

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

19th Congress
First Regular Session

House Bill No. _____

INTRODUCED BY HON. MARLYN B. ALONTE

AN ACT
TO RATIONALIZE THE PHILIPPINE ENVIRONMENTAL IMPACT ASSESSMENT SYSTEM, AND FOR OTHER PURPOSES

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

Chapter 1
Basic Policies

Section 1. *Short Title.* This Act shall be known and referred to as the “The New Environmental Impact Assessment System Act of 2023”.

Section 2. *Declaration of Policy.* The State shall adhere to the principles of sustainable development. To this end, balanced consideration of environmental protection, human health, and socio-economic developments shall be ensured by government through the assessment of significant environmental impacts of specific projects and the prescription of appropriate protection and control measures. The State shall likewise endeavor the development of an environmental assessment system which will to integrate environmental considerations into strategic decision-making affecting development policies, plans, and programs of a region, province or a sector.

The implementation of this State policy shall be guided by the following principles:

- a) A proactive approach, consistent with sustainable development principles;
- b) A systems-oriented and integrated approach in the analysis and solution to environmental concerns vis-à-vis development activities;

- c) Conservation of biological diversity and the sustainable use of its components in all phases of development activity, especially in the context of climate change and disaster risk reduction;
- d) Promotion of transparency and public participation in environmental assessment system;
- e) Adoption of systematic decentralization of environmental assessment and institutionalization of local environmental expertise; and
- f) Strengthening environmental monitoring and evaluation mechanisms.

Chapter 2

Definition of Terms

Section 3. *Definition of Terms.* For purposes of this Act, the following terms shall be defined as stated below:

- a) “*Agency*” shall refer to the relevant government department, bureau or office, at all levels, including government-owned and controlled corporations, with mandate over the preparation, evaluation, approval, implementation, or monitoring of a policy, plan, program or project.
- b) “*Co-located Projects*” shall refer to projects, or series of projects or a project subdivided into several phases or stages, and located in a contiguous area;
- c) “*Critical Project*” shall refer to a project or activity that has the potential for significant adverse environmental impact, as determined by the Environmental Management Bureau (EMB) in accordance with the provisions of this Act.
- d) “*Cumulative Effects*” shall refer to the effects on the environment which result from the incremental effect of an activity or a set of activities in combination with the effects of other activities in the area, past and present, regardless of the person or agency that undertakes such other activities.
- e) “*Environmental Assessment*” shall refer to a process of systematic analysis, evaluation and management of the potential environmental effects of a policy, plan, program or project before a decision on the said policy, plan, program or project is made. The term includes both Strategic Environmental Assessment (SEA) and Environmental Impact Assessment (EIA);

f) “*Environmental Impact Assessment*” shall refer to the process of predicting and evaluating the likely impacts of a project (including cumulative impacts) on the environment during construction, commissioning, operation, and abandonment. It also includes designing appropriate preventive, mitigating, and enhancement measures addressing these consequences to protect the environment;

g) “*EIA Report*” shall refer to the document of studies on the environmental impacts of a project, including the discussions on direct and indirect consequences upon ecological and environmental integrity. The EIA Report may vary from project to project but shall contain in every case all relevant information and details about the proposed project, including the appropriate mitigating and enhancement measures to address the identified environmental impacts.

h) “*Environmental Impact*” shall refer to any change that the policy, plan, program or project may cause in the environment, including any effect of any such change on health and socio-economic conditions.

i) “*Environmental Management Plan*” shall refer to the details of the preventive, mitigating, and enhancement measures of a proposed project, including monitoring and evaluation thereof, and shall form part of the EIA Report.

j) “*Policy, Plan or Program*” shall refer to new or modified framework or courses of action, strategies, guidelines or measures proposed by a concerned agency or local government unit (LGU) to define or implement its mandate under relevant laws. The term includes those financed and/or co-financed by international organizations and proposed to the head of an agency or LGU.

k) “*Proponent*” shall refer to any person seeking to implement a relevant policy, plan, program or project. This includes government agencies, government-owned and controlled corporations, LGUs, and private entities.

l) “*Strategic Environmental Assessment*” shall refer to the management/planning tool for a systematic evaluation of the environmental consequences of a proposed policy, plan or program in order to ensure that they are fully considered and appropriately addressed at the earliest stage of decision-making.

Chapter 3

Environmental Impact Assessment

Section 4. Coverage of the Environmental Impact Assessment System (EIA).

Any project which has the potential for significant adverse impact on the environment shall be covered by this Act.

Section 5. Applicability of EIA. Critical projects, as determined by the EMB in accordance with this Act, shall undertake an EIA for specific projects. These critical projects are presumed to have the potential for significant adverse impact on the environment. For purposes of determining critical projects, the EMB shall consider the nature of the project and its potential to cause significant adverse environmental impacts. Critical projects shall include, but not limited to, heavy industries, major manufacturing industries, major resource-extractive industries, major infrastructure projects, and other similar projects. [look into NIPAS]

Micro-, small-, and medium-scale projects and other similar activities **not ascertained as critical** shall be governed by the concerned LGUs [check consistency with Sec. 18], which shall integrate environmental safeguards in their local permitting system and/or complementary environmental assessment policies.

~~Critical projects, the impact of which is specifically addressed in a SEA, may be required by the EMB to undertake an appropriate environmental assessment study.~~

Existing projects, which are deemed critical under this Act but operating without an Environmental Compliance Certificate (ECC) required under Sec. 4 of PD 1586, shall be given ~~three (3)~~ **one (1)** years from the date of the effectivity of this Act within which to comply with the provisions of this law.

Section 6. Review of EIA. The EIA Report shall be reviewed by a multi-disciplinary team of independent experts convened by the EMB for that purpose. The team shall make a report of its findings and recommendation on the issuance or non-issuance of the Certificate of Proponent's Environmental Commitment (CPEC). The cost of such review shall be financed by the proponent through a fund manager, whether government or private.

Section 7. Decision on the EIA. After a review of the EIA Report and the recommendations of the EIA Review Team, the EMB may issue a Certificate of Proponent's Environmental Commitment (CPEC) certifying that the proposed project has integrated environmental considerations into its overall project design and management, that the assessment is technically sound at the feasibility study stage, and that the proposed preven-

tive, mitigating, and enhancement measures are appropriate. The CPEC shall also certify that the proponent has demonstrated its commitment to implement the approved Environmental Management Plan (EMP) for its proposed project, as planned, and the corresponding Monitoring and Evaluation.

The CPEC shall be limited to the results of the assessment of the environmental impacts of the proposed project. It shall not, in any manner, exempt the proponent from securing other government permits and clearance required by other laws, nor shall it be construed as resolving issues within the mandate of other government agencies, such as those relating to land ownership and possession rights.

All concerned national government agencies and local government units shall consider the CPEC and relevant EIA documents in their decision-making process.

Section 8. *Environmental Safeguards for non-Critical Projects.* Proponents of projects that are not covered pursuant to the preceding sections may be required by the EMB to implement environmental safeguards. The EMB shall establish an evaluation system therefor.

Section 9. *EIA for Co-located Projects.* The Department of Environment and Natural Resources (DENR) shall require programmatic EIA for projects or series of projects subdivided into several phases or stages, or consisting of several components, or a cluster of projects co-located in an area, such as, but not limited to, industrial estates, export processing zones, small-scale mining, livestock, aquaculture, and mariculture projects.

The EIA requirements and conditions for co-located projects under the EAS shall be guided by an assessment of the cumulative impacts and carrying capacity as may be determined from ecological profiles of the area.

The CPEC under this provision shall be issued by the EMB.

Section 10. *Financial Guarantee Mechanism.* As part of the CPEC requirements, the EMB may require project proponents to put up a financial guarantee mechanism to respond to the need for clean-up or rehabilitation of areas that may be damaged, whether directly or indirectly, or through occurrences, anthropogenic or otherwise, by a project, during and after its operation.

Provisions for financial liability shall ensure just and timely compensation for any adverse effects which project implementation may directly or indirectly cause on the environment or the community.

The instruments acceptable for compliance with this provision are trust funds, environmental insurance, cash funds, financial test mechanism, self-insurance and other guarantee instruments. The choice of guarantee mechanisms, or of combinations thereof, shall depend primarily on: a) the probability and magnitude of the risks involved, as culled from new and existing information and determined through environmental and health risk assessment, and b) the financial capability of the proponent; *Provided*, that such proponent shall show proof of compliance with the requirement for contingent liability by furnishing the DENR with evidence of availment of such mechanism.

Section 11. *Accreditation of Preparers and Reviewers.* The EMB shall establish a system of accreditation for preparers and reviewers of EIA, which shall take into consideration their competence, expertise, track record, integrity and independence. The EMB may delegate the accreditation process to a third party, government or private.

No employee of the DENR or EMB shall, in any manner whatsoever, directly or indirectly, participate in the preparation of the EIA.

Section 12. *Non-Liability to the Authenticity of EIA Documents.* The documents that may be required by the EMB for the conduct of an EIA shall be used solely to determine the scope and potential impacts of proposed projects on the environment. The EMB shall not be liable to any allegations or conclusions of fraud, falsification, or misrepresentation attending the submitted documents. Any issues or disputes that may arise from such documents shall be resolved in appropriate forums, courts or tribunals.

Section 13. *Consultation and Public Participation in the EIA.* All proponents of critical projects shall, at the earliest stage of the EIA process, inform and consult the concerned local government units and communities that will be affected by the proposed project to ensure that environmentally relevant concerns are taken into consideration in the EIA study and in the formulation of the EMP.

It shall be done through public hearing, whenever appropriate, which is publicly announced and where all valid comments are heard and considered.

Section 14. *Multi-partite Monitoring Team and Environmental Monitoring Fund.* Multi-partite monitoring teams (MMTs) shall be organized to encourage public participation, promote greater stakeholder vigilance, and provide appropriate check and balance mechanisms in the monitoring of project implementation.

The MMTs shall be composed of representatives of the relevant national agencies, local government units, non-governmental organizations, and other stakeholders in the

affected communities. The government representatives shall be selected by the EMB based on the relevance of their mandates, while those from non-governmental organizations and affected communities shall be selected from among themselves in a process facilitated by the concerned LGU and certified by the EMB.

MMTs can be project-based or clustered by province/municipality or by sector. Such clustering shall be accomplished upon the recommendation of any of the members of the MMTs comprising the cluster and shall be convened with the assistance of the EMB and the concerned LGU. Cluster members shall agree on a manual of operations, a fund manager, and scheme for shared monitoring.

The proponent shall establish an Environmental Monitoring Fund (EMF) to support the activities of the MMT. The EMB shall promulgate the rules for the administration and management of the EMF: *Provided, that*, in no case shall such fund be used other than for the purpose for which it was established.

Chapter 4

Fines and Penalties

Section 15. *Sanctions for Violations.* Any critical project which shall operate without the required CPEC shall face closure, suspension of development or construction, or cessation of operations until such time that proper environmental safeguards are put in place and the necessary CPEC has been issued; *Provided, that*, the project proponent shall be fined an amount not less than One Hundred Fifty Thousand Pesos (Php100,000.00) but not more than Twenty Million Pesos (Php20,000,000.00) depending on the magnitude of the environmental risks and upon the final decision of the EMB. *Provided, further*, that the chief operating officer or executive officer of the proponent firm shall be held criminally liable and shall be imprisoned for a period not less than two (2) years but not more than ten (10) years, at the discretion of the Court.

Any project proponent found in violation of the EMP shall be imposed a fine in the amount of not less than Fifty Thousand Pesos (Php 50,000.00) for every violation, depending upon the type and impact of the violation, but not more than Ten Million Pesos (Php 10,000,000.00) per violation, plus cost of damages, at the discretion of the EMB. *Provided*, that the EMB may order the closure, suspension of development or construction, or cessations of operations if the violation of the EMP is continued.

Chapter 5

Institutional Arrangement

Section 16. *Agencies Responsible in the Implementation of the Act.* Unless otherwise provided by this Act, the DENR shall serve as the primary agency responsible for the implementation of the EAS. It may secure the assistance of environmental units of other government agencies, academic and research institutions, and environment professionals in undertaking its responsibilities under this Act.

For this purpose, an environmental unit shall be established and/or strengthened in each concerned government agency. Furthermore, it shall be the responsibility of all concerned government agencies to share information or data necessary to effectively evaluate reports required pursuant to this Act.

Concerned government agencies shall establish appropriate permanent organizational structures and systems to address the requirements of the EAS.

Section 17. *Establishment of an Environmental Impact Assessment System Division.* In order to effectively implement the provisions of this Act, an Environmental Assessment System (EAS) Division is hereby established within the EMB.

Section 18. *Decentralization and Devolution of Functions.* The DENR shall, within one (1) year from the effectivity of this Act, develop guidelines for the decentralization of functions of the EMB under this Act to the Regional Offices [to clarify which functions shall be devolved. Also check PEZAs' capacity to review & issue ECCs and environmental permits and personality of DENR to monitor.]

The DENR, in coordination with the Department of Interior and Local Government (DILG), shall, within two (2) years from the effectivity of this Act, provide technical resources and leadership to assist LGUs and entities in acquiring capacity and expertise for rational and effective devolution of functions under the EAS [to clarify which functions and address overlapping functions; better word for devolution] this Act. The devolution of functions shall be made after the concerned LGUs and entities have been as-

essed to be technically capable of such functions.[\[require establishment of Local ENROs w/ plantilla\]](#)

Section 19. *Local Capacity-Building in Environmental Impact Assessment System.* The DENR, through the EMB, shall, in coordination with the DILG, lead the development and implementation of a national capacity building program in environmental assessment. To ensure the rational devolution of functions mandated in Section 24 hereof, the program shall be operational within two (2) years from the effectivity of this Act.

The national program for capacity building shall identify target entities as well as functions for devolution and prepare the target entities for the local implementation of the EAS or its components in accordance with the objectives of this Act.

Section 20. *Knowledge Management System.* The EMB shall establish a database management system for purposes of gathering, keeping, disseminating and updating all information relative to the implementation of the EAS. As part of the database management system, the EMB shall create a public registry of all CPECs issued.

Section 21. *Public Disclosure.* All documents generated as part of the EAS shall be accessible to the public upon request made during office hours, except those information deemed protected under Rep. Act No. 8293, otherwise known as the Intellectual Property Code of the Philippines: *Provided that*, the executive summary of the SEA, EIA, EMP, and CPEC shall likewise be disclosed by the EMB and proponents to the public through the internet.

Chapter 6

Actions

Section 22. *Administrative Action.* Without prejudice to the right of any affected person to file an administrative action, the DENR shall, on its own instance or upon verified complaint by any person, institute administrative proceedings against any person who violates the provisions of this Act and the orders, rules and regulations promulgated pursuant thereto.

Section 23. *Citizen Suits.* For purposes of enforcing the provisions of this Act or its implementing rules and regulations, any citizen may file an appropriate civil or criminal action in the proper courts against:

a) Any person who violates or fails to comply with the provisions of this Act, its implementing rules and regulations, or orders issued pursuant thereto; or

b) The DENR or other implementing agencies with respect to orders, rules and regulations issued inconsistent with this Act; and

c) Any public officer who willfully or grossly neglects the performance of an act specifically enjoined as a duty by this Act or its implementing rules and regulations; or abuses his authority in the performance of his duty; or, in any manner, improperly performs his duties under this Act or its implementing rules and regulations.

Provided, however, that, no citizen suit can be filed until after a thirty (30)-day notice has been taken thereon.

The court shall exempt such action from the payment of filing fees, and shall likewise, upon *prima facie* showing of the non-enforcement or violation complained of, exempt the plaintiff from the filing of an injunction bond for the issuance of a preliminary injunction.

Within thirty (30) days, the court shall make a determination if the complaint herein is malicious and/or baseless, and shall accordingly dismiss the action and award attorney's fees and damages.

Section 24. *Independence of Action.* The filing of an administrative suit against such person/entity does not preclude the right of any other person to file any criminal or civil action. Such civil action shall proceed independently.

Section 25. *Suits and Strategic Legal Actions Against Public Participation and the Enforcement of This Act.* Where a suit is brought against a person who filed an action as provided in Section 28 of this Act, or against any person, institution or government agency that implements this Act, it shall be the duty of the investigating prosecutor or the court, as the case may be, to immediately make a determination not exceeding thirty (30) days whether said legal action has been filed to harass, vex, exert undue pressure or stifle such legal recourses of the person complaining of or enforcing the provisions of this Act. Upon determination thereof, evidence warranting the same, the court shall dismiss the case and award attorney's fees and double damages.

This provision shall also apply and benefit public officers who are sued for acts committed in their official capacity, there being no grave abuse of authority, and done in the course of enforcing this Act.

Chapter 7

Establishment of an EAS Management Fund

Section 26. *Environmental Revolving Fund.* The Environmental Revolving Fund (ERF) created under Presidential Decree No.1586 shall remain to be operational. It shall be used primarily for defraying administrative expenses, equipment purchases or leases and other program costs directly incurred in the review, assessment and monitoring of the EAS. The ERF may be sourced from donations, endowments and grants in the form of contributions. Such endowments shall be exempt from income or gift taxes and all other taxes, charges or fees imposed by the government or any political subdivision, instrumentality or agency. It shall also include funds to be provided by proponents for the review of specific projects. All income likewise generated from fees, fines and penalties directly related to the implementation of the EAS shall accrue to the ERF and may be utilized directly by the DENR for the above purposes.

All fund transactions shall, however, be subject to the usual auditing procedures in accordance with existing laws

Section 27. *Appropriations.* An amount of One hundred million pesos (P100,000,000.00) shall be appropriated for the initial implementation of this Act.

Section 28. *Transitory Provision.* Non-Highly Urbanized Cities, 3rd, 4th, 5th, and 6th class municipalities shall be given a five (5)-year grace period within which to comply with the provisions of this Act on SEA.

Section 29. *Implementing Rules and Regulations.* Unless otherwise provided in this Act, the DENR, in coordination with other concerned agencies, shall promulgate the implementing rules and regulations of this Act, within one (1) year after its effectivity.

The DENR and the IASCS, in coordination with other concerned government agencies, shall undertake such review and updating of the implementing guidelines of the EAS every two (2) years thereafter.

Section 30. *Joint Congressional Oversight Committee.* There is hereby created a Joint Congressional Oversight Committee to monitor the implementation of the provisions of this Act. The Committee shall be composed of five (5) Senators and five (5) Representatives to be appointed by the Senate President and the Speaker of the House of Representatives, respectively. The Oversight Committee shall be co-chaired by the

Chairpersons of the Senate Committee on Environment and House Committee on Ecology.

Chapter 8

Final Provisions

Section 31. *Separability Clause.* Should any provision herein be subsequently declared unconstitutional, the same shall not affect the validity or legality of the other provisions of this Act.

Section 32. *Repealing Clause.* Presidential Decree No. 1586, except Section 10 thereof, Presidential Proclamation No. 2146, Executive Order No. 803, and Office of the President Administrative Order No. 42, series of 2002 are hereby repealed. All laws, orders, rules and regulations or any part thereof which are inconsistent with the provisions of this Act are hereby amended or modified accordingly.

Section 33. *Date of Effectivity.* This Act shall take effect fifteen (15) days after its publication in the official Gazette or in two (2) newspapers of general circulation.

Approved,