

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

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. 2037

HOUSE OF REPRESENTATIVES

RECEIVED

DATE: 27 JUL 2016

TIME: 1:40 PM

BY: [Signature]

REGISTRATION UNIT
BILLS AND AUX SERVICE

Introduced by Rep. CESAR V. SARMIENTO

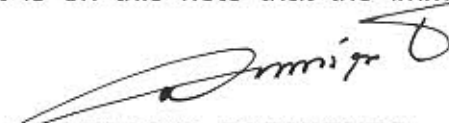
EXPLANATORY NOTE

On 13 September 1931, the first train to the Bicol Region was put into operation. From then on, the trains of the Philippine National Railways (the "PNR") served as bridge in bringing central government services and commerce to the Bicol Region. Known as the "Bicol Express", PNR's train service to Bicol provided a link between the progressive Metro Manila and the region. Inarguably, the "Bicol Express" was instrumental to the movements of goods and people across regions and provided growth to the Bicol region's economy, tourism, competitiveness and quality of life. Notably, the PNR is the only franchisee in the Philippines that owns seven hundred fifty kilometers (750 km) of continuous right of way into the Region's territory.

For the past few years however, the quality of PNR's service has deteriorated due to years of wear-and-tear, damage from neglect and devastation caused by natural calamities. As a result, the full operations of PNR to the Bicol region has stopped. Worse, while the operations of PNR's train line in Metro Manila continue, the same have been met by accidents such as derailment of the trains which have occurred more frequently in the recent years.

In view of the foregoing, and further to Republic Act No. 10638 which granted a fifty (50) year extension to the franchise of PNR, the proposed legislation aims to modernize the PNR as the solution to the debilitating traffic congestion faced by Metro Manila and to the challenges faced by the slow movements of goods and passengers in Luzon and in the Bicol Region.

An efficient, organized, reliable and safe train system is the formidable answer to the transportation woes of the Philippines. Let this bill be the start of a "railway renaissance" in the Philippines. It is on this note that the immediate passage of this bill is sincerely sought.


CESAR V. SARMIENTO

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

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. 2037

Introduced by Rep. CESAR V. SARMIENTO

AN ACT
AMENDING REPUBLIC ACT NO. 4156, ENTITLED "AN ACT CREATING THE
PHILIPPINE NATIONAL RAILWAYS PRESCRIBING ITS POWERS,
FUNCTIONS AND DUTIES

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

Section 1. Section 1 of Republic Act No. 4156, as amended, is hereby further amended to read as follows:

"SECTION 1. *Name, Duration and Domicile.* – A corporation to serve as the instrumentality of the Government of the Philippines in providing a nationwide railroad and transportation system, is hereby created to be known as the Philippine National Railways, which shall exist for a term of fifty (50) years from the date of approval of this Act and shall be extended for another fifty (50) years, commencing on 20 June 2014. It shall have its main office in the City of Manila, and shall have such branches and agencies within the Philippines as may be necessary for the proper conduct of its business. This Corporation shall be under the Department of Transportation."

Section 2. Section 3 of Republic Act 4156, as amended, is hereby amended as follows:

"SECTION 3. *Authorized Capital Stock of the Philippine National Railways.* The authorized capital stock of the Philippine National Railways shall be One Hundred Billion Pesos (₱100,000,000,000.00) divided into Five Hundred Million (500,000,000.00) common shares all with par value at Two Hundred Pesos (P200.00), which shall include the present authorized capitalization of One Billion Five Hundred Million Pesos (₱1,500,000,000.00); Provided, that the

increase in the authorized capital shall be subscribed up to at least 51% by the National Government and other government institutions, corporations, instrumentalities, and agencies, whether national or local, within the framework of their respective charters, with the remaining 49% to be opened to subscription and investment by the private sector in accordance with Section 1 above; Provided further, that all the obligations of the Philippine National Railways to the National Government and its instrumentalities, including but not limited, the Bureau of Internal Revenue and the Government Service Insurance System, as of the date of the approval of this Act, as recommended by the Board of Directors of the Philippine National Railways and determined and agreed upon by the Department of Transportation, shall be converted into capital stocks of the Philippine National Railways and made a part of the subscription; Provided further that the authorized capital can be increased from time to time as may be needed, as recommended by the Board of Directors of the Philippine National Railways and determined and agreed upon by the Department of Transportation and approved by the President of the Philippines, to be placed on behalf of the National Government under the name of a government entity, as may be legally practicable, such as, but not limited to, the Bureau of Treasury.

Whatever balance remaining of the authorized capital of the Philippine National Railways shall be paid using a continuing annual appropriation of any funds in the National Treasury, to be programmed and released by the Department of Budget and Management in accordance with the schedule of cash requirements to be prepared and submitted by the Philippine National Railways specially insofar as capital expenditures are concerned, such as, but not limited to, maintenance and rehabilitation of railways, to improve and/or increase its track lines; Provided, that this continuing annual appropriation shall remain in force until the authorized capital stock subscribed by the Government shall have been paid in full."

SECTION 2. A new subsection, Section 2-E, shall be inserted to read as follows:

"SEC. 2-E. THE PHILIPPINE NATIONAL RAILWAYS SHALL BE ALLOWED TO ENTER INTO A JOINT VENTURE WITH A QUALIFIED PRIVATE SECTOR PARTNER, PARTICULARLY AND EXCLUSIVELY FOR THE PURPOSE OF OPERATIONS AND MAINTENANCE SUBJECT TO THE APPROVAL OF THE BOARD, WITH AT LEAST TWO-THIRDS (2/3) VOTE, IN A MEETING CALLED FOR THE PURPOSE. PROVIDED, THAT SUCH PLANS AND/PROGRAMS OF ENTERING TO A JOINT VENTURE WERE CONSISTENT WITH THE OVERALL OBJECTIVES OF THE CORPORATION AS RECOMMENDED BY THE GENERAL MANAGER, PROVIDED FINALLY, THAT THE PROCUREMENT PROCEDURE SHALL COMPLY WITH THE EXISTING GOVERNMENT PROCUREMENT LAW. IN ANY EVENT THAT INCREASE IN FARE RESULTED BY REASON OF THE

PRIVATIZATION OF PNR'S OPERATIONS AND MAINTENANCE, THE INCREMENTAL INCREASE IN VALUE BETWEEN THE REAL FARE AND NOMINAL FARE SHALL BE SUBSIDIZED AND PAID FOR BY THE PHILIPPINE GOVERNMENT AND SHALL BE COVERED BY YEARLY AUTOMATIC APPROPRIATIONS PROVIDED IN THE GENERAL APPROPRIATIONS ACT."

SECTION 3. A new subsection, Section 2-F, shall be inserted to read as follows:

"SEC. 2-F. TO DEPUTIZE AND/OR OBLIGATE LGU'S TO ENFORCE AND IMPLEMENT, IN COLLABORATION WITH THE GOVERNMENT CORPORATE COUNCIL (GCC), THE RESTORATION OF PNR'S RIGHT-OF-WAY SO AS TO RETURN THE LAND AROUND THE STATIONS AND RESTORATION OF PNR'S RIGHTS TO USE. IN PROCESS, REWARDING THE LGU'S FOR THEIR EFFORT AND PENALIZING LGU'S FOR THEIR REFUSAL OR INABILITY TO IMPLEMENT THE RESTORATION OF PNR'S RIGHTFUL USE AND POSSESSION OF LAND ON THE RIGHT-OF-WAY AND AROUND STATIONS SHALL BE THE BASIC POLICY FOR ENFORCEMENT."

SECTION 4. A new subsection, Section 2-G, shall be inserted to read as follows:

"SEC 2-G. TO PENALIZE CRIMINALLY AND/OR CIVILLY ANY PERSON(S)' INTERFERENCE WITH THE FREE FLOW, UNHAMPERED USE, AND PASSAGE OF PNR TRAINS ALONG THEIR LEGAL RIGHT OF WAY (TRACKS, BRIDGES, TURNOUTS, INTERCONNECTIONS, AND ALL ASSOCIATED LINKAGES), SUCH AS DISREGARDING SIGNALS AND TRAIN CROSSINGS DANGEROUSLY ON THE PATH OF ONCOMING TRAINS, PLACING DEAD BODIES ALONG OR ON TOP OF THE TRACKS AND ITS LINKAGES, WHETHER AS A CONSEQUENCE OF A CRIME OR NOT, SLEEPING, PLAYING ON, IDLING ON RAILROAD TRACKS AND ITS LINKAGES, PLACING BOULDERS OR OBJECTS THAT OBSTRUCT, THROWING OBJECTS AT PASSING TRAINS, AND SIMILAR ACTS OF DESTRUCTION AND OBSTRUCTION. COMMITTING OR ATTEMPTING TO COMMIT SUICIDE ALONG THE RAILROAD TRACKS AND ITS LINKAGES, BUILDING STRUCTURES-PERMANENT OR OTHERWISE ALONG THE PNR LEGAL RIGHT-OF-WAY AND/OR REFUSING TO VACATE THE SAME UPON DEMAND. IF SUCH ACT(S) CAUSES OR HAS POTENTIAL TO CAUSE, OR RESULT IN DEATH OR INJURY TO PERSONS AND/OR DAMAGE TO PROPERTY/IES SUCH PARTY/IES WHO, WITH INTENT TO

CAUSE, OR ACTUALLY CAUSED SUCH INTERFERENCE, OBSTRUCTION, WHETHER OR NOT RESULTING IN INJURY OR DEATH, DAMAGE TO PNR TRAINS, TRACKS, LINKAGES, AND/OR PNR PROPERTY, SHALL BE HELD CRIMINALLY AND CIVILLY LIABLE BY PNR. DEVOID OF ANY EVIDENCE TO THE CONTRARY, PNR IS PRESUMPTIVELY ABSOLVED FROM CRIMINAL AND CIVIL LIABILITY.”

The penalty of prision mayor shall be imposed on any person who commits any of the acts enumerated above that do not result in death to a person or damage to PNR property.

The penalty of reclusion temporal shall be imposed on any person who acquires, takes, steals, disposes, or sells property which he knows, or should be known to him, are PNR property that are needed for the free flow of PNR trains.

The penalty of reclusion perpetua shall be imposed on any person who commits any of the acts enumerated above that result in death to a person or damage to PNR property.

SECTION 5. Section 3-A of Republic Act Four thousand One hundred Fifty Six, as amended is hereby amended to read as follows:

Sec. 3-A. Foreign Loans. The Philippine National Railways [Corporation] is hereby authorized to contract loans, credits and indebtedness in domestic currency or in any convertible foreign currency, or capital goods from foreign governments, their agencies instrumentalities or financial institutions, or any governmental national or international financial institutions or firms extending supplier's credit, deferred payment arrangements or other funds sources, or to issue bonds, the total outstanding amounts of which, exclusive of interests, shall not exceed two hundred million United States dollars or the equivalent thereof and other currencies, on such terms and conditions as it shall deem appropriate for the accomplishment of its purposes and to enter into and execute agreements and other documents specifying such terms and conditions.

The President of the Philippines, through the Secretary of Finance, is hereby authorized to guarantee, absolutely and unconditionally, as primary obligor and not as surety merely, in the name and on behalf of the Republic of the Philippines, the payment of the loans, credits, indebtedness and bonds issued up to the amount herein authorized which shall be over and above the amount which the President of the Philippines is authorized to

guarantee under Republic Act Numbered Sixty-One Hundred and Forty-Two as amended, as well as the performance of all or any of the obligations undertaken by the Corporation in the territory of the Republic of the Philippines pursuant to loan agreements entered into with foreign governments or any international financial institutions or fund sources.

The loans, credits and indebtedness contracted under this subsection and the payment of the principal, interest and other charges thereon, as well as the importation of machinery, equipment, materials, supplies and services, by the Corporation, paid from the proceeds of any loan, credit or indebtedness incurred under this Act, shall also be exempted from all charges and restrictions previously and presently imposed, and to be imposed by the Republic of the Philippines, or any of its agencies and political subdivisions.

SECTION 6. Section 9 of Republic Act Numbered Four thousand One Hundred and Fifty-Six as amended by Republic Act Numbered Sixty-Three Hundred and Sixty-Six and PD 741 is hereby amended to read as follows:

"Sec. 9. Managing Head. The Management of the Corporation shall be vested in the General Manager who shall be appointed by the President of the Philippines. He shall possess technical competence in management preferably in railroad transport management, have demonstrated executive ability, and be of good moral character. He shall hold office for a term of SIX (6) [eight (8)] years.

In the performance of his functions, he shall be assisted by Assistant General Managers who shall be appointed by him with the approval of the Board of Directors and the President.

Section 3. Section 12 of Republic Act 4156, as amended, is hereby amended as follows:

"SECTION 12. *Exemption from taxes, duties and port charges or dues, customs bonds and port charges.* All revenues and assets of the government-owned shares of the Philippine National Railways used directly and indirectly by it in relation to its principal purpose of providing a nation-wide railroad and transportation system shall be exempt from taxes. The Philippine National Railways shall also be exempt from all import duties on all railway materials, rolling stocks, spare parts, supplies and equipment imported in the Philippines for and/or by the Philippine National Railways in order to reduce the cost of maintaining and improving train service and operations for the benefit of the public."

Section 7. Separability Clause. – If any provision of this Act or the application thereof to any person or circumstance is held to be void, or unconstitutional, any other provision not affected thereby shall remain in full force and effect.

Section 8. Repealing Clause. – All laws or parts thereof, which are inconsistent with the provisions of this Act are hereby repealed or modified accordingly except Republic Act No. 10149, otherwise known as the "GOCC Governance Act of 2011".

Section 9. Effectivity. – This Act shall take effect upon approval.

Approved.