



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

Eighteenth Congress
First Regular Session

HOUSE RESOLUTION NO. 360

Introduced by
Honorable DAVID "Jay-Jay" C. SUAREZ,
Honorable ANNA MARIE VILLARAZA-SUAREZ and
Honorable ALETA C. SUAREZ

**A HOUSE RESOLUTION
CALLING FOR AN INVESTIGATION IN AID OF LEGISLATION BY THE
APPROPRIATE COMMITTEE/S OF THE HOUSE OF REPRESENTATIVES ON NON-
PAYMENT OF REAL PROPERTY TAX (RPT) OF POWER PLANTS UNDER BUILD-
OPERATE-TRANSFER (BOT) WITH THE LOCAL GOVERNMENT UNIT (LGU) OF
QUEZON PROVINCE**

WHEREAS, Under Section 232 of the Local Government Code (RA 7160), the province may levy an annual ad valorem tax on real property such as land, building, machinery and other improvements not hereinafter specifically exempted. Not falling under any of the exemptions provided by law, the provincial government of Quezon initiated the collection of real property tax from Pagbilao Power Plant.

WHEREAS, pursuant to Section 218 of the Code, LGUs are allowed to apply 80% percent assessment level on commercial/industrial real properties with fair market value exceeding 10 Million Pesos.

WHEREAS, the National Power Corporation (NPC) is a government-owned and controlled-corporation (GOCC) that entered into an Energy Conversion Agreement (ECA) under a build-operate-transfer (BOT) arrangement with Mirant Pagbilao Corporation. Under the

agreement, Mirant will build and finance a thermal power plant in Quezon, and operate and maintain the same for 25 years, after which, Mirant will transfer the power plant to the Quezon Province without compensation. NPC also undertook to pay all taxes that the government may impose on Mirant. Quezon then assessed Mirant real property taxed on the power plant and its machineries. The Municipal Treasurer of Lucena City issued a Notice of Tax Collection for Pagbilao Power Plant amounting to Php 1,532,076,000.00 last March 2, 2000.

WHEREAS, under this Build-Operate-Transfer (BOT) concept, it is the project proponent who constructs the project at its own cost and subsequently operates and manages it. The proponent secures the return on its investments from those using the projects facilities through appropriate tolls, fees, rentals, and charges not exceeding those proposed in its bid or as negotiated. At the end of the fixed term agreed upon, the project proponent transfers the ownership of the facility to the government agency. Thus, the government is able to put up projects and provide immediate services without the burden of the heavy expenditures that a project starts up requires.

WHEREAS, President Benigno S. Aquino III then, issued an Executive Order No. 27 reducing the RPT obligation of Pagbilao Power Plant – exclusive to the Province of Quezon;

WHEREAS, the E.O. 27 provides that Real Property Tax assessed by the Province of Quezon for all years up to 2011, are reduced to an amount equivalent to the tax due if computed based on an assessment level of fifteen percent (15%). As a result, more than 6 Billion real property tax collectibles of Quezon Province was reduced to a mere 378 million pesos and the condoned RPT amounted to more than 5.7 billion pesos which gravely affected the financial capacity not only of the provincial government but also the host municipality and barangay.

WHEREAS, Under the BOT deal, NPC had assumed the burden of paying the real property tax of Mirant Pagbilao Corporation for its plant in Pagbilao. Hence, the GOCC has argued that it is covered by the benefit provided by RA 7160.

WHEREAS, a position backed by the Supreme Court in a ruling issued on Jan. 25, 2010. NPC could not claim tax exemption for the facility.

WHEREAS, as of January 2011, the Real Property Tax Delinquency of Pagbilao Power Plant is Php 6,130,965,000.00.

WHEREAS, in October 12, 2016, the Provincial Government of Quezon filed against the Executive Secretary and Mirant Pagbilao Corporation a Petition for Declaratory Relief to declare as unconstitutional, Executive Order No.27, Series of 2011 and Executive orders No. 173, Series of 2014.

WHEREAS, under the said E.O. 88, all real property tax payments made by the Independent Power Producers (IPPs) over and above the reduced amount shall be applied to their real property tax liabilities for the succeeding years.

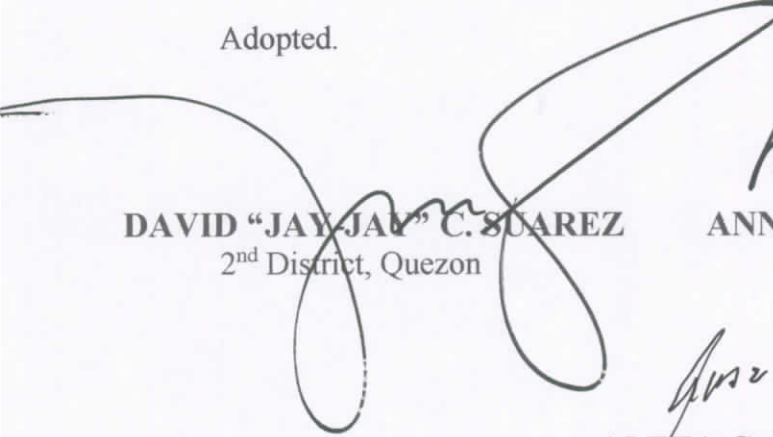
WHEREAS, President Rodrigo R. Duterte issued an Executive Order No. 88 in 2018, which provides that real property tax and Special Education Fund (SEF) assessed by LGUs for

calendar year 2018, were reduced to an amount equivalent to the tax due if computed based on an assessment level of fifteen percent (15%).

WHEREAS, in view of the foregoing, it is necessary to review on the status of the non-payment of Real Property Tax of Power Plants under the Build-Operate-Transfer to Local Government Units even after Supreme Court Ruling on January 25, 2010.

THEREFORE, as it is hereby resolved, to direct the appropriate Committee of the House of Representatives, to conduct an inquiry, in aid of legislation on the non-payment of real property tax (RPT) of power plants under Build-Operate-Transfer (BOT) with the Local Government Unit of Quezon Province.

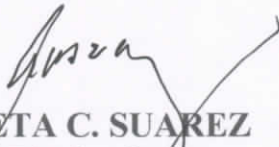
Adopted.



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