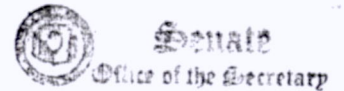


SEVENTEENTH CONGRESS OF THE]
REPUBLIC OF THE PHILIPPINES]
Third Regular Session]



'18 AUG -2 P 6:55

SENATE

S.B. No. 1907

RECEIVED BY

Introduced by SEN. WIN T. GATCHALIAN

**AN ACT
AMENDING INVESTMENT RESTRICTIONS IN COMMONWEALTH ACT
NO. 541, AS AMENDED BY LETTER OF INSTRUCTIONS NO. 630, AND
FOR OTHER PURPOSES**


EXPLANATORY NOTE

Commonwealth Act No. 541 (C.A. 541), also called "An Act to Regulate the Awarding of Contracts for Construction or Repair of Public Works," was enacted in 1940, a time when the Philippines was still transitioning to full independence, setting-up its own government, promoting local capital and industrialization, and establishing the basis for national defense while World War II was looming. Clearly, the principle of competitiveness enshrined in the 1987 Constitution and in the Philippine Competition Act was diluted and not a priority in the minds of the then National Assembly when a domestic preference policy was adopted by the Government in the awarding of public works projects to the local construction industry.

For seventy-eight years, such domestic preference policy has confined competition in the construction industry within our territorial boundaries and has discriminated in favor of domestic businesses with substantial market power and political influence. Between 2010 and 2015, public construction

grew by 8% while private construction grew by 58%.¹ The lack of genuine competition in the public construction industry impairs public welfare as there are fewer incentives for existing domestic firms to innovate and puts at risk the delivery of reliable, safety-compliant and quality public works.

Accordingly, this bill should be considered in the context of positioning the Philippines more competitively and attracting new investments in the construction industry to enable the Government to deliver the much-needed infrastructure that would support the country's initiatives in providing a business climate conducive to investments in the country. In this light, this bill seeks to provide a more level playing field and extend equal opportunities to eligible and qualified domestic and foreign bidders to participate in the bidding by the Government for public works projects. It is hoped that the enactment of this measure will encourage and attract foreign firms possessing the capacity to construct vital projects and capable of sharing technical expertise with local firms to enter the Philippine construction market.



WIN GATCHALIAN

¹ Philippine Competition Commission's Policy Note No. 1, Series of 2017, entitled "Anti-Competitive Effects of Regulatory Restrictions: The Case of the Construction Sector."