

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

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23 MAY 10 P5:06

SENATE
S.B. No. 2179

RECEIVED

Introduced by SEN. WIN GATCHALIAN

**AN ACT
AMENDING REPUBLIC ACT NO. 7638 OTHERWISE KNOWN AS THE
DEPARTMENT OF ENERGY ACT OF 1992**

EXPLANATORY NOTE

There are few industries more technical in nature than the energy industry where the steep learning curve is overcome not only by sheer capability and knowledge but by experience and exposure. The Secretary, as the head of the Department of Energy (DOE) and Chairman or Vice-Chairman of all energy government-owned and controlled corporations,¹ is tasked with the implementation of the overall energy policy of the country² and supervision of all energy related programs, projects, and activities³ and is thus expected to have a deep understanding of the energy industry.

This measure seeks to remove the prohibitive provision which makes persons otherwise having the required knowledge and experience ineligible for appointment as Secretary of the DOE, while still safeguarding against conflicts of interest by mandating the (1) public disclosure of prior involvement or connection with any energy industry participant, the (2) divestment of any and all interests in any energy industry participant, and (3) termination

¹ The DOE Secretary is Chairman of the Board of the following government-owned and controlled corporations (GOCCs): Philippine National Oil Company (PNOC), PNOC – Renewable Corporation, PNOC – Exploration Corporation. He is also the Vice-Chairman of the Board of the following GOCCs: National Transmission Corporation, Power Sector and Liabilities Management Corporation, and National Power Corporation.

² Section 5(a) of Republic Act No. 7638.

³ Section 5(d) of Republic Act No. 7638.

of any directorship, employment, consultancy, contract of service or any connection with any energy participant.

This bill therefore endeavors to ensure that qualified knowledgeable and experienced persons are eligible to lead the DOE without conflicts of interest. Given the foregoing, the immediate passage of this measure is sought.



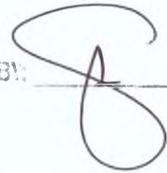
WIN GATCHALIAN

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

1 Section 1. Section 8 of Republic Act No. 7638 is hereby amended to read as
2 follows:

3
4 "SECTION 8. The Secretary. – The Secretary shall be appointed
5 by the President, subject to confirmation by the Commission on
6 Appointments.

7
8 [~~No officer, external auditor, accountant, or legal counsel of any~~
9 ~~private company or enterprise primarily engaged in the energy~~
10 ~~industry shall be eligible for appointment as Secretary within two~~
11 ~~(2) years from his retirement, resignation, or separation~~
12 ~~therefrom.]~~

13
14 **THE SECRETARY SHALL, UPON APPOINTMENT:**

15 **A) PUBLICLY DISCLOSE THE FOLLOWING:**

1 (i) ANY DIRECTORSHIP, EMPLOYMENT,
2 CONSULTANCY, CONTRACT OF SERVICE,
3 CONNECTION WITH, OR PECUNIARY INTEREST
4 IN ANY ENERGY INDUSTRY PARTICIPANT IN
5 THE PAST FIVE (5) YEARS PRIOR TO THE
6 APPOINTMENT;

7 (ii) IF A SPOUSE, PARTNER, AND ANY RELATIVE BY
8 CONSANGUINITY OR AFFINITY WITHIN THE
9 FOURTH CIVIL DEGREE IS A DIRECTOR,
10 OFFICER, EMPLOYEE, CONSULTANT, OR HAS A
11 CONTRACT OF SERVICE, ANY CONNECTION, OR
12 PECUNIARY INTEREST IN ANY ENERGY
13 PARTICIPANT IN THE PAST FIVE (5) YEARS
14 PRIOR TO THE APPOINTMENT;

15 B) DIVEST, THROUGH SALE OR LEGAL DISPOSITION,
16 ANY AND ALL INTERESTS IN ANY ENERGY INDUSTRY
17 PARTICIPANT; AND

18 C) TERMINATE ANY DIRECTORSHIP, EMPLOYMENT,
19 CONSULTANCY, CONTRACT OF SERVICE, OR ANY
20 CONNECTION WITH ANY ENERGY INDUSTRY
21 PARTICIPANT.

22
23 XXX"

24
25 Section 2. Separability Clause. – Should any provision of this Act be held
26 unconstitutional, no other provision hereof shall be affected thereby.

27
28 Section 3. Effectivity. – This Act shall take effect fifteen (15) days after its
29 publication in at least two (2) newspapers of general circulation.

Approved,