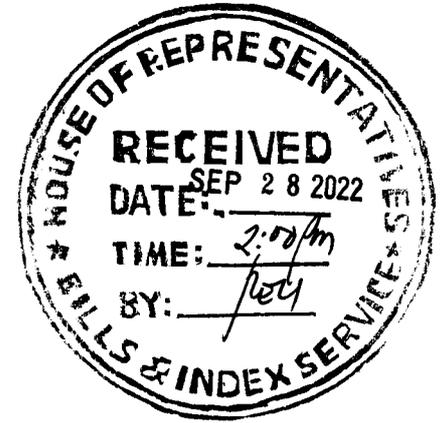


REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
QUEZON CITY

EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 5222



Introduced by
REPRESENTATIVE ATTY. GERVILLE "JINKY BITRICS" R. LUISTRO

EXPLANATORY NOTE

One of the major problems of the country is garbage. According to the Department of Environment and Natural Resources (DENR), the Philippines is producing over 21 million metric tons (MT) of garbage per year, or an average per capita generation of 0.4 kilos per day¹. This is despite the enactment of Republic Act No. 9003 or the Ecological Solid Waste Management Act of 2000 which mandates the State to adopt a comprehensive solid waste management program that will warrant proper segregation, collection, transport, storage, treatment, and disposal of waste. This allows the government to formulate and adopt an effective ecological waste management approach.

On the other hand, Republic Act No. 8749 or the Philippine Clean Air Act of 1999, prohibits incineration of municipal, biomedical and hazardous wastes. This process emits poisonous and toxic fumes. With the prohibition of incineration, modern measures relating to waste management that undergo burning process cannot be adopted even if the measures developed a level wherein emitted fumes are no longer harmful to humans. Hence, this may be a sound option for the government to undertake.

Waste-to-energy (WTE), or energy produced by incinerating waste to create heat, is a technology that began its breakthrough in the late 1970s. It is a process of generating energy in the form of electric heat from the incineration of waste. Compared to the first commercial-grade, utility-grade WTE plant commissioned in Saugus, Massachusetts in 1975², the upgraded WTE plant technology has come a long way in terms of minimizing its emissions while producing sustainable energy fueled by solid waste.

¹ DENR News Alert 2021

(https://www.denr.gov.ph/images/DENR_News_Alerts/DENR_News_Alerts_10_January_2021_Sunday.pdf)

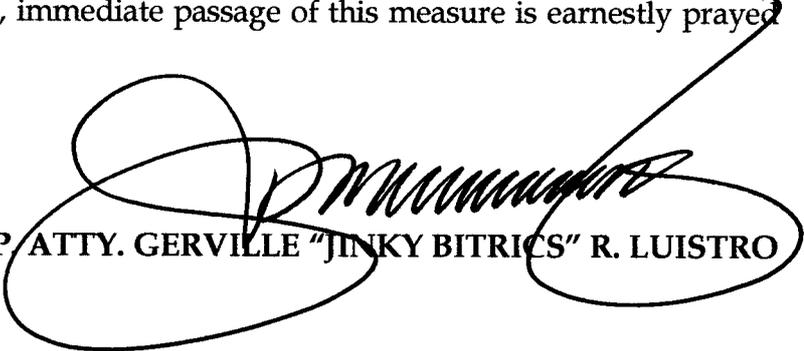
² Biomass Article (<https://biomassmagazine.com/articles/3088/witnessing-a-waste-to-energy-revival>)

is concerned. Consequently, we will be able to address the country's electric power concerns, primarily because of our dependence to non-renewable energy sources.

This bill seeks to amend certain provisions of R.A. No. 9003 and R.A. No. 8749 to allow the consideration and implementation of vital and modern approach in resolving the persistent garbage problem of the State. In the process, this approach is expected to attract more investors through the provision of fiscal and non-fiscal incentives. Thus, converting our waste to energy may be a good, if not the best, solution to solve both.

This proposed bill was likewise filed on the 18th Congress, underwent thorough deliberations, and was subsequently passed on the Third Reading. It is noteworthy to recognize the efforts poured by its primary sponsors, namely, Representatives Carlito S. Marquez, Carlos O. Cojuangco, Enrico A Pineda, Michael Odyon L. Romero, PhD, Manuel DG. Cabochan, Abraham "Bambol" N. Tolentino, Alfred Vargas, David "Jay-Jay" C. Suarez, Anna Marie Villaraza-Suarez, Aleta C. Suarez, Jocelyn Sy Limkaichong, Eric L Olivarez, and Rodrigo A. Abellanos.

In view of the foregoing, immediate passage of this measure is earnestly prayed for.



REP. ATTY. GERVILLE "JINKY BITRICS" R. LUISTRO

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HOUSE BILL NO. 5222

Introduced by
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**AN ACT REGULATING THE USE OF TREATMENT TECHNOLOGY FOR
MUNICIPAL AND HAZARDOUS WASTES, REPEALING FOR THE PURPOSE
SECTION 20 OF REPUBLIC ACT NO. 8749, OTHERWISE KNOWN AS
"THE PHILIPPINE CLEAN AIR ACT OF 1999"**

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

SECTION 1. Title. This Act shall be known and referred to as the "Regulation of Waste Treatment Technology Act".

SECTION 2. Regulation of Waste Treatment Technology. Thermal and other treatment technologies for the disposal of municipal and hazardous wastes, or for the processing of any material for fuel, whether for commercial use or not, shall be designed and operated to meet the standards established in this Act and its implementing rules and regulation: *Provided, That these technologies shall be fitted with equipment that will continuously monitor, record and make publicly available the reported data on their emissions or air pollutant concentrations: Provided, however, That units that recover energy shall be prioritized: Provided, further, That entities utilizing units shall incorporate in their facilities or operations proper materials recovery program: Provided, finally, That thermal treatment units shall treat wastes at a temperature of not less than eight hundred fifty degrees centigrade (850°c).*

SECTION 3. Role of the Department of Environment and Natural Resources (DENR). The DENR shall be primarily responsible for the implementation and enforcement of this Act. It shall likewise promote the use of state-of-the-art, environmentally-sound and safe technologies for the handling, treatment, thermal or non-thermal destruction, utilization, and disposal of residual wastes.

SECTION 4. Role of Local Government Units (LGUs) in Setting Up Treatment Facilities. The LGUs are hereby mandated to promote, encourage and implement in their respective jurisdiction a comprehensive solid waste management plan that includes waste segregation, recycling and composting.

The establishment of treatment facilities shall be facilitated by LGUs within a region, province, or strategically clustered LGUs in consonance with their ten (10)-year solid waste management plans made consistent with the national solid waste management framework established pursuant to R.A. No. 9003, otherwise known as the Ecological Solid Waste Management Act of 2000. The solid waste management plans of all the LGUs shall be subjected to the approval of the National Solid Waste Management Commission (NSWMC).

SECTION 5. Role of the National Solid Waste Management Commission (NSWMC). Pursuant to the provisions of R.A. 9003, the NSWMC shall ensure the establishment of a comprehensive solid waste management plan in all LGUs, which shall incorporate waste segregation, recycling and composting, and disposal. The NSWMC shall approve or deny the plan, or supplemental disposal plan of all LGUs, which may carry out treatment projects, within ten (10) working days from its submission. The Department of Science and Technology (DOST) shall likewise process the application of said projects for the necessary technology verification within the same period. However, for new technology, the DOST shall have twenty (20) working days from the receipt of the application of said projects to process the verification. In all cases, the approving body shall put in writing the reasons for either approving or denying the plan.

SECTION 6. Responsibility of Owner and Operator. Responsibility for compliance with the standards promulgated for the establishment and operation of waste treatment facilities shall rest with the owner and/or operator thereof. If by contract the operator is bound to be held primarily responsible and solely responsible for compliance with the standards, the same shall not relieve the owner of the requirement to exercise due diligence to assure that the required compliance by operators are met. In the event that the ownership of the facility is transferred to another person, the previous owner shall notify the new owner of the standards and the conditions set for the operation of said facility, and the laws and regulations that the new owner has to comply with. The standards for operation of waste treatment facility may be made more stringent by five percent (5%): *Provided*, That the same shall be effected ten (10) years following the commencement of the operation of the facility established after the effectivity of this Act.

SECTION 7. Incentives. (a) Fiscal Incentives. The following tax incentives shall be granted to registered enterprises which shall invest in waste treatment facilities:

- 1) ***Income Tax Holiday.*** Within the first seven (7) years of its operations, the treatment facility shall be exempt from income taxes levied by the national government.

- 2) ***Tax and Duty Exemption on Imported Capital Equipment and Vehicles.*** Within the first ten (10) years of operations, registered enterprises which invested in the treatment facility shall enjoy tax and duty free importation of machinery, equipment, vehicles and spare parts used for setting up the treatment facility: *Provided*, That the importation of such machineries, equipment, garbage collection vehicles, and spare parts shall comply with the following conditions:
- (i) They are not manufactures domestically in sufficient quantity, of comparable quality and reasonable prices;
 - (ii) They are reasonably needed and will be used exclusively by the registered enterprise in the manufacture of its products, unless prior approval of the Board of Investments (BOI) of the Department of Trade and Industry (DTI) is secured for the part-time utilization of the said equipment in a non-registered activity to maximize usage thereof or the proportionate taxes and duties are paid on the specific equipment and machinery being permanently used for non-registered activities;
 - (iii) The importation of such machinery, equipment, vehicle and spare parts has been approved by the Board of Investments (BOI) of the Department of Trade and Industry (DTI).

Provided, further, That the sale, transfer or disposition of such machinery, equipment, vehicle and spare parts within five (5) years from the date of acquisition shall be prohibited, without prior approval of the BOI, otherwise, the registered enterprise and the vendee, transferee, or assignee shall be solidarily liable to pay twice the amount of tax and duty exemption given it.

- 3) ***Tax Credit on Domestic Equipment.*** A tax credit equivalent to one hundred percent (100%) of the amount of the value-added tax and custom duties that would have paid on the machinery, equipment, components, parts and materials had these items been imported shall be given to a contract holder who purchases machinery, equipment, component, parts and materials: *Provided*, That such are directly needed and shall be used exclusively by the waste treatment facility.
- 4) ***Tax and Duty Exemption of Donations, Legacies and Gifts.*** All legacies, gifts and donations to LGUs, enterprises or private entities, including non-government organizations (NGOs) for the support and maintenance of the program for setting up of treatment technologies shall be exempt from all internal revenue taxes and custom duties, and

shall be deductible in full from the gross income of the donor for income tax purposes.

- (b) **Non-Fiscal Incentives.** LGUs, enterprises or private entities availing the tax incentives under this Act shall also be entitled to applicable non-fiscal incentives provided for under the Omnibus Investments Code.

The NSWMC shall provide incentives to businesses and industries that are engaged in the treatment of wastes which are registered with the NSWMC and have been issued the required Environmental Compliance Certificate (ECC) in accordance with guidelines established by the NSWMC. Such incentives shall include simplified procedures for the importation of equipment, spare parts, new materials, and supplies, and for the export of processed products.

- (c) **Financial Assistance Program.** Government financial institutions such as the Land Bank of the Philippines (LBP), Development Bank of the Philippines (DBP), Government Service Insurance System (GSIS), and such other government institutions providing financial services shall, in accordance with and to the extent allowed by the enabling provisions of their respective charters or applicable laws, accord high priority in the extension of financial services to individuals, enterprises, or private entities engaged in putting up treatment facilities: *Provided*, That these institutions shall allocate five percent (5%) of their loan portfolio to waste treatment projects.
- (d) **Extension of Grants to LGUs.** Provinces, cities and municipalities whose treatment facilities plans have been duly approved by the NSWMC or who have been commended by the NSWMC for adopting innovative waste treatment program.
- (e) **Incentives to Host LGUs.** LGUs who host common treatment facilities shall be entitled to incentives as may be determined by the NSWMC.

SECTION 8. Fines and Penalties. Violations of the provisions of this Act, or the standards or rules and regulations promulgated for treatment facilities shall be fined and penalized under the provisions of Presidential Decree No. 1586; Republic Act No. 6969, otherwise known as the "Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990"; Republic Act No. 8749, otherwise known as the "Philippine Clean Air Act of 1999"; and Republic Act No. 9275, otherwise known as the "Philippine Clean Water Act of 2004". For waste-to-energy facilities, the penal schemes established under the Philippine Grid Code and Philippine Distribution Code pursuant to Republic Act No. 9136, also known as the "Electric Power Industry Reform Act of 2001" shall likewise apply for this purpose.

SECTION 9. Implementing Rules and Regulations. The DENR, in coordination with the NSWMC, Department of Energy (DOE), BOI, Bureau of Internal Revenue (BIR), Bureau of Customs (BoC), academe or research institutions, and other concerned agencies, shall promulgate the implementing rules and regulations for this Act, within three (3) months after its enactment.

SECTION 10. Annual Report. The NSWMC shall submit an annual report to the President of the Philippines and to Congress on the status of disposal management and the use of treatment facilities in the country not later than March 30 of every year following the approval of this Act.

SECTION 11. Separability Clause. If any part or section of this Act is declared unconstitutional, such declaration shall not affect the other parts or sections of this Act.

SECTION 12. Repealing Clause. Section 20 of Republic Act No. 8749 is hereby repealed. Provisions of Republic Act No. 9003, and other laws, presidential decrees, executive orders, rules and regulations inconsistent with any provision of this Act shall be deemed repealed or modified accordingly.

SECTION 13. Effectivity. This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,