

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

First Regular Session

HOUSE BILL NO. 328



By Congressman Ferdinand R. Marcos, Jr.

EXPLANATORY NOTE

Conceived during the world wide energy crisis in the late seventies, the Department of Energy was created upon the issuance of P.D. No. 1206 on October 7, 1977. This department had to cope up with the enormous problem of providing enough energy for the needs of the country. To be sure, it was a no mean task because of the related and concomitant problems of dwindling dollar reserves, rising prices of commodities, transportation strikes and even labor strikes impelled by demands for higher wages.

The department did not stay long enough to lay down long term energy policies for with the assumption of a new administration in February 1986, one of the first official acts of the Aquino administration was the abolition of the Department of Energy and the subsequent creation of an Office of Energy Affairs under the direct control and supervision of the Office of the President.

As would be expected, with the dismantling of the Ministry of Energy, as a knee jerk reaction to something "Marcosian", an institutional vacuum has been experienced and is now reflected in power shortages, reduced investments in future energy capacities, and increased and continuing dependence on imported fuels.

In the interregnum, what the new administration did was tackling the crisis with ad hoc remedial measures like reducing the tariff on imported oil or changing the specific to ad valorem taxes. Certainly, these measures are unrelated to the country's long term policies to address its energy problems.

This bill recognizes indubitably the fact that energy remains a critical and strategic resource in national development hence vision and focused attention at the highest levels of governance, together with the coordinated efforts of private and government sectors, are imperatives.

The hard reality is that the magnitude, complexity, strategic and continuing energy requirements, demand a departmental level and scope of comprehensive and integrated planning and supervision of the country's energy program.

This bill, therefore, seeks to resurrect the then Ministry or Department of Energy that will formulate, coordinate, and implement a comprehensive energy development program for the country, without stifling the initiatives of private enterprise, in order to achieve energy self-reliance through judicious conservation and efficient utilization of the country's resources and reducing our dependence on foreign energy resources.

Approval of this bill is thus earnestly requested.


FERDINAND R. MARCOS, JR.

Introduced by Rep. Ferdinand R. Marcos, Jr.

AN ACT
CREATING THE DEPARTMENT OF ENERGY, DEFINING ITS
POWERS AND FUNCTIONS, APPROPRIATING FUNDS THEREFOR
AND FOR OTHER PURPOSES

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

SECTION 1. Declaration of Policy. - It is hereby declared the policy of the state (a) to ensure a continuous, adequate and economic supply of energy with the end in view of ultimately achieving self-reliance in the country's energy requirements, through an integrated and intensive exploration and development of the indigenous energy resources as well as non-conventional existing and potential energy sources, and through the judicious conservation and efficient utilization of energy consistent with the country's growth and economic development and taking into consideration the participation of the private sector in the various areas of energy resource development with minimum government intervention; and (b) to rationalize and coordinate the various energy programs of the government towards self-sufficiency and productivity.

Sec. 2. Creation of a Department of Energy. - To carry best the above-mentioned policy, there is hereby created the Department of Energy, which shall, among other things, formulate, integrate, coordinate and implement all policies, plans and programs in the field of energy.

Sec. 3. Powers and Functions. - The Department shall have the following power and functions:

a) formulate and implement policies, plans and programs, and coordinate all activities of the government relative to the exploration, development, exploitation, extraction, importation, exportation, transport, marketing, distribution, and storage of energy resources from fossil fuels such as petroleum, coal, natural gas and gas liquids; nuclear fuel resources, geothermal resources, and non-conventional existing and potential forms of energy resources;

b) develop and update the Philippine Energy Program which shall provide for an integrated and comprehensive exploration, development, utilization and conservation of energy resources. Said program shall be formulated within one year from the effectivity of this Act and shall be submitted to Congress within ten (10) days from its operation and annually thereafter;

c) establish and administer programs for the extraction, importation, exportation, transport, marketing, distribution, utilization, conservation, stockpiling and storage of energy resources from fossil fuels such as petroleum, coal, natural gas and gas liquids, nuclear fuel resources, and geothermal resources, to existing and potential forms of non-conventional energy;

d) coordinate all government activities and encourage, guide and, whenever necessary, regulate private sector activities relative to the exploration, development, extraction, production, importation, exportation, processing, transportation, marketing, distribution, utilization, conservation, stockpiling and storage of all forms of energy products and resources such as crude oil and petroleum products, coal and coal-derived fuels, natural gas and gas liquids, geothermal resources, nuclear fuels, electricity, and non-conventional energy resources, including the manufacturing and distribution of energy devices and equipment: Provided, That the Department shall endeavor to provide for an environment conducive to free and active private sector participation in all energy activities with minimum government intervention;

e) conduct, assess, review, provide direction to, and disseminate information, in coordination with concerned government agencies, energy research and development programs including identification of sources of energy and determination of their commercial feasibility for the optimal development of various forms of energy and energy production and utilization technologies;

f) formulate and implement programs for the judicious and efficient use of energy in all energy consuming sectors of the economy;

g) promulgate such rules and regulations as may be necessary to implement the objectives of this Act; and

h) exercise such other powers as may be necessary or incidental to attain the objectives of this Act.

Sec. 4. Authority and Responsibility. - The authority and responsibility for the exercise of the powers and discharge of the functions of the Department shall be vested in a Secretary of Energy, hereinafter referred to as the Secretary, who shall be appointed by the President, subject to the confirmation by the Commission on Appointments. The Secretary shall be assisted by one Under-Secretary.

Sec. 5. Qualifications. - No person shall be appointed Secretary or Undersecretary of the Department unless he is a citizen and resident of the Philippines, of good moral character, at least thirty-five (35) years of age, and of proven competence in any of the following disciplines: public administration, physical or engineering sciences, energy or utility economics, management and law. The Undersecretary must have the additional qualification of knowledge of and at least five (5) years of relevant experience in the energy sector.

Sec. 6. Powers and Functions of the Department Secretary. - The Secretary shall have the following functions:

- a) establish policies and standards for the effective, efficient and economical operation of the Department in accordance with the program of the government;
- b) implement energy resource policies and development programs adopted by the Department;
- c) exercise direct control and supervision over all functions and activities of the Department;
- d) promulgate rules and regulations as may be necessary to carry out the provisions of this Act;
- e) perform such other functions as may be provided by law.

Sec. 7. Department Proper. - The Department shall have an Administrative Service, a Financial Management Service, a Planning Service and a Legal Service.

The Administrative Service shall be responsible for providing the Department with services relating to personnel, information, records and documentation, supplies, equipment, maintenance, collection and disbursements, security and custodial work.

The Financial Management Service shall be responsible for providing the Department with staff advice and assistance on budgetary, financial, accounting and cash management matters.

The Planning Service shall be responsible for providing the Department services relating to planning, programming, and project development including the formulation of short and long-term energy and power development strategies and comprehensive programs as may be warranted by domestic and international developments. It shall also review, evaluate and integrate the programs of the attached corporations and assist in the sourcing of this long-term funds.

The Legal Affairs Service shall be responsible for providing legal advice, documentation, and other services to the Department as Legal procedures and statutes might require, in the undertakings of contracts, disposal of property and assets, acquisitions, administrative cases, and other operational matters. It shall also handle administrative cases, investigate or file criminal suits against department personnel for violations of civil service rules and for conduct punishable by existing laws.

Sec. 8. Bureau of Energy Development. - There is hereby created in the Department a Bureau of Energy Development which shall have the following powers and functions, among others:

- a) Administer a national program or encourage, guide and, whenever necessary, regulate, such business activity relative to the exploration, exploitation, development, and extraction of fossil fuels such as petroleum, coal, natural gas and gas liquids, nuclear fuel resources, geothermal energy resources, and non-conventional forms of energy sources;

b) Undertake by itself or cause the undertaking by other institutions, government or private, of intensive research and development to achieve the country's self-reliance and conservation program relative to energy resources;

c) Provide consultative training and advisory services to practitioners and institutions in the areas of regulated activities;

d) Receive applications for, grant and administer licenses such as permits for geophysical surveys, exploration permits and service contracts to qualified service contractors, including providing for the manner and form of the income tax payment, the reimbursements of operating expenses and the payment of service fee in the service contract;

e) Monitor and enforce contractor's compliance with technical and financial commitments and other conditions stipulated in permits, licenses and other privilege contracts awarded by the Bureau to energy resource developers;

f) Promulgate such rules and regulations as may be necessary to implement the objectives and provisions of this Act; and

g) Exercise all powers necessary or incidental to attain the objectives of this Act.

Sec. 9. Bureau of Energy Utilization. - There is hereby created in the Department a Bureau of Utilization which shall have the following powers and functions:

a) Administer a national program or encourage, guide and, whenever necessary, regulate business activities as importing, exporting, storing, shipping, transporting, refining, processing, marketing, and distributing of energy resources.

As used in this Act, energy resources mean any substance or phenomena which by itself or in combination with others, or after processing or refining or the application to it of technology, emanates, generates or causes the emanation or generation of energy, such as but not limited to petroleum or petroleum products, coal, marsh gas, methane gas, geothermal and hydroelectric sources of energy, uranium and other similar radioactive minerals, solar energy, tidal power, as well as non-conventional existing and potential sources.

b) Develop, promote and commercialize applications of biomass, solar, small hydro, wind, and other non-conventional energy systems, including new and more efficient and economical transformation, conversion, processing, refining, marketing, distribution, transportation and storage technologies for conventional energy resources;

c) Monitor sectoral energy consumption and conduct energy audits, technical training, energy management advisory services, and technology application projects on efficient energy utilization;

d) Establish minimum safety and energy-efficiency standards on appliances and technologies utilizing conventional or non-conventional energy fuels that are to be used in the domestic market;

e) Establish and enforce operating standards for power and electrification utilities with respect to quality of service, loss of load and outage probabilities, allowable transmission and distribution line losses, as well as calibration and certification of conformity to standards of electric meters and other measuring devices used by electric power utilities to bill customers;

f) Establish, in consultation with the Department of Trade and Industry, standards of energy consumption for oil-powered or electrical-driven machinery and equipment including but not limited to boilers, kilns and furnaces, electrical equipment, appliances, and vehicles imported into, manufactured, assembled, or sold in the Philippines for domestic use taking into account the technical and economic limitations involved;

g) Establish, in consultation with concerned government agencies, energy use standards for industrial, commercial and transport establishments, taking into account technical and economic limitations involved;

h) Provide information on energy technology, and develop middle and long-term energy technology development strategies in cooperation with the Department of Science and Technology;

i) Formulate, implement, monitor and regularly review an integrated rural energy program to effectively address the needs of rural development programs;

j) Develop a fuel allocation contingency scheme in cases of emergency, for the approval of the Secretary;

k) Monitor implementation of energy projects in coordination with the Department of Environment and Natural Resources to ensure compliance with prescribed environmental standards;

l) Require industrial, commercial and transport establishments to collect or cause the collection of waste oil for recycling as fuel or lubricating oil;

m) Conduct a nationwide information campaign on energy conservation;

n) Recommend appropriate courses of action to resolve major issues which may impede energy project siting or result in adverse environmental impact.

o) Promulgate such rules and regulations as may be necessary, subject to the approval of the Secretary, for the efficient, effective and economical exercise of its powers and functions.

Sec. 10. Board of Energy. - There is hereby created a Board of Energy, hereafter referred to as the Board, the nucleus of which shall be the present Energy Regulatory Board. The Board shall be composed of a Chairman and two (2) Members to be appointed by the President, with the consent of the Commission on Appointments. The Chairman and the Board Members shall be natural-born citizens and residents of the Philippines. In addition, the Chairman and the Board Members shall be persons of good moral character, at least thirty-five (35) years of age, and of recognized competence in the field of law, economics, finance, banking, commerce, industry, agriculture, engineering, management or labor.

No person who has worked within three (3) years immediately prior to his appointment or is working in any private firm engaged in the petroleum or electric industry or any other entity whose main business is directly related to or connected with any such firm shall be appointed to the Board.

The term of office of the Chairman and the Board Members shall be four (4) years, but the first Chairman to be appointed shall hold office for four (4) years, and of the first two members, one shall hold office for three (3) years and the other one shall hold office for a term of two (2) years. No person may be appointed to serve more than two (2) successive terms in the Board.

Three (3) members of the Board shall constitute a quorum and the vote of two (2) Members shall be necessary for the adoption of any rule, ruling, order, resolution, decision or other act of the Board in the exercise of its quasi-judicial functions. The Board shall have its principal office in Metro Manila or such other place as may be designated, and may hold hearings or any proceedings at such times and places within the Philippines, as it may provide by order in writing.

The Chairman and the Board Members shall devote their full time to the Board and shall not accept any other employment.

The Chairman of the Board shall receive a compensation equal to that of a Department Undersecretary while the Board Members shall receive a compensation equal to that of an official next in rank to a Department Undersecretary.

The Chairman and the members of the Board, upon completion of their terms or upon becoming eligible for retirement under existing laws, shall be entitled to the same retirement benefits and privileges provided for the Chairman and Members of the Commission on Elections.

Sec. 11. Powers and Functions of the Board. - The Board shall, after due notice and hearing, exercise the following powers and functions:

- a) fix and regulate the prices of petroleum products;
- b) fix and regulate the rate schedule or prices of piped gas to be changed by duly franchised gas companies which distribute gas by means of underground pipe system;
- c) fix and regulate the rates of pipeline concessionaires under the provisions of R.A. No. 387, as amended, otherwise known as the "Petroleum Act of 1945", as amended by P.D. No. 1700;
- d) regulate the capacities of new refineries or additional capacities of existing refineries and license refineries that may be organized after the effectivity of this Act, under such terms and conditions as are consistent with the national interest;

- e) whenever the Board has determined that there is a shortage of any petroleum product, or when public interest so requires, it may take such steps as it may consider necessary, including the temporary adjustment of the levels of prices of petroleum products and the payment to the Oil Price Stabilization Fund created under P.D. No. 1956 by persons or entities engaged in the petroleum industry of such amounts as may be determined by the Board, which will enable the importer to recover its cost of importation.

The provisions of Sec. 11 & 12, R.A. No. 6173, as amended, by Pres. Decree No. 1128, shall govern the proceedings before the Board, the mode of review of its decisions or orders, including its authority to grant provisional relief.

Sec. 12. Attached Agencies. - The Philippine National Oil Company, the National Power Corporation and the National Electrification Administration are hereby placed under the administrative supervision of the Department for policy and program coordination but shall continue to perform their respective functions insofar as they are not inconsistent with the provisions of this Act. The Department Secretary shall, in a concurrent capacity, be ex-officio chairman of the respective boards of said agencies.

Sec. 13. Transfer of Powers and Functions. - The powers and functions of the Energy Coordinating Council, the Office of Energy Affairs and the Energy Regulatory Board are hereby transferred to the Department.

The foregoing transfer of powers and functions shall include applicable funds and appropriations, records, equipment, property and such personnel as may be necessary.

Sec. 14. Transfer of Rights, Assets and Liabilities. - The Department shall, by virtue of this Act, succeed to all rights and assume all the liabilities of the Office of Energy Affairs, the Energy Coordinating Council, the Energy Regulatory Board and all other agencies, or government units whose functions and powers have been transferred to the Department, and all their funds, records, property, assets, equipment, and such personnel as necessary, including unexpended appropriations. All contracts and liabilities of said offices, agencies and government units are hereby transferred to and assumed by the Department: Provided, That the officers and employees of the said offices, agencies and government units shall continue in a holdover capacity until such time so the new officers and employees of the Department shall have been duly appointed pursuant to the provisions of this Act.

Sec. 15. Abolition of Agencies. - The Office of Energy Affairs, the Energy Coordinating Council and the Energy Regulatory Board shall be abolished upon the effectivity of this Act.

Sec. 16. **Structure and Staffing Pattern.** - The Organizational structure and staffing pattern of the Department shall be prescribed and approved by the Secretary within sixty (60) days after the approval of this Act and the authorized positions created therein shall be filled by regular appointments by the President or the Secretary as the case may be: Provided, That in the filling of positions created, preference shall be given to the personnel of the Office of Energy Affairs, the Energy Coordinating Council and the Energy Regulatory Board: Provided, however, that such individuals are, by demonstrated ability, background, training, or experience, specially qualified to assess fairly the needs and concerns of all interests affected by the Philippine energy policies.

Sec. 17. **Separation from Service.** - Employees separated from the service as a result of this reorganization, shall, within one year from their separation from the service, receive the retirement benefits to which they may be entitled under existing laws, rules and regulations.

Sec. 18. **Appropriations.** - The amount necessary for the implementation of this Act shall be taken from the current fiscal year appropriations of the Office of Energy Affairs and the Energy Regulatory Board. Thereafter, such sums as may be needed for the operation and maintenance of the Department shall be included in the annual General Appropriations Act.

Sec. 19. **Repealing Clause.** - All laws, presidential decrees, executive orders, rules and regulations or part thereof, inconsistent with the provisions of this Act, are hereby repealed or modified accordingly.

Sec. 20. **Saving Clause.** - If for any reason, any section or provision of this Act shall be declared unconstitutional or invalid, the other sections or provisions of this Act shall not be affected thereby.

Sec. 21. **Effectivity Clause.** - This Act shall take effect upon its approval.

Approved,