC. 11. Separability Clause.** — If any provision of this Act is declared
13 unconstitutional or invalid, the other provisions not affected thereby shall remain in full
14 force and effect.

15 **SEC. 12. Repealing Clause.** — All laws, decrees, executive orders, presidential
16 issuances, rules and regulations, and other administrative issuances, or parts thereof,
17 that are inconsistent with this Act, are hereby repealed, amended, or modified
18 accordingly.

19 **SEC. 13. Effectivity.** — This Act shall take effect fifteen (15) days after its
20 publication in the Official Gazette or in a newspaper of general circulation in the
21 Philippines.

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