

Republic of the Philippines

HOUSE OF REPRESENTATIVES

Quezon City, Metro Manila

EIGHTEENTH CONGRESS

First Regular Session

HOUSE BILL NO. 2603



Introduced by HONORABLE RESURRECCION MARRERO-ACOP, MD

EXPLANATORY NOTE

On June 18, 1963, Republic Act No. 3518 was passed creating the Philippine Veterans Bank (PVB), owned by and operated for and in behalf of the veterans, their widows, orphans or compulsory heirs.

The said law also created the Board of Trustees for Veterans of World War II (BTVWWII) which was entrusted with the administration of the twenty percent (20%) of the net profits of the PVB for disposition and shall be available for 'grants-in-aid' to veterans, their widows, orphans, or compulsory heirs, for educational, social, charitable and rehabilitation purposes, and for such other purposes beneficial to the veterans.

According to Philippine Veterans Affairs Office (PVAO) Administrator Lt. Gen. Ernesto Carolina, AFP (Ret), as of 2016, the PVB has remitted roughly Php900 million to BTVWWII pursuant to Republic Act No. 3518. However, the BTVWWII refuses to undergo government audit to account for the amount claiming it is a private entity and that the funds entrusted to it are private funds.

The same issues have also been thoroughly discussed in the 16th Congress that resulted to the adoption of House Resolution No. 206 which urged the Commission on Audit (COA) to conduct an audit on the funds and operations of the BTVWWII and to determine whether it has complied with government accounting and disbursement procedures. The COA unit assigned attempted to conduct the audit twice, but the BTVWWII continued to refuse audit and reiterated their position that It is a private entity and that the funds entrusted to It are not public funds. This despite the Opinion of the Department of Justice (No. 60, Series of 2014) stating that BTVWWII is a public body citing the ruling in the case of *Veterans Federation of the Philippines vs. Angelo Reyes* (G.R. No. 155027, February 28, 2006), to wit:

The definition of a public office, that it is "the right, authority and duty created and conferred by law, by which, for a given period,

either fixed by law or enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of the government, to be exercised by him for the benefit of the public."

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In several cases, we have dealt with the issue of whether certain specific activities can be classified as sovereign functions. These cases, which deal with activities not immediately apparent to be sovereign functions, upheld the public sovereign nature of operations needed either to promote social justice or to stimulate patriotic sentiments and love of country.

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The protection of the interests of war veterans is not only meant to promote social justice, but is also intended to reward patriotism. All of the functions in Section 4 concern the well-being of war veterans, our countrymen who risked their lives and lost their limbs in fighting for and defending our nation. It would be injustice of catastrophic proportions to say that it is beyond sovereignty's power to reward the people who defended her.

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The functions of the VFP are executive functions, designed to implement not just the provisions of Republic Act No. 2640, but also, and more importantly the Constitutional mandate for the State to "provide immediate and adequate care, benefits and other forms or assistance to war veterans and veterans of military campaigns, their surviving spouses and orphans."

In the present case, pursuant to Republic Act No. 3518, the main function of the BTVWWII is to hold in trust a certain portion of the net profits of the PVB as Trust Fund to be available for 'grants-in-aid' to veterans, their widows, orphans or compulsory heirs, for educational, social, charitable and rehabilitation purposes, to organizations doing services for the cause of the veterans, and for such other purposes beneficial to the veterans. The functions being exercised by the BTVWWII, similar to the VFP, fall within the category of sovereign functions in pursuit of the Constitutional mandate to provide care and assistance to war veterans and their surviving spouses and children. Hence, applying the ruling in *VFP vs. Reyes*, the BTVWWII can be considered a public office.

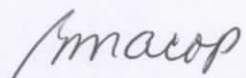
Moreover, in *Republic v. COCOFED*(423 Phil. 735, 2001), the Supreme Court held that the Coconut Levy Funds are public funds because they were meant to be for the benefit of the coconut industry, one of the major industries supporting the national economy, and its farmers. The same is true with regard to the BTVWWII trust funds. No less public is the use of the funds for 'grants-in-aid to veterans, their

and rehabilitation purposes, and for such other purposes beneficial to the veterans.

In the same vein, in *VFP vs. Reyes*, the Court stated that the contributions from affiliate organizations of the VFP can hardly be regarded as enforced contributions as to be considered taxes. They are more in the nature of donations which have always been recognized as a source of public funding. The ruling is equally applicable in the case of the 20% share from the net profits of the PVB entrusted to BTVWWII, notwithstanding the declaration of the Court that PVB is a private commercial bank in the case of *Philippine Veterans Bank Employees Union vs. Philippine Veterans Bank* (G.R. No. 67125, August 24, 1990).

This bill seeks to erase all doubts as to the character of the BTVWWII and on the nature of the trust funds under the Board's administration pursuant to RA 3518, and unequivocally declare the Board as a public office and its funds as public funds. By doing so, BTVWWII will no longer have any excuse to disallow COA to audit the funds and their disbursements for the sake of transparency and public accountability. Lest we lose sight of the fact that ultimately the funds are intended for the promotion of the welfare and interests of Filipino war veterans, their spouses and children.

For the foregoing reasons, the immediate consideration and approval of the bill is earnestly urged.


RESURRECCION MARRERO-ACOP, MD
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2nd District, Antipolo City

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Introduced by HONORABLE RESURRECCION MARRERO-ACOP, MD

AN ACT
DECLARING THE BOARD OF TRUSTEES FOR THE VETERANS OF WORLD WAR II (BTVWWII) AS A PUBLIC OFFICE AND THE FUNDS ENTRUSTED TO IT AS PUBLIC FUNDS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 3518

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

SECTION 1.Section 23 of Republic Act No. 3518, also known as "An Act Creating the Philippine Veterans Bank, and for Other Purposes," is hereby amended to read as follows :

"Section 23. *Board of Trustees of World War II.* - There is hereby created a Board of Trustees for the veterans of World War II **A PUBLIC OFFICE** to be known as the "Board of Trustees of the Veterans of World War II," consisting of eleven (11) members to be selected from among the veterans of World War II by the Supreme Council of the Veterans Federation of the Philippines organized pursuant to Republic Act Numbered Twenty-Six Hundred and Forty.

The Board of Trustees shall be organized within ninety (90) days after the approval of this Act. Immediately after its organization the members of the Board of Trustees shall elect from among themselves a Chairman and a Vice-Chairman. The members of the Board of Trustees shall serve without compensation other than actual and necessary expenses incurred either in

attendance upon meetings of the Board or upon other official business authorized by resolution thereof, but a vote of the majority of all the members shall be necessary to authorize the disposal of the funds held by the Board.

The Board shall appoint a secretary and such necessary other officials and employees and fix their compensations."

SECTION 2.Section 22 of the same Act is likewise hereby amended to read as follows:

"Section 22. *Allocation of Net Profits.* - At the close of each calendar year, the Bank shall determine the net result of its operations, in the calculation of which, adequate allowances shall be made for probable losses, and the net profit arrived thereat shall be distributed as follows:

(a)Twenty (20%) per cent of such net profit shall accrue to the reserve account: Provided, That should the accumulated reserves equal to or in excess of the authorized capital of the Bank, the twenty per cent herein authorized to be accumulated shall be distributed under the subsection immediately following.

(b) From the remaining eighty (80) percent of the net profit shall be deducted the guaranteed earning of the preferred shares of stock owned by individual veterans, their widows, orphans or compulsory heirs: Provided, That the share in the net profits corresponding to the Republic of the Philippines shall first be applied in payment of its capital stock subscription until said shares shall have been fully paid. Thereafter, twenty per centum of the net profits after deducting the guaranteed earnings of the preferred shares shall be paid in cash to the Board of Trustees as hereinafter provided in Section 23 hereof for disposition and shall be available for 'grants-in-aid' to veterans, their widows, orphans, or compulsory heirs for educational, social, charitable, and rehabilitation purposes, to organization doing service for the cause of the veterans, and for such other purposes beneficial to the veterans.

The remaining profits shall be paid as dividends on common shares held by

the individual veterans as provided in Section Three of this Act.

SECTION 3.*Separability Clause.* - If any portion or provision of this Act or the application thereof shall be declared invalid or unconstitutional, the validity of other parts or provisions not affected thereby shall continue to be in full force and effect.

SECTION 4.*Repealing Clause.* - All laws, decrees, executive issuances, rules and regulations inconsistent with this Act are hereby repealed or modified accordingly.

SECTION 5.*Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,