

Republic of the Philippines  
HOUSE OF THE REPRESENTATIVES  
Quezon City

SEVENTEENTH CONGRESS  
First Regular Session

HOUSE BILL No. **3593**



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Introduced by REP. RODEL M. BATOCABE, REP. ALFREDO A. GARBIN, Jr. and REP.  
CHRISTOPHER S. CO

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**AN ACT AMENDING PRESIDENTIAL DECREE NO. 910, ENTITLED "CREATING AN  
ENERGY DEVELOPMENT BOARD, DEFINING ITS POWERS AND FUNCTIONS,  
PROVIDING FUNDS, THEREFOR, AND FOR OTHER PURPOSES" AND  
SPECIFYING THE USE OF THE MALAMPAYA FUNDS AND FOR OTHER  
PURPOSES**

**EXPLANATORY NOTE**

The Malampaya Deep Water Gas-to-Power Project operated by a consortium of Shell Philippines Exploration BV (45%), Chevron Malampaya LLC (45%), and the Philippine National Oil Company-Exploration Corporation (PNOC-EC) (10%) is under Service Contract 38, signed in December 1990 by then President Corazon Aquino<sup>1</sup>.

Since 2002, the Malampaya project has been producing natural gas commercially, supplying fuel to three 2700 MW gas-fired power plants in Batangas<sup>2</sup> which currently supplies 42% of the energy requirements of Luzon.

By virtue of PD 1234 issued in November 1977, these billions of pesos collected through the Department of Energy (DOE) from, among others, government share representing royalties and rentals, as well as production share on service contracts and other payments on the exploration, development and exploitation of energy resources are credited and booked under Fund Code 151, a Special Account in the General Fund (SAGF) managed by the Bureau of Treasury<sup>3</sup>.

As provided by PD 910 issued on 1976, funds such as that from the Malampaya Project shall form part of a Special Fund to be used to finance energy resource development and exploitation programs and projects of the government and for such other purposes as may be hereafter directed by the President<sup>4</sup>.

In the Budget Briefing on the Development Budget Coordinating Committee, by the House Committee on Appropriations, DBM Secretary Benjamin Diokno admitted that the Malampaya fund is now in the amount of Php183 billion, and it is still increasing. Further, the Budget Secretary stated that the 2017 proposed national budget did not touch the Malampaya Fund.

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<sup>1</sup> <http://malampaya.com/2010/12/service-contract-38-marks-its-20th-year/>

<sup>2</sup> <https://www.doe.gov.ph/natgas/malampaya-gas-field>

<sup>3</sup> <http://www.dof.gov.ph/index.php/p137-3-billion-malampaya-fund-available/>

<sup>4</sup> <http://www.gov.ph/1976/03/22/presidential-decree-no-910/>

The Malampaya funds has been under scrutiny and criticism for being prone to misuse because of the discretion granted to the President as to the use of the funds<sup>5</sup>. Critics also emphasize the service contract for being disadvantageous to the government<sup>6</sup>. A 2014 report stated that the Commission on Audit (COA) tagged government agencies for possible misuse of the multi-billion-peso Malampaya fund, with huge amounts had released to them but they managed to skip state audit.

We believe that the Malampaya fund should be utilized specifically for three purposes, which are: 1) Payment for the stranded debts and stranded contract costs of NPC as well as qualified stranded contract cost of distribution, 2) Subsidy for missionary electrification, and 3) Fund the repair and rehabilitation of power stations, lines and facilities damaged by natural disasters. These costs are passed on to the end user or consumer, resulting to high electricity bill. In times of calamity, costs for repair of power lines, stations and facilities are still passed on to the end user. We should put an end to these charges, and provide for a lower electricity cost for our citizens.

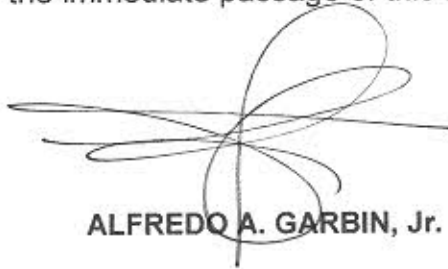
In line with this, and the current administration's focus on transparency in government, this bill seeks to amend PD 910, to specify areas where these funds collected from exploration, development and exploitation of energy resources, such as the Malampaya Fund, could be utilized as provided under the law.

In view of the foregoing, the immediate passage of this bill is earnestly sought.

Approved.



RODEL M. BATOCABE



ALFREDO A. GARBIN, Jr.



CHRISTOPHER S. CO

<sup>5</sup> <http://www.rappler.com/nation/41041-recto-change-law-malampaya-fund>

<sup>6</sup> <http://cnnphilippines.com/investigative/2015/06/05/Malampaya-Fund-Part-3-Is-government-losing-out-on-deal.html>

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

**SECTION 1. Declaration of Policy** – It is hereby declared the policy of the State to adopt effective and efficient allocation of public funds for needed basic services of the citizens. It is further adopted that public funds should be spent in accordance with the provisions provided by law instead of being solely left to the discretion of a single public official.

**SECTION 2. Amendment** - Section 8 of Presidential Decree No. 910, entitled "Creating An Energy Development Board, Defining Its Powers And Functions, Providing Funds, Therefor, And For Other Purposes" is hereby amended to read as follows:

"SECTION 8. Appropriations. - The sum of Five Million Pesos out of any available funds from the National Treasury is hereby appropriated and authorized to be released for the organization of the Board and its initial operations. Henceforth, funds sufficient to fully carry out the functions and objectives of the Board shall be appropriated every fiscal year in the General Appropriations Act.

All fees, revenues and receipts of the Board from any and all sources including receipts from service contracts and agreements such as application and processing fees, signature bonus, discovery bonus, production bonus; all money collected from concessionaires, representing unspent work obligations, fines and penalties under the Petroleum Act of 1949; as well as the government share representing royalties, rentals, production share on service contracts and similar payments on the exploration, development and exploitation of energy resources, shall ~~form part of a Special Fund to be used to finance energy resource development and exploitation programs and projects of the government and for such other purposes as may be hereafter directed by the President~~ **be used to subsidize stranded costs and missionary electrification, as well as to finance the repair and rehabilitation of power stations, lines and facilities damaged by natural disasters.**

SECTION 3. **Repealing Clause.** - All laws, executive and administrative orders or parts thereof, inconsistent with any provision of this Act are hereby repealed or modified accordingly.

SECTION 4. **Effectivity.** - This Act shall take effect after fifteen (15) days following the completion of its publication in the Official Gazette or in a national newspaper of general circulation.

Approved,