

20 December 2019

REPRESENTATIVE PRECIOUS HIPOLITO CASTELO

Second District of Quezon City
House of Representatives
Batasan Complex, Batasan Hills
Quezon City

Dear **Representative Castelo**:

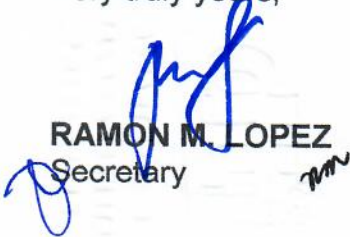
We are pleased to submit the Department's position on House Bill No. 3866, entitled:

An Act Protecting Consumers from Unreasonable Fee Increases by Providing for a Consumer Group Representation in the Governing Boards of Government Regulatory Bodies, Amending for the Purpose Their Respective Charters, and For Other Purposes

This is without prejudice to the Department's submission of additional inputs.

With my best regards.

Very truly yours,



RAMON M. LOPEZ
Secretary

OFFICE OF THE SECRETARY

DTI Position on

House Bill No. 3866

An Act Protecting Consumers from Unreasonable Fee Increases by Providing for a Consumer Group Representation in the Governing Boards of Government Regulatory Bodies, Amending for the Purpose Their Respective Charters, and For Other Purposes

The Department supports the objective of the proposed legislation in protecting the interests and rights of consumers, particularly on the issue of increases in fees, by including at least one (1) consumer group representative to governing boards of the six (6) specified government regulatory bodies. This would help establish adequate consultation mechanisms by allotting a minimum of one (1) vote for consumer representation during board meetings.

Proposed Provision	DTI Position
<p>Sec. 3. Consumer Group. – For purposes of this Act, a consumer group shall refer to a representative organization, registered under the Securities and Exchange Commission, which has been established and organized to cater to a national constituency, and whose mandate includes the protection of the interests and rights of consumers in a specific sector that is being regulated by a government regulatory body.</p>	<p>The Department suggests for the definition of consumer group to include consumer organizations duly recognized by the Department of Trade and Industry.¹</p>
<p>Sec. 4. Coverage. – The Governing Boards of the following government regulatory bodies shall include at least one (1) member who shall represent the consumer group belonging to the sector being regulated by the government regulatory body concerned:</p> <p>a) Land Transportation and Franchising Regulatory Board, created by Executive Order No. 292;</p> <p>b) Toll Regulatory Board, created by Presidential Decree No. 1112;</p> <p>c) Energy Regulatory Commission, created by Republic Act No. 9136;</p> <p>d) Manila Waterworks and Sewerage System, created by Executive Order No. 1036;</p> <p>e) Local Water Utilities Administration, created by Presidential Decree No. 198,</p>	<ul style="list-style-type: none"> • We note that the compositions of the governing boards covered by the bill do not have similar requirements. Some boards have very specific and high-level requirements for their officials (See Annex A) as provided for in their respective legislations and executive issuances which may require specific amendments, as applicable. • While the bill does not indicate that its coverage will be solely on regulatory bodies of public utilities, the DTI also seeks clarification on the non-inclusion of the following regulatory bodies related to public utilities: <ul style="list-style-type: none"> - Civil Aeronautics Board (CAB) for transportation; - Housing and Land Use Regulatory

¹ Department Administrative Order (DAO) No. 17-07, Series of 2017, Guidelines on the Recognition of Consumer Organizations (CO).

<p>as amended; and f) National Telecommunications Commission, created by Executive Order No. 546.</p> <p>Such member of the respective governing boards of the afore-mentioned government regulatory bodies shall be called the Consumer Group Representative.</p> <p>The Consumer Group Representative shall perform the same functions, shall have the same voting rights, shall be paid the same salaries, remunerations and emoluments, and enjoy the same privileges as those enjoyed by other members of the Governing Board of the government regulatory authority concerned.</p>	<p>Board (HLURB) for public housing; - Metropolitan Waterworks and Sewerage System (MWSS) Regulatory Office; and - National Water Resources Board (NWRB) for water.</p> <ul style="list-style-type: none"> • As the Consumer Group Representative shall be on equal footing with the rest of the Governing Board members of government regulatory bodies, including salaries, remunerations and emoluments, the Department deems it important to determine the source of funds for the purpose.
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The DTI notes that consumers are well represented in the management, coordination and effectiveness of consumer programs by allotting four (4) representatives from consumer organizations of nationwide base to be part of the National Consumer Affairs Council (NCAC), which was established under Article 148 of Republic Act (RA) No. 7394 or the Consumer Act of the Philippines.

In this regard, the DTI views that a careful study and extensive review should be sought to analyze the pros and cons of the legislation, and assess whether there are other options to strengthen consumer representation in policy crafting and/or decision-making, and consider implications of the proposed legislation on the laws and regulations governing the creation of the respective boards.

Karyapin Chay

Bureau of Trade and Industrial Policy Research

20 December 2019

Ref: BTIPR-102019-031

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ANNEX A

Composition of the Governing Boards

- Land Transportation and Franchising Regulatory Board (LTFRB), created by Executive Order No. 292

*SECTION 16. Composition of the Board.—The Board shall be composed of a **Chairman** and two (2) members with the rank, salary and privileges of an **Assistant Secretary**, all of whom shall be appointed by the President of the Philippines upon recommendation of the Secretary of Transportation and Communications. One (1) member of the Board shall be a **member of the Bar** and shall have been engaged in the practice of law in the Philippines for at least five (5) years, another a holder of a **degree in civil engineering**, and the other a holder of a **degree in economics, finance or management** both with the same number of years of experience and practice.*

- Toll Regulatory Board, created by Presidential Decree No. 1112

*Section 2. Toll Regulatory Board. There is hereby created the Toll Regulatory Board hereinafter referred to as the "Board" to be composed of the **Deputy Director-General for Program and Projects of the National Economic and Development Authority** as Chairman, the **Undersecretary of Public Highways** and the **Undersecretary of Finance** as Members.*

- Energy Regulatory Commission, created by Republic Act No. 9136

SEC. 38. Creation of the Energy Regulatory Commission.

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*The Commission shall be composed of a Chairman and four (4) members to be appointed by the President of the Philippines. The Chairman and the members of the Commission shall be natural-born citizens and residents of the Philippines, persons of good moral character, at least thirty-five (35) years of age, and of **recognized competence in any of the following fields: energy, law, economics, finance, commerce, or engineering**, with at least three (3) years actual and distinguished experience in their respective fields of expertise: Provided, That out of the four (4) members of the Commission, at least one (1) shall be a **member of the Philippine Bar** with at least ten (10) years experience in the active practice of law, and one (1) shall be a **certified public accountant** with at least ten (10) years experience in active practice.*

- Manila Waterworks and Sewerage System, created by Executive Order No. 1036

SECTION 1. The first and second paragraphs and subsections (e) and (f) of the fourth paragraph of Section 4 of Republic Act No. 6234, as amended, are hereby further amended to read as follows:

*"SEC. 4. The Board of Trustees, Composition; Qualifications; Tenure; Powers and Duties. The corporate powers and functions of the System shall be vested in and exercised by a Board of Trustees composed of seven (7) members consisting of the **Minister of Public Works and Highways** as ex*

*officio Chairman, unless the President of the Philippines shall appoint another person as Chairman, the **Administrator of the System** as Vice-Chairman, four (4) members who shall be appointed by the President of the Philippines, and the Government Corporate Counsel as ex officio member who shall be the legal adviser of the Board.*

Section 4. The Board of Trustees, composition; qualification; appointment; tenure. The corporate powers and functions of the System shall be vested in and exercised by a Board of Trustees composed of seven (7) members consisting of the **Minister of Public Works and Highways** as ex officio Chairman, unless the President of the Philippines shall appoint another person as Chairman, the **Administrator of the System** as Vice-Chairman, **four (4) members** who shall be appointed by the President of the Philippines, and the **Government Corporate Counsel** as ex officio member who shall be the legal adviser of the Board.

- Local Water Utilities Administration, created by Presidential Decree No. 198, as amended

*Section 8. Number and Qualifications. - The Board of Directors of a district shall be composed of five citizens of the Philippines who are of voting age and residents within the district. One member shall be a **representative of civic-oriented service clubs**, one member a **representative of business, commercial, or financial organizations**, one member a **representative of educational or religious institutions** and one member a **representative of women's organizations**. No director may be an elected official of the government.*

- National Telecommunications Commission, created by Executive Order No. 546

*Sec. 16. Organization of the Commission. The Commission shall be composed of a Commissioner and two Deputy Commissioners, preferably one of whom shall be a **lawyer** and another an **economist**. The Commissioner and Deputy Commissioners shall be of unquestioned integrity, proven competence, and recognized as experts in their fields, related, as much as possible, to communications.*

Composition of the Governing Boards of Other Regulatory Bodies Related to Public Utilities

- Civil Aeronautics Board, created by Republic Act No. 776

*SECTION 5. Composition of the Board. - The Civil Aeronautics Board shall be composed of the **Secretary of Transportation and Communications** or his designated representative as Chairman, the **Assistant Secretary for Air Transportation** of the Department of Transportation and Communications as Vice-Chairman, the **Commanding General of the Philippine Air Force*** and **two (2) members** to be appointed by the President of the Philippines. They shall hold office at the pleasure of the President. No member of the Board shall have any pecuniary interest in, or own any stock or bond of, any civil aeronautics enterprise.*

- Housing and Land Use Regulatory Board, created by Republic Act No. 9904

*Section 50. Composition of the Board. – Unless otherwise provided in the by-laws, the board shall be composed of **at least five (5) but not more than fifteen (15) elected members of the association.***

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Section 52. Qualifications of Officers. – A director and officer of an association –

- a. Must be legal age;*
- b. Must be a member in good standing;*
- c. Must be **an actual resident of the subdivision, housing or relocation project** for at least six (6) months as certified by the association secretary or in default thereof, by a member having personal knowledge thereof; and,*
- d. Has not been convicted by final judgment of an offense involving moral turpitude.*

- Metropolitan Waterworks and Sewerage System (MWSS), created by Republic Act No. 6234

*Section 4. The Board of Trustees, composition; qualification; appointment; tenure. The corporate powers and functions of the System shall be vested in and exercised by a Board of Trustees composed of a Chairman, the General Manager as ex-officio Vice-Chairman and three members, one of whom shall be **nominated by the Labor Union representing the majority of the rank and file of the employees in the System.** They shall possess any one or a combination of the following qualifications; **duly licensed professional of recognized competence in civil engineering and/or sanitary engineering, business management and finance, and law, or recognized labor leader** within the ranks with sufficient training, particularly in the field of labor-management relations or corporate practice, all of good moral character with at least five (5) years of actual and distinguished experience in their respective fields of expertise.*

- National Water Resources Board (NWRB), created by Executive Order No. 860

SECTION 2. The members of the NWRB shall be composed of the following;

Chair: Secretary of Environment and Natural Resources;

Vice-Chair: Secretary of Socio-Economic Planning

Members: Secretary of Justice, Secretary of Science and Technology, and Director, National Hydraulic Research Center, University of the Philippines