

EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

Office of the Secretary
SENATE

SENATE

19 JUL 16 P2:44

S.B. No. 554

RECEIVED BY SP

INTRODUCED BY: SENATOR EMMANUEL D. PACQUIAO

AN ACT
CREATING THE MINDANAO RAILWAYS AUTHORITY PRESCRIBING ITS
POWERS, FUNCTIONS, AND DUTIES, AND PROVIDING FOR THE NECESSARY
FUNDS FOR ITS OPERATION AND SUSTAINABILITY

EXPLANATORY NOTE

A recently released World Bank study acknowledged Mindanao to have “what it takes to be among the most dynamic places in the Philippines. Mindanao is the second largest island group in the country with a population of 22 million (world’s 10th most populous island) and an annual population growth rate of 1.9 percent from 2000 to 2010.

Despite being branded as the food basket of the Philippines, inept conveyance of goods and services within the island remains a challenge in expeditiously accomplishing targets of agribusinesses and other economic activities. Poor quality of roads, incomplete road networks and wanting of a mass transit system, travel cost and food commodity transfer to Mindanao agricultural areas has been a daily struggle for the Mindanaoans.

In this regard, it is an established consensus that this longstanding challenge can be best fixed through the creation of Mindanao railways which is deemed as the best means to improve connectivity in provinces and major cities of Mindanao thereby efficiently maximizing the potentials of the

This bill seeks to enhance interconnectivity and linkages through passengers and freight railway transport development, and further boost trade, commerce and tourism in Mindanao. The Mindanao Railways Authority will manage and operate the originally proposed development phases of the Mindanao Railways Project or MindaRail, which is to be effected in six stages or phases that will eventually cover the whole of Mindanao including the inner cities and towns.

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



EMMANUEL D. PACQUIAO

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FUNDS FOR ITS OPERATION AND SUSTAINABILITY

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

CHAPTER 1

TITLE, POLICY AND OBJECTIVES

1 **SECTION 1. Short Title** —This Act shall be known as the “Mindanao Railways Authority
2 Act of 2019.”

3
4 **SEC. 2. Declaration of Policy.** — It is hereby declared the policy of the State to attain
5 inclusive growth and reduce poverty through infrastructure development aiming to improve
6 the sectoral performance of tourism, agriculture and industries; improve goods and services;
7 improve the quality of the environment; and increase resilience to climate change and natural
8 disasters, through the establishment of a sustainable transport system that is safe, efficient,
9 and competitive.

10
11 Further, in order to promote comprehensive rural development and assure the human
12 right to travel in Mindanao, the State shall (1) create a national government agency to achieve
13 its development goals; and (2) provide appropriations for the construction, operation,
14 maintenance and more importantly, the sustainability of the railways system and the
15 operative budget of the national government agency to be created under this Act.

16
17 **SEC. 3. Creation and Objectives.** - There shall be created the Mindanao Railways Authority
18 (MRA), hereinafter called the Authority, which is the national government agency attached to
19 the Office of the Philippines, with the following immediate objectives:

20
21 a) To provide for the railways system in Mindanao connecting as vast an area as
22 deemed feasible in consideration of the Mindanao Railways Project (MRP) as
23 mandated under the Philippine National Railways Charter or Republic Act No.4156,

1 and, the MRP Feasibility Study as an undertaking of the National Economic and
2 Development Authority (NEDA) as Executing Agency and the Department of
3 Transportation and Communication (DOTC) as Implementing Agency and funded
4 under the General Appropriations Act of FY 2017;

- 5
- 6 b) To initiate the provisions of “An Act Facilitating The Acquisition Of Right-Of-
7 Way Site or Location For National Government Infrastructure Projects” or R.A. No.
8 10752 upon effectivity of this Act; and
9 c) To call upon all concerned National Government Agencies and Local Government
10 Units to render technical and administrative support for the implementation of the
11 provisions of this Act.

12

13

14 **CHAPTER II**

15

16 **NATURE, SPECIFIC AND GENERAL POWERS**

17

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

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

- 25
- 26 a) To hold the assets of the Philippine National Railways, and to succeed to, or
27 acquire, maintain and operate such grants, concessions and franchises as are now held
28 and enjoyed by the PNR but limited only to those located in Mindanao among the
29 aforementioned;
- 30
- 31 b) To own or operate railroads, tramways, and other kinds of land transportation,
32 vessels and pipelines, for the purpose of transporting, for consideration, passengers,
33 mail and property between any points in Mindanao; and
- 34
- 35 c) As an auxiliary to its main purpose, to own and/or operate powerhouses, hotels,
36 restaurants, terminal and warehouses; to manufacture rolling stock, equipment, tools
37 and other appliances; and, to construct and operate toll viaducts and toll tunnels, in
38 connection with its railroad lines.

39

40 **SEC. 6. General Powers.** - The Authority shall have the following general powers:

- 41
- 42 a) To have continuous succession under its corporate name, until otherwise provided
43 by law;
- 44 b) To prescribe, amend, and/or repeal its by-laws;
- 45
- 46 c) To adopt and use a seal and alter it at its pleasure;
- 47
- 48 d) To sue and be sued;
- 49

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER III

THE MRA BOARD OF DIRECTORS

1
2 **SEC. 7. The MRA Board of Directors.** - To carry out the purposes of this Act, the MRA shall
3 be directed and controlled by a Board of Directors. It shall be composed of the following
4 members:

- 5
- 6 a) Secretary of Transportation, as Chairperson;
 - 7 b) MRA Administrator, as Vice-Chairperson;
 - 8 c) Secretary of Finance;
 - 9 d) Secretary of Economic Planning, Director General of the NEDA;
 - 10 e) Secretary of Public Works and Highways; and
 - 11 f) Two representatives from the private sector who shall each be selected from the
12 members of the Philippine Institute of Civil Engineers (PICE) and the Philippine
13 Society of Mechanical Engineers (PSME), to be appointed by the President of the
14 Philippines who shall select from three (3) nominees submitted separately by the
15 PICE and PSME. They shall serve a non-extendible single term of three (3) years.

16
17 The officials next in rank to, or such officials duly designated by, the regular
18 members shall serve as alternate members, except that, in the absence of the Chairman, the
19 Board shall elect a temporary presiding officer. The alternate members shall attend meetings
20 of the Board and committees assigned to them by their principals and receive the
21 corresponding per diems, whenever their principals are absent or said positions are vacant.

22
23 **SEC. 8. Per Diem.** - The members of the Board shall not receive any compensation but shall
24 be provided with per diem at rates allowed under existing rules and regulations.

25
26 **SEC. 9. Powers and Duties of the Board of Directors.** - The Board of Directors shall have the
27 following powers and duties:

- 28
- 29 a) To prescribe, amend and repeal, with the approval of the Administrator, the by-
30 laws, rules and regulations governing the manner in which the general business of the
31 Authority may be exercised, including provisions for the formation of such
32 committee, or committees as the Board of Directors may deem necessary to facilitate
33 its business;
 - 34 b) To appoint and fix the compensation of the Administrator and of the other officers
35 of the Authority, with the approval of the President and the Director General of
36 NEDA. The Board by a majority vote of all the members, may, for cause, and with
37 the approval of the President of the Philippines, suspend and or remove the
38 Administrator;
 - 39 c) To approve the annual and such supplemental budgets of the Authority which may
40 be submitted to it by the Administrator from time to time.

41
42 **SEC. 10. Suspension and Removal of Directors.** – Any member of the Board of Directors
43 may be suspended or removed by the President of the Philippines.

1
2 **SEC. 11.** *Prohibited for Board Members.* – No chairman or member of the Board of
3 Directors shall at the same time serve in the Authority in any capacity whatsoever other than
4 as chairman or member thereof, unless otherwise authorized by the President of the
5 Philippines or any existing law.
6

7 **CHAPTER IV**
8

9 **THE ADMINISTRATOR**

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

13 **SEC. 13.** *Powers and Duties of the Administrator.* – The Administrator shall have the
14 following powers and duties:
15

- 16 a) To direct and manage the affairs and business of the Authority on behalf of the Board
17 of Directors, and subject to its control and supervision;
18
- 19 b) To sit in all meetings of the Board of Directors, as Vice Chairman, and participate in
20 all deliberation, with the right to vote, to preside any meetings for or in the absence of
21 Chairman;
22
- 23 c) To submit within sixty days after the close of each fiscal year an annual report,
24 through the Board of Directors, to the office of the President of the Philippines and
25 the Congress of the Philippines;
26
- 27 d) To appoint and fix the number and salaries, with the approval of the Board of
28 Directors, of such subordinate personnel as may be necessary for the proper discharge
29 of duties and function of the Authority, and with the approval of the Board of
30 Directors, to remove, suspend, or otherwise discipline, any subordinate employee of
31 the Authority; and
32
- 33 e) To perform such other duties as may be assigned to him by the Board of Directors
34 from time to time.
35

36 **SEC. 14.** *Appointment and Promotion.* – In the appointments and promotion of officers and
37 employees, merit and efficiency shall serve as basis, and no political test or qualification
38 shall be prescribed and considered for such appointments or promotion. Officers and
39 employees shall be subject to the Civil Service Crew, rules and regulations.
40

41 **CHAPTER V**
42

43 **MANDATED APPROPRIATIONS**
44

45 **SEC. 15.** *Appropriations.* To carry out the purposes of this Act, the amount of One Billion
46 Pesos (P1,000,000,000.00) is hereby authorized to be appropriated for the initial operation
47

1 of the Mindanao Railways Authority. Therefore, the annual expenditures including Capital
2 Outlays of the Authority shall be provided in the General Appropriations Act.

CHAPTER VI

TAXES, DUTIES AND CHARGE

SEC. 17. Exemptions from taxes, duties, customs bonds and port charges. - The authority is hereby exempt from payments of all national and local taxes upon its capital, franchises, right of way, earnings and all other property owned or operated by it and of all railways materials, supplies and equipment imported into the Philippines for and by the Authority. This exemption shall extend to port charges upon vessel whose entire cargo consists of material for the construction equipment of the authority and on other vessels to such contraction or equipment may bear to the tonnage of the entire cargo of the vessel; and such exemption shall further extend to filling of general importer's and general documentary bonds and warehouse bonds for the operation of its warehouse, whether bonded warehouse or general order store.

SEC. 18. *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. 19. Audit Personnel and Reports. – The Authority shall be subject to the Commission on Audit (COA) which shall have the power, authority and the 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 of personnel and corresponding salaries of the Auditor and the personnel shall be determined by the COA chairman, subject to appropriation by the Board of Directors. In the case of disagreement, the matter 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 transaction of the Authority shall be audited in accordance with law, administrative regulations, and the principles and procedures applicable to the commercial corporate transaction. A report of audit for each for each Fiscal year, by the representative of the COA chairman, thought 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 be set forth the scope of the Audit and shall include a statement and surplus or deficit analysis; statement of income and expenses; a statement of sources and application of funds; and such comments and

1 information as may be necessary, together with such recommendations with respect
2 thereto as may be advisable, including a report of any program, expenditures, or other
3 financial transaction or undertaking observed in the course of audit, which in the
4 opinion of the Auditor, has been carried out or made authority of Law.

5 **SEC. 20. Legal Department.** - The Authority shall have its own legal department, the Chief
6 and members of which shall be appointed by the Administrator with the approval of the
7 Board of Directors.
8

9 **SEC. 21. Exemption from the LTFRB Law.** - The Authority shall not be subject to the
10 authority, supervision and control of the Land Transportation Franchising and Regulatory
11 Board (LTFRB), created under Executive Order No. 202, Series of 1987.
12

13 **SEC. 22. Strikes During National Emergency.** - The provisions of law to the contrary
14 notwithstanding, in cases of national emergency, or when in the opinion of the President of
15 the Philippines, the national security or interest is in imminent danger, employees and
16 laborers of the Authority shall not strike for the purposes of securing changes or modification
17 in their terms and conditions of employment during said period of emergency; *Provided*,
18 however, That during the implementation of this Act, management and labor should always
19 strive to maintain industrial peace by availing of and exhausting all methods of resolving all
20 labor disputes to ensure the continuous, effective and successful establishment of the
21 Mindanao Railways: *Provided*, further, That the Authority may enter into collective
22 bargaining agreements, one for personnel of supervisory rank and the other for personnel of
23 non-supervisory rank regardless of the number of recognized unions which may be or might
24 have been organized therein.
25

26 **SEC. 23. Applicability of the Corporation Law.** - The provisions of the Corporation Law
27 which are not inconsistent with the provisions of this Act, shall be applicable to the
28 Authority.
29

30 **SEC. 24. Implementing Rules and Regulations.**—The Department of Transportation, in
31 consultation with concerned government agencies and stakeholders, shall promulgate the
32 implementing rules and regulations of this Act, within sixty (60) days from the effectively of
33 this Act.
34

35 **SEC. 25. Congressional Oversight Committee.** - A Congressional Oversight Committee,
36 hereinafter referred to as the "Committee", is hereby constituted in accordance with the
37 provisions of this Act. The Committee shall be composed of the Chairman of the Senate
38 Committee on Public Services and Chairman of the House Committee on Transportation and
39 four (4) additional members from each House to be designated by the Senate President and
40 the Speaker of the House of Representatives, respectively. The Committee shall, among
41 others, in aid of legislation:
42

43 (a) Monitor and ensure the proper implementation of this Act;
44

45 (b) Review the collection performance of the Authority;
46

47 (c) Review the proper implementation of the programs of the Authority and the use of its
48 collected fund.
49

1 In furtherance of the hereinabove cited objectives, the Committee is empowered to
2 require the Authority to submit all pertinent information including, but not limited to, its
3 collection performance data and its annual audited financial statements certified by the
4 Commission on Audit.

5

6 The Congressional Oversight Committee shall be in existence for a period of five (5)
7 years, and thereafter, its oversight functions shall be exercised by the Senate Committee on
8 Public Services and the House Committee on Transportation acting separately.

9

10 **SEC. 26.** Separability Clause. – If any portion of this Act is declared unconstitutional or
11 invalid, the portions or provisions which are not affected shall continue to be in full force and
12 effect.

13

14 **SEC. 27.** Repealing Clause. - All laws, decrees, executive orders and rules and regulation or
15 parts thereof which are inconsistent with this Act are hereby repealed or modified
16 accordingly.

17

18 **SEC. 28.** Effectivity. – This Act shall take effect fifteen (15) days following its publication in
19 the *Official Gazette* or in any two (2) newspapers of general circulation.

20

21

22

23 *Approved,*