

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



Senate
Office of the Secretary

'22 JUL 14 AIO 52

SENATE

RECEIVED BY: _____

S. B. NO. 577

Introduced by **SENATOR JOEL VILLANUEVA**

**AN ACT
PROVIDING FOR THE CREATION OF THE PHILIPPINE
EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE
AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

The extractive industries have the capacity to contribute to the national growth and development, especially in resource-rich countries like the Philippines. They have the potential to provide livelihood opportunities, create jobs, and channel additional government resources to host communities. The gains from the oil, gas, and mineral resources, nevertheless, do not always translate to benefits for the general public. Across the globe, extractive industries are marred with various issues on environmental degradation, fiscal misconduct, poverty, and corruption.

In response to these issues, the Extractive Industries Transparency Initiative (EITI) was launched to allow for full disclosure of, and public access to, information regarding the extractive industry. The EITI is an internationally recognized framework and practice that monitors revenue and public benefit from mining and other extractive resources. Composed of representatives from the government, extractive industry players, and civil society organizations, EITI provides a platform for regular and systematic reporting, review, and assessment of information concerning the industry. It also strengthens multi-sectoral participation in crafting and implementing regulatory policies governing the extractive industry.

In the Philippines, the EITI was established on November 26, 2013, pursuant to Executive Order No. 147 entitled “Creating the Philippine Extractive Industries Transparency Initiative.” Since its inception, the Philippine EITI (PH-EITI) served as an effective platform for public disclosure of information on fees, taxes and other payments made by mining companies. The later expansion of PH-EITI enabled the coverage of oil and gas industries. Furthermore, regular reports published by the PH-EITI also later expanded to include publicly disclosed information on social and environmental impact of the extractive industries.

Among the impacts of this initiative, the PH-EITI strengthened the capacity of local government units (LGUs) – as well as other stakeholders such as community groups, civil society organizations, and indigenous people – in monitoring the mining activities in their respective areas through regular disclosure of the share of LGUs in the revenues from extractive industries. Over the years since its inception, PH-EITI data collection and reporting provided different stakeholders the instrument and proper platform to formulate real governance reforms on the ground.

To ensure the continuation of the reforms introduced and established by the said initiative, this bill seeks to institutionalize the creation of the Philippine EITI. Institutionalizing the PH-EITI will enable the multi-sectoral initiative not only to continue its efforts, but also to pursue other reforms that will allow the country to further maximize the benefits from the extractive industry.

The immediate passage of this bill is earnestly sought.



SENATOR JOEL VILLANUEVA

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

CHAPTER I
GENERAL PROVISIONS

1
2
3
4 **SECTION 1. Title.** – This Act shall be known as the “*Philippine Extractive*
5 *Industries Transparency Initiative Act.*”
6

7 **SEC. 2. Declaration of Principles.** – All natural resources are owned
8 by Filipinos represented by the State. It shall be the responsibility of the State
9 to ensure that the present and future generations benefit from these finite
10 resources. The State must then establish a mechanism by which the Filipino
11 people are fully aware of how proceeds from their finite resources are being
12 utilized.
13

14 **SEC. 3. Definition of Terms.** –

- 15
16 a) **Agreement** means a contract between the Government and a
17 Contractor, involving financial or technical matters;
18
19 b) **Contractor** means a qualified person acting alone or in consortium
20 who is a party to a mineral agreement or to a financial or technical
21 assistance agreement.
22

23

- 1 c) **Extractive Industries** refer to the mining, oil, gas and coal sectors,
2 and all other sectors that require the extraction of non-renewable
3 natural resources for commercial use;
4
- 5 d) **Financial or Technical Assistance Agreement (FTAA)** means a
6 contract involving financial or technical assistance for large-scale
7 exploration, development and utilization of mineral resources;
8
- 9 e) **Independent Firm** refers to an accounting or auditing firm that has
10 no existing relationship with either the Government or any of the
11 companies that are part of the Philippine Extractive Industries
12 Transparency Initiative (PH-EITI);
13
- 14 f) **Mineral Production Sharing Agreement (MPSA)** means an
15 agreement where the government grants to the contractor the
16 exclusive right to conduct mining operations within a contract area
17 and shares in the gross output. The contractor provides the
18 financing, technology, management and personnel necessary for
19 the implementation of the agreement;
20
- 21 g) **Multi-stakeholder Group (MSG)** shall have the meaning given to it
22 under Section 14 of this Act; and
23
- 24 h) **State** refers to the Republic of the Philippines.
25

26 **CHAPTER II**
27 **ESTABLISHMENT OF THE PHILIPPINE**
28 **EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE**
29

30 **SEC. 4. *Creation of PH-EITI.*** – There is hereby created the Philippine
31 Extractive Industries Transparency Initiative (PH-EITI).
32

33 **SEC. 5. *Composition.*** – The PH-EITI shall be composed of a broad
34 coalition of stakeholders, including representatives from the government, the
35 private sector, the indigenous community, and non-governmental
36 organizations. The PH-EITI shall be governed by a multi-stakeholder body (PH-
37 EITI MSG), which shall be constituted in accordance with the provisions of
38 Chapter V of this Act.
39

40 **CHAPTER III**
41 **OBJECTIVES OF THE PH-EITI**
42

43 **SEC. 6. *General Objectives.*** – The general objective of the PH-EITI is
44 to improve governance and management of the natural resources in the country
45 and ensure that all of what is due to the Filipino people and the Government on
46 account of the exploitation and/or extraction of the country's mineral, oil, gas
47 and other natural resources are (a) verifiably paid; (b) duly accounted for; and
48 (c) judiciously utilized for the benefits of all Filipinos and on the basis of
49 intergenerational equity and sustainability.
50

- 1 b) Industry Representatives. The industry representatives shall be
2 composed of officials from the extractive industries included in the EITI;
3
4 c) Civil Society Organizations (CSOs) Representatives. The civil society
5 shall independently select their representatives in the EITI; and
6
7 d) Indigenous Peoples (IPs) Representatives. The IP representative shall
8 be selected by a caucus of IP organizations affected by mining
9 operations.

10
11 The Chairperson and the members shall designate a permanent and
12 alternate representative to PH-EITI MSG. Each organization, upon the decision
13 of its members and through its independent process, can replace their
14 representatives in the MSG any time following their own governance
15 mechanism.

16
17 **SEC. 14. Regular Meeting of PH-EITI MSG.** – The PH-EITI MSG shall
18 meet once a quarter, or as often as necessary.

19
20 For urgent matters where decision is needed, necessary information
21 shall be circulated through email so that decisions can be made electronically
22 by consensus.

23
24 Fifty percent (50%) of the members, with at least one representative from
25 the government, CSOs, IPs, and business sector shall constitute a quorum for
26 the transaction of business of PH-EITI MSG. The MSG, shall, in good faith,
27 make decisions by consensus.

28
29 **SEC. 15. Annual Meeting of PH-EITI MSG Members.** – The members
30 of PH-EITI MSG shall hold their annual meeting on the month of April of each
31 year. The agenda of the meeting shall include, but not be limited to, the approval
32 of the activities, reports, accounts and the activity plan of the PH-EITI, and any
33 other acts or matters which may be brought to the attention of the PH-EITI in
34 the pursuit of its mandate as provided under this Act and relevant regulations.

35
36 **SEC. 16. Notice of Meetings.** – The Chairperson shall call and preside
37 over the meetings. Notices shall be sent out by the PH-EITI secretariat at least
38 one week before the date of the meeting. The secretariat shall handle the
39 documentation and preparations of the minutes of the meeting.

40
41 **SEC. 17. Review of the MSG.** – The composition and number of
42 representatives shall be subject to regular review by the PH-EITI MSG. Other
43 agencies may form part of the MSG, subject to the evolving needs and scope
44 of the EITI implementation; *Provided*, That all sectors should be adequately
45 represented in the MSG at all times; *Provided further*, That the existing PH-EITI
46 created under Executive Order No. 147, s. 2013 shall be henceforth constituted
47 under the provisions of this Act.

48
49 **CHAPTER VI**
50 **SECRETARIAT OFFICE AND FUNDING**

1 Government, and Energy, in consultation with relevant stakeholders, shall
2 promulgate the necessary rules and regulations for the effective
3 implementation of this Act.

4
5 **SEC. 23. *Separability Clause.*** – If any provision of this Act is declared
6 unconstitutional or invalid, other parts or provisions hereof not affected thereby
7 shall continue to be in full force and effect.

8
9 **SEC. 24. *Repealing Clause.*** – All laws, decrees, executive orders, rules
10 and regulations or parts thereof which are contrary to or inconsistent with this
11 Act are hereby repealed, amended or modified accordingly; provided, that
12 nothing in this Act shall be construed as a diminution of local autonomy or in
13 derogation of ancestral domain rights under the Indigenous Peoples' Right Act
14 of 1997.

15
16 **SEC. 25. *Effectivity.*** – This Act shall take effect fifteen (15) days after
17 its publication in this Official Gazette or in any two newspapers of general
18 circulation.

19 **Approved,**
20
21