

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Seventeenth Congress
First Regular Session

HOUSE BILL NO. **3909**



Introduced by Representative Manuel F. Zubiri

EXPLANATORY NOTE

With his unprecedented election as the very first President from Mindanao, President Rodrigo Roa Duterte has identified as one of the main cornerstones of his Presidency the widespread development of public infrastructure in the entire Mindanao Region. Long neglected in past administrations, Mindanao's true potential as perhaps the richest and most progressive region of the country can only be realized if there is a more rational and focused approach in public investments, most especially through the introduction of a mass railway system that will encompass the Mindanao region's 106,000 square kilometre area.

The Constitution mandates in Section 21, Art. II Declaration of Principles and State Policies that the State shall promote comprehensive rural development. The Constitution also guarantees the basic human right to travel¹. Recognizing the primacy of these Constitutional mandates, Republic Act No. 4156 paved the way for the creation and implementation of the Mindanao Railways Project ("MRP").

Most recently, the NEDA has initiated the steps to finally put out a Feasibility Study, the results of which will be vital to the implementation of this Act. The Terms of Reference of the NEDA for the MRP declares, as follows²:

"The proposed railway transport service will play a major role towards improvement of Mindanao's intra island accessibility, linkages and seamless multimodal transport networks. The island is strategically located and has potential as a major transshipment point and center of trade in the Brunei Darussalam-Indonesia-Malaysia-Philippines East ASEAN Growth Area (BIMP-EAGA) region.

Enhanced interconnectivity and linkages through passenger and freight railway transport development will further boost tourism, trade and commerce in the island; bring opportunities for the acceleration of local area development; and expansion of local markets for more efficient movement of goods and people to promote productivity and trade competitiveness."

With the proper and soonest implementation of the MRP, it is hoped that a true and lasting solution to the decades-long unrest within the region can finally be attained by having the fruits of national development and economic progress reach all throughout the whole of Mindanao. With the introduction of a region-wide railway, the safe and efficient movement of

¹ <http://www.gov.ph/constitutions/1987-constitution/> (Accessed June 30, 2016)

² <http://www.neda.gov.ph/wp-content/uploads/2015/04/TOR-for-the-Conduct-of-the-FS-of-MRP-23-04-15-LATEST.pdf>

people and goods can only bring region-wide prosperity to the proud peoples of Mindanao. Without diminishing the vital importance of the resulting political and security benefits that a region-wide railways system in Mindanao would bring about, the most compelling reason for MRP is the socio-economic upliftment of the lives of the more than 22 million Mindanao residents. Clearly, lasting peace, stability and security are the necessary consequences of a well-planned and properly-executed economic development scheme.

The critical role played by the successful introduction of the Mindanao Railways System in bringing the Mindanao Region into the 21st Century cannot be emphasized enough. For this reason, this proposed measure seeks to create the Mindanao Railways Authority ("MRA"). The MRA shall be a national government agency under the Office of the President, which shall be separate and distinct from the Philippine National Railways ("PNR"). It shall have as its primary purpose the successful planning and implementation of the Mindanao Railways Project ("MRP"). Considering that the PNR's herculean mandate for the upgrade and expansion of the existing PNR railway system would most certainly divert most of its time and attention away from the MRP, only the singular focus afforded by a single agency devoted to the MRP can ensure the project's success.

In view of the foregoing, the Authority to be created hereunder shall be subject to the required legislative and regulatory measures to ensure transparency and public accountability. It will be under the lens of the Commission on Audit and will undergo the monitoring tools of the National Economic Development Authority such as Value Engineering and Value Analysis. That the MRA shall be under the Office of the President would ensure close coordination with the him as well as the Department of Budget and Management to ensure that funding for the MRP would receive top priority and be approved with dispatch.

With the successful and prompt implementation of the MRP, the dreams of a unified country and peoples may finally be realized.

In view of the foregoing, the prompt approval of this Bill is earnestly sought.

MANUEL ANTONIO F. ZUBIRI
Representative
3rd District, Bukidnon

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House Bill No. _____

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AN ACT
CREATING THE MINDANAO RAILWAYS AUTHORITY (MRA), PRESCRIBING ITS
POWERS, FUNCTIONS AND DUTIES, AMENDING FOR THE PURPOSE REPUBLIC
ACT NO. 4156 ENTITLED "AN ACT CREATING THE PHILIPPINE NATIONAL
RAILWAYS, PRESCRIBING ITS POWERS, FUNCTIONS AND DUTIES, AND
PROVIDING FOR THE NECESSARY FUNDS FOR ITS OPERATION" AS AMENDED
BY R. A. NO. 6366, APPROPRIATING FUNDS THEREFOR,
AND FOR OTHER PURPOSES

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

CHAPTER I
TITLE, POLICY AND OBJECTIVES

SECTION 1. *Short Title.* -- This Act shall be known as the "Mindanao Railways Development Act of 2016".

SEC. 2. *Declaration of Policy.* -- It is hereby declared the policy of the State to attain inclusive growth and reduce poverty through infrastructure development aiming to improve the sectoral performance of tourism, agriculture and industries; improve goods and services; improve the quality of the environment; and increase resilience to climate change and natural disasters, through the establishment of a sustainable transport system that is safe, efficient, and competitive.

Further, in order to promote comprehensive rural development and assure the human right to travel in Mindanao, the State shall (1) create a national government agency to achieve its development goals; and (2) provide appropriations for the construction, operation and maintenance of the railways system and the operative budget of the national government agency to be created under this Act.

SEC. 3. *Creation and Objectives.* -- There shall be created the Mindanao Railways Authority, hereinafter called the Authority, which is a national government agency attached to the Office of the President, with the following immediate objectives:

a) To provide for the railways system in Mindanao connecting as vast an area as deemed feasible in consideration of the Mindanao Railways Project (MRP) as mandated under the Philippine National Railways Charter or Republic Act No. 4156, and, the MRP Feasibility Study as an undertaking of the National Economic and Development Authority (NEDA) as Executing Agency and the Department of Transportation and Communication (DOTC) as Implementing Agency and funded under the General Appropriations Act of FY 2014;

b) To initiate the provisions of An Act Facilitating The Acquisition Of Right-Of-Way Site Or Location For National Government Infrastructure Projects or R. A. No. 10752 upon effectivity of this Act; and

c) To call upon all concerned National Government Agencies and Local Government Units to render technical and administrative support for the implementation of the provisions of this Act.

CHAPTER II NATURE, SPECIFIC AND GENERAL POWERS

SEC. 4. *Name and Domicile.* -- To carry out the foregoing transportation policy, the Mindanao Railways Authority, shall be primarily responsible for the construction, operation and maintenance of a railways transportation system in Mindanao. It shall have its main office in the City of Davao, and shall have such branches and agencies within or outside the Philippines as may be necessary for the proper conduct of its business.

SEC. 5. *Purposes and Specific Powers.*—The Mindanao Railways Authority shall have the following purposes and specific powers:

a) To hold the assets of the Philippine National Railways, and to succeed to, or acquire, maintain and operate such grants, concessions and franchises as are now held and enjoyed by the PNR but limited only to those located in Mindanao among the aforementioned;

b) To own or operate railroads, tramways, and other kinds of land transportation, vessels and pipelines, for the purpose of transporting, for consideration, passengers, mail and property between any points in Mindanao; and

c) As an auxiliary to its main purpose, to own and/or operate powerhouses, hotels, restaurants, terminals and warehouses; to manufacture rolling stock, equipment, tools and other appliances; and, to construct and operate toll viaducts and toll tunnels, in connection with its railroad lines.

SEC. 6. General Powers.—The Authority shall have the following general powers:

a) To have continuous succession under its corporate name, until otherwise provided by law;

b) prescribe, amend, and/or repeal its by-laws;

c) To adopt and use a seal and alter it at its pleasure;

d) To sue and be sued;

e) To contract any obligation or enter into, assign or accept the assignment of, and vary or rescind any agreement, contract or obligation necessary or incidental to the proper management of the Authority;

f) To borrow funds from any source, private or public, foreign or domestic, and to issue bonds and other evidence of indebtedness, the payment of which shall be guaranteed by the National Government, subject to pertinent borrowing laws;

g) To acquire, receive, take and hold by bequest, devise, gift, purchase or lease, either absolutely or in trust for any of its purposes, from foreign and domestic sources, any assets, grant or property, real or personal, subject to such limitations as are provided in existing laws; to convey or dispose of such assets, grants, or properties, movable and immovable; and invest and/or reinvest such proceeds and deal with and expand its assets and income in such a manner as will best promote its objectives;

h) To improve, develop or alter any property held by it;

i) To carry on any business, either alone or in partnership with any other person or persons;

j) To employ an agent or contractor or perform such things as the Authority may perform;

k) To exercise the right of eminent domain, whenever the Authority deems it necessary for the attainment of its objectives;

l) To prescribe rules and regulations in the conduct of its general business as well as to fix and implement the terms and conditions of its related activities;

m) To determine the fares payable by persons travelling on the rail system, in consultation with the Department of Transportation and the NEDA;

n) To establish, operate, and maintain branches or field offices when required by the exigencies of its business;

o) To determine its organizational structure and the number, positions and salaries of its personnel, subject to pertinent organization and compensation law; and

p) To exercise such powers and perform such duties as may be necessary to carry out the business and purposes for which the Authority was established or which, from time to time, may be declared by the Board of Directors to be necessary, useful, incidental or auxiliary to accomplish such purposes; and generally, to exercise all powers of any Authority under the Corporation Law that are not inconsistent with the provisions of this Act, or with orders pertaining to government corporate budgeting, organization, borrowing, or compensation.

CHAPTER III

THE MRA BOARD OF DIRECTORS

Sec. 7. *The MRA Board of Directors.* -- To carry out the purposes of this Act, the MRA shall be directed and controlled by a Board of Directors. It shall be composed of the following members:

- a) Secretary of Transportation, as Chairperson;
- b) MRA Administrator, as Vice-Chairperson;
- c) Secretary of Finance;
- d) Secretary of Economic Planning, Director General of the NEDA;
- e) Secretary of Public Works and Highways; and
- f) Two representatives from the private sector who shall each be selected from the members of the Philippine Institute of Civil Engineers (PICE) and the Philippine Society of

Mechanical Engineers (PSME), to be appointed by the President of the Philippines who shall select from three (3) nominees submitted separately by the PiCE and PSME. They shall serve a non-extendible single term of three (3) years.

The officials next in rank to, or such officials duly designated by, the regular members shall serve as alternate members, except that, in the absence of the Chairman, the Board shall elect a temporary presiding officer. The alternate members shall attend meetings of the Board and committees assigned to them by their principals and receive the corresponding per diems, whenever their principals are absent or said positions are vacant.

SEC. 8. *Per Diem.* -- The members of the Board shall not receive any compensation but shall be provided with *per diem* at rates allowed under existing rules and regulations.

SEC. 9. *Powers and Duties of the Board of Directors.* -- The Board of Directors shall have the following powers and duties:

a) To prescribe, amend and repeal, with the approval of the Administrator, the by-laws, rules and regulations governing the manner in which the general business of the Authority may be exercised, including provisions for the formation of such committee, or committees as the Board of Directors may deem necessary to facilitate its business;

b) To appoint and fix the compensation of the Administrator and of the other officers of the Authority, with the approval of the President and the Director General of NEDA. The Board by a majority vote of all the members, may, for cause, and with the approval of the President of the Philippines, suspend and or remove the Administrator; and

c) To approve the annual and such supplemental budgets of the Authority which may be submitted to it by the Administrator from time to time.

SEC. 10. *Suspension and Removal of Directors.* -- Any member of the Board of Directors may be suspended or removed by the President of the Philippines.

SEC. 11. *Prohibition for Board Members.* -- No chairman or member of the Board of Directors shall at the same time serve in the Authority in any capacity whatsoever other than as Chairman or member thereof, unless otherwise authorized by the President of the Philippines or any existing law.

CHAPTER IV THE ADMINISTRATOR

SEC. 12. *The Administrator.* -- The management of the Authority shall be vested in the Administrator.

SEC. 13. *Powers and Duties of the Administrator.* -- The Administrator shall have the following powers and duties:

a) To direct and manage the affairs and business of the Authority on behalf of the Board of Directors, and subject to its control and supervision;

b) To sit in all meetings of the Board of Directors, as Vice-Chairman, and participate in its deliberation, with the right to vote, and to preside any meetings for or in the absence of the Chairman;

c) To submit within sixty days after the close of each fiscal year an annual report, through the Board of Directors, to the Office of the President of the Philippines and the Congress of the Philippines;

d) To appoint and fix the number and salaries, with the approval of the Board of Directors, of such subordinate personnel as may be necessary for the proper discharge of the duties and functions of the Authority, and with the approval of the Board of Directors, to remove, suspend, or otherwise discipline, for cause, any subordinate employee of the Authority; and

e) To perform such other duties as may be assigned to him by the Board of Directors from time to time.

SEC. 14. *Appointment and Promotion.* -- In the appointment and promotion of officers and employees, merit and efficiency shall serve as basis, and no political test or qualification shall be prescribed and considered for such appointments or promotions. Said officers and employees shall be subject to the Civil Service Law, rules and regulations.

CHAPTER V

MANDATED APPROPRIATIONS

SEC. 15. *Appropriation.* – To carry out the purposes of this Act, the amount of one billion pesos (PhP1,000,000,000.00) is hereby authorized to be appropriated for the initial operation of the Mindanao Railway Authority. Thereafter, the annual expenditures including capital outlays of the Authority shall be provided in the General Appropriations Act.

CHAPTER VI

TAXES, DUTIES AND CHARGES

SEC. 16. *Exemption from taxes, duties, customs bonds and port charges.*—The Authority is hereby exempt from payment of all national and local taxes upon its capital, franchises, rights of way, earnings, and all other property owned or operated by it and of all duties on all railways materials, supplies and equipment imported into the Philippines for and by the Authority. This exemption shall extend to port charges upon vessels whose entire cargo consists of materials for the construction or equipment of the Authority, and, on other vessels to such proportion of the prescribed port charges as the tonnage of materials for such constructions or equipment may bear to the tonnage of the entire cargo of the vessel; and such exemption shall further extend to the filing of general importer's and general documentary bonds and warehouse bonds for the operation of its warehouses, whether general bonded warehouses or general order store.

SEC. 17. *Tax-exempt loans.* -- The project and program loans to be obtained by the National Government for the purposes of this Act shall be exempt from the payment of all national and local taxes.

CHAPTER VII

AUDIT AND REPORTS

SEC. 18. *Audit Personnel and Reports.* -- The Authority shall be subject to the Commission on Audit (COA) which shall have the power, authority, and duty to examine, audit, and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property of the Authority.

a) Personnel. -- The Chairman of the COA shall appoint a representative who shall be the Auditor of the Authority, and the necessary personnel to assist said representative in the performance of such duties. The number and salaries of the Auditor and said personnel shall be determined by the the COA Chairman, subject to appropriation by the Board of Directors. In case of disagreement, the matter shall be submitted to the President of the Philippines whose decision shall be final. Said salaries and all other expenses of maintaining the Auditor's office shall be paid by the Authority.

b) Report. -- The financial transactions of the Authority shall be audited in accordance with law, administrative regulations, and the principles and procedures applicable to commercial corporate transactions. A report of audit for each fiscal year, by the representative of the COA Chairman, through the latter, to the Board of Directors of the Authority, and copies thereof shall be furnished the President of the Philippines, the Secretary of Economic Planning, the Senate President and the Speaker of the House of Representatives. The report shall set forth the scope of the audit and shall include a statement of assets and liabilities, capital and surplus or deficit; a statement and surplus or deficit analysis; statement of income and expenses; a statement of sources and application of funds; and such comments and information as may be necessary, together with such recommendations with respect thereto as may be advisable, including a report of any impairment of capital noted in the audit. The report shall also show specifically any program, expenditures, or other financial transaction or undertaking observed in the course of audit, which in the opinion of the Auditor, has been carried out or made without authority of law.

SEC. 19. *Legal Department.* -- The Authority shall have its own legal department, the chief and members of which shall be appointed by the Administrator with the approval of the Board of Directors.

SEC. 20. *Exemption from the LTFRB Law.* -- The Authority shall not be subject to the authority, supervision and control of the Land Transportation Franchising and Regulatory Board (LTFRB), created under Executive Order No. 202, Series of 1987.

SEC. 21. *Strikes during national emergency.* -- The provisions of law to the contrary notwithstanding, in cases of national emergency, or when in the opinion of the President of the

Philippines, the national security or interest is in imminent danger, employees and laborers of the Authority shall not strike for the purpose of securing changes or modification in their terms and conditions of employment during said period of emergency. *Provided, however,* That during the implementation of this Act, management and labor should always strive to maintain industrial peace by availing of and exhausting all methods of resolving all labor disputes to ensure the continuous, effective and successful establishment of the Mindano Railways: *Provided, further,* That the Authority may enter into collective bargaining agreements, one for personnel of supervisory rank and the other for personnel of non-supervisory rank regardless of the number of recognized unions which may be or might have been organized therein.

SEC. 22. *Applicability of the Corporation Law.* -- The provisions of the Corporation Law which are not inconsistent with the provisions of this Act, shall be applicable to the Authority.

SEC. 23. *Implementing Rules and Regulations.* -- The Department of Transportation, in consultation with concerned government agencies and stakeholders, shall promulgate the implementing rules and regulations of this Act, within sixty (60) days from the effectivity of this Act.

SEC. 24. *Congressional Oversight* -- The Congressional Oversight Committee on Economic Affairs shall exercise oversight on the implementation of this Act.

SEC. 25. *Separability Clause.* -- If any portion of this Act is declared unconstitutional or invalid, the portions or provisions which are not affected shall continue to be in full force and effect.

SEC. 26. *Repealing Clause.* -- All laws, decrees, executive orders and rules and regulations or parts thereof which are inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 27. *Effectivity.* -- This Act shall take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation and the Official Gazette.

Approved,