



**Management of Regionally-Owned Enterprises Based on Presidential Regulation Number 59 of 2017 Concerning the Implementation of Achieving Sustainable Development Goals in Linkage to the Job Creation Law Number 6 of 2023**

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*Abstract*

*Sustainable Development Goals (SDGs) is a sustainable development program in which there are 17 goals with 169 measurable targets with a specified deadline. SDGs are a development agenda, Regionally-Owned Enterprises (BUMD) are companies established and owned by the regional government. BUMD is managed directly by the regional government and is capitalized by the central government from the wealth of the region. BUMD (sub-national State Owned Enterprise) has become one of the forms of business entities recognized in Indonesia since the enactment of Law Number 5 of 1962 concerning Regional Companies. In conducting this research, the researcher used a type of normative legal research. Normative legal research is conceptual legal research as contained in statutory regulations and conceptual in other legal rules that exist in society regarding a particular legal problem. In this study, the researcher used a type of normative research, namely research conducted by examining statutory regulations or other regulations applied in resolving a particular legal problem. This normative research is often called doctrinal research where the object of study is a document of laws and regulations and library materials which are basic data which in research science are classified as secondary data. Presidential Regulation Number 59 of 2017 confirms that the President of the Republic of Indonesia personally leads the implementation of TPB/SDGs as the Chair of the Steering Committee and the Minister of National Development Planning/Head of BAPPENAS is appointed as the Implementation Coordinator. In the Cabinet Meeting in December 2015, the President of the Republic of Indonesia directed to optimize the coordinating role of the Ministry of PPN/BAPPENAS by involving all parties (government, parliament, mass organizations and media, philanthropy and business, experts and academics) to synergize according to the roles, functions and capabilities of the parties, and use existing institutions so that they can work directly, both strategically and operationally.*

*Keywords: Management , BUMD, Sustainable Development*

**Introduction**

BUMD has a very important and strategic position in supporting regional development, apart from the objectives of establishing BUMD above, one of the efforts of the Indonesian Government to establish... BUMD has two main objectives namely economic



goals and social goals, this is a study of the aspect of sustainable development. In economic goals BUMD is intended to manage strategic business sectors so that they are not controlled by certain parties, while the social objective in this case is that the government always provides subsidies so that the management of BUMD can develop and become a company with good governance and its benefits can be felt by all levels of society.

The SDGs were published on October 21, 2015, replacing the previous program, namely the MDGs (Millennium Development Goals) as a common development goal until 2030 agreed upon by many countries in the United Nations (UN) resolution forum. So the development framework related to changes in the world situation that previously used the concept of MGDs is now replaced with SDGs. SDGs are the result of a participatory, transparent, and inclusive process for all stakeholder and community voices for 3 years. SDGs will represent an unprecedented agreement related to sustainable development priorities among 193 Member States.

The existence of the Job Creation Law is expected to be able to absorb the Indonesian workforce as widely as possible in the context of its technical preparation using the Omnibus Law model covering ten policy areas that previously had ten areas, as follows: 1. Improving the investment ecosystem and business activities 2. Employment 3. Ease, protection, and empowerment of cooperatives and MSMEs 4. Ease of doing business 5. Research and innovation support 6. Land acquisition 7. Economic Zones; 8. Central Government Investment and Acceleration of National Strategy Projects 9. Implementation of Government Administration 10. Imposition of sanctions Several times President Joko Widodo emphasized that investment and exports are two important things to improve. These two things are the pillars of national economic growth and open up jobs in Indonesia. This was stated by President Jokowi when opening the Plenary Cabinet Session at the State Palace on Wednesday, May 16, 2024 afternoon, in front of the Working Cabinet ministers.

In order to increase investment interest, President Joko Widodo has made many breakthroughs in changing regulations that hinder investment. In addition, the government has also shortened licensing procedures by simplifying and accelerating the licensing process in business. So far, in managing business permits, there have always been constraints on time and certainty, the length of time it takes to process a business permit cannot be predicted, and



unclear regulations and conflicting business licensing procedures have always been obstacles in doing business. The constraints on regulations and permits in investing are what finally made President Joko Widodo launch the concept of Omnibus Law in legislation. This concept was first conveyed by President Joko Widodo in his first speech after his inauguration as president for the second time for the 2019-2024 period. This idea certainly made politicians and legal experts review what is meant by the Omnibus Law.

Indonesia has gone through a government regime from the Old Order to the Reformation Order. The change of President and government cabinet resulted in the birth of many laws and regulations according to the wishes of each government in power at that time. This then gave rise to regulatory issues where there were several overlapping laws and regulations, causing policy conflicts between one ministry and another. To resolve these regulatory issues, an appropriate legal breakthrough is needed and one way out is through the Omnibus Law concept. For some people, the term Omnibus Law still feels foreign. Even some legal academics are still debating the Omnibus Law concept if it is implemented, it is feared that it will disrupt the Indonesian legal system because it is suspected that the cause is the dominant legal system adopted in Indonesia is Civil Law, while this Omnibus Law comes from the Common Law legal system. This is then the idea becomes interesting to study from the legal system in force in Indonesia.

From the above laws and regulations, it is found that there is no Law specifically regulating BUMD as a legal umbrella for BUMD, this is a problem that often arises along with the many BUMDs whose conditions are still quite concerning, when viewed from the quantity side, the development of the number of BUMDs is indeed quite encouraging. As stated by the Chairperson of the BUMD *Business Summit* 2016, Ahmad Zaidin, the number of BUMDs throughout Indonesia has more than doubled in the period 2014-2016 reaching 1700 BUMDs. The increase in the number of BUMDs is in line with the strong desire of regional governments in the era of regional autonomy to establish BUMDs to manage regional potential to generate regional original income (PAD), and provide services to the community in the relevant regions. Unfortunately, the quantity of BUMDs is not accompanied by the quality of their performance. The existing BUMDs have not been able to provide a significant contribution to regional original income (PAD), in fact they have



received more injections of funds from the regional government than the profits obtained, thus burdening the APBD

Based on the above explanation, this paper will analyze **the Management of Regionally-Owned Enterprises Based on Presidential Regulation Number 59 of 2017 Concerning the Implementation of Achieving Sustainable Development Goals in relation to the Job Creation Law Number 6 of 2023**. In the legal discipline, it is said and divided into 2 (two) types of research, namely, Normative and Empirical research. In this study, the author uses Normative research, where this research focuses on a secondary approach called research in the form of applicable laws and legal rules and primary data as supporting data. The purpose of law is to guarantee legal certainty based on justice to uphold an orderly social order and balance in relations between individuals in society. It is hoped that with the formation of an orderly social order, the interests of humanity will be protected. To achieve these goals, the law is responsible for dividing rights and obligations between individuals in society, sharing power, and standardizing methods for resolving legal problems and legal certainty.

In this case, the researcher makes a limitation of the problem formulation for writing this paper in order to have a limitation in a more systematic and fundamental discussion. The focus of the topics to be discussed are as follows:

1. Form and Governance of Regionally-Owned Enterprises (BUMD) in the Framework of Realizing Sustainable Development Based on Presidential Regulation Number 59 of 2017 concerning the Implementation of Achieving Sustainable Development Goals.
2. In relation to the enactment of Law Number 6 of 2023 concerning Job Creation, if the Governance of Regionally-Owned Enterprises is used as the Achievement of Sustainable Development Goals.?

### **Research methods**

In conducting this research, the researcher uses a normative legal research type. Normative legal research is conceptual legal research as contained in statutory regulations and conceptually contained in other legal rules that exist in society regarding a particular



legal problem. In this research, the researcher uses a normative research type, namely research conducted by examining statutory regulations. or other regulations applied in resolving a particular legal problem. This normative research is often called doctrinal research where the object of study is is a document of statutory regulations and library materials which are basic data which in research science are classified as secondary data. According to Soerjono Soekanto, legal research can be divided into: Normative Legal Research, consists of:

1. Research on legal principles
2. Research on legal systematics
3. Research on the level of legal synchronization
4. Legal history research
5. Comparative legal research

In accordance with the type of research, namely normative legal research (normative juridical), more than one approach can be used. In this study, the Legislation approach and the concept approach were used . The Legislation Approach is carried out to examine the Legislation rules that regulate In the perspective of legal theory, justice is the main objective of the natural law school. Where the natural law school is of the view that the law applies universally and eternally. In the context of Indonesia, justice is in line with the values stated in Pancasila as the foundation of the state. The fifth article in Pancasila states that social justice for all Indonesian people, based on this article it can be said that justice must be aimed at all citizens without exception as a manifestation of Indonesia's diversity. To realize social justice can be done through development that is oriented towards the welfare of all Indonesian people. In comprehensive development, legal development is an aspect that cannot be separated.

### **Research Results and Discussion**

**Form and Governance of Regionally-Owned Enterprises (BUMD) in the Framework of Realizing Sustainable Development Based on Presidential Regulation Number 59 of 2017 concerning the Implementation of Achieving Sustainable Development Goals.**



The poor condition of BUMD in Indonesia today, where the number of unhealthy BUMD is greater than the number of healthy BUMD. The absence of equal treatment for BUMD, namely as a company that is required to make a profit, causes BUMD to be unable to compete with other more advanced private companies. BUMD also faces the problem of minimal capital due to the lack of attention from the owner in this case the local government, although there are local governments that pay more attention to the capital aspect of BUMD, they still have to face the problem of political obstacles, due to the wrong interpretation of the politicians of the Regional People's Representative Council (DPRD) in understanding the regulations. As a result, the process of strengthening BUMD capital becomes inefficient. It should be noted that for every capital participation made by the local government, it must be done through a Regional Regulation.

One of the objectives of the establishment of regional autonomy is given to regional governments so that they can regulate and manage their own government affairs according to the principles of autonomy and assistance tasks. Even regional autonomy is given as widely as possible to accelerate the realization of community welfare, as well as to increase regional competitiveness in the Unitary State of the Republic of Indonesia. For this reason, regional governments can regulate several areas of life in their regions themselves, including social, cultural, health, education, economic, and so on. In the economic sector, regional governments can establish BUMDs to manage regional potential, improve the regional economy, and provide services to the community to realize community welfare and prosperity, the following are examples of BUMDs in the regions:

- 1) Regional Development Bank (BPD)
- 2) Regional Drinking Water Company (PDAM)
- 3) Regional City Transportation Company (City Bus)
- 4) Regional Intercity Transportation Company (AKDP and AKAP Buses)
- 5) Regional Animal Slaughterhouse Company (PDRPH)

Based on Article 334 paragraph 1 of Law Number 23 of 2014 and Article 5 paragraph 1 of Government Regulation Number 54 of 2017, there are two legal forms of BUMD, namely Regional Public Company (Perumda) and Regional Limited Liability Company (Perseroda). Perumda is a BUMD whose entire capital is owned by one region and is not



divided into shares. Thus, referring to the characteristics of BUMD contained in Article 6 of Government Regulation Number 54 of 2017, Perumda can only be owned by one region. Meanwhile, what is meant by Perseroda based on Article 339 paragraph 1 of Law Number 23 of 2014 and Article 5 paragraph 2 of Government Regulation Number 54 of 2017 is a BUMD in the form of a Limited Liability Company (PT) whose capital is divided into shares, all or at least 51% (fifty one percent) of which are owned by one region. Considering that the form of Perseroda is PT, Perseroda must also comply with Law Number 40 of 2007 concerning Limited Liability Companies. A Limited Liability Company is a partnership in the form of a legal entity, called a company.

The limited liability of shareholders on the nominal value of the shares owned is an elaboration of the principle of limited liability of shareholders. Limited liability or limited liability or *limitatief aansprakelijkheid* or limited liability is a condition where shareholders or shareholders or *aandehouder* of a company are only responsible up to the number of shares they own in the company. In Government Regulation Number 54 of 2017, this principle is regulated in Article 20 which states that BUMD capital sourced from regional capital participation is the limit of regional liability for BUMD losses.

The TPB/SDGs Action Plan is a 5-year work plan document for the implementation of various activities that directly and indirectly support the achievement of national and regional targets. With this action plan, it is expected that related parties at the national and regional levels have commitment and clarity in planning and budgeting programs, as well as activities to achieve the TPB/SDGs targets. Presidential Regulation of the Republic of Indonesia Number 59 of 2017 concerning the Implementation of the Achievement of Sustainable Goals that the SDGs or in this regulation referred to as the Sustainable Development Goals (TPB) states that the RAN (National Action Plan) SDGs/TPB must be determined 6 months after the Presidential Regulation comes into effect (January 10, 2018) while the Provincial Government must have determined the RAD (Regional Action Plan) SDGs/TPB no later than 12 months after the Presidential Regulation comes into effect (July 10, 2018). The Regional Government is expected to map and integrate the TPB/SDGs targets and indicators into the RPJMD development agenda. The role of regions that are



implementing the RPJMD is to map the TPB/SDGs targets and indicators that are already in the RPJMD and update the TPB/SDGs targets and indicators in the RKPD.

Meanwhile, for regions that are currently and will be compiling RPJMD, they play a role by integrating the objectives, targets and indicators of TPB/SDGs into the RPJMD. Regions are also expected to allocate regional development programs and budgets in line with TPB/SDGs. In relation to the regional obligation to integrate TPB/SDGs into the regional development agenda, the Mojokerto Regency Government, which is currently implementing the 2016-2021 RPJMD and is currently designing a review of the RPJMD in 2019, needs to map the targets and indicators of TPB/SDGs that already exist in the initial RPJMD (2016-2021) and update the targets and indicators of TPB/SDGs and integrate the targets and indicators of TPB/SDGs into the 2016-2021 RPJMD Amendment. Furthermore, the identification/mapping and integration are realized in the preparation of the RAD TPB/SDGs

Based on the definition of Perseroda as explained above, it can be seen that a region can own all or 100% (one hundred percent) of Perseroda shares. Ownership of 100% (one hundred percent) shares by a region does not violate Law Number 40 of 2007 which requires the establishment of a PT to be carried out by 2 or more people. This is because there is an exception as regulated in Article 7 paragraph (7) of Law Number 40 of 2007 which states that the provisions requiring a PT to be established by 2 or more people do not apply to Persero whose shares are all owned by the state. With 100% (one hundred percent) share ownership, the only owner of Perseroda is automatically the region concerned. From the definition of Perseroda, it is also possible for a region to own at least 51% (fifty one percent) of shares. This means that there is a possibility for other parties to own Perseroda shares, as long as at least 51% (fifty one percent) of Perseroda shares are owned by one region. Thus Perseroda can be owned by:

- 1) One regional government that owns all of Perseroda's shares.
- 2) More than one local government, where one local government owns at least 51% of the shares.
- 3) One regional government with a non-region, where the regional government concerned owns at least 51% of the shares.



- 4) More than one regional government with a non-region, where one of the regional governments has at least 51% of the shares.

Given that one region must have at least 51% of shares, then in the case of a Perseroda owned by more than one regional government, one of the regional governments must own more than 51% of the Perseroda's shares. Both Perumda and Perseroda are business entities in the form of legal entities. Based on Article 4 paragraph 4 of Government Regulation Number 54 of 2017, the legal entity status of a Perumda is obtained when the Regional Regulation governing the establishment of a Perumda comes into effect. Meanwhile, for Perseroda, based on Article 4 paragraph 5 of Government Regulation Number 54 of 2017, the position of Perseroda as a legal entity is obtained in accordance with the provisions of the Law governing PT, namely Law Number 40 of 2007. Based on Article 7 paragraph 4 of Law Number 40 of 2007, Perseroda obtains legal entity status on the date of issuance of the Ministerial Decree concerning the ratification of the legal entity of the Company.

**In relation to the enactment of Law Number 6 of 2023 concerning Job Creation , if the Governance of Regionally-Owned Enterprises is used as a means of achieving Sustainable Development Goals**

The Omnibus Law was first practiced when Vietnam was about to adopt the results of its accession to the WTO in 2006. To implement this, the Prime Minister ordered the Ministry of Law to conduct research on the possibility of implementing the Omnibus approach in Vietnam. The results of the study showed that it was possible to implement the omnibus approach considering that there were no regulations prohibiting it. In addition, the overlapping regulations and the length of the legislative procedure to change an article were considerations for adopting the omnibus law in Vietnam. Considering the implementation of the Omnibus Law in other countries, the problem of harmonization of laws and regulations in Indonesia, the government needs to take a legal breakthrough to fix regulatory conflicts. The demand for improvement and correction of overlapping laws and regulations in Indonesia is very urgent to be done. One of the ideas of the Omnibus Law is likely to be implemented in Indonesia as long as it is given space and legal foundation.



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Omnibus Law is not new in the world of legal science globally, it's just that in Indonesia it is very necessary to fix overlapping laws and regulations. The process of harmonizing laws and regulations in addition to the obstacles above also takes a long time. With the Omnibus Law concept, regulations that are considered irrelevant or problematic can be resolved quickly. The order of laws and regulations in Indonesia must be revised and provide space to apply the Omnibus Law concept. Moreover, the current condition is that policy makers can easily be criminalized by law enforcement officers. The understanding of the law of law enforcement officers mostly uses the perspective of legal positivism, making it difficult to provide room for policy makers in this case officials to exercise discretion. Often the discretion exercised by policy makers ends in criminal charges because they are charged with committing corruption.

This is an irony where Indonesia as a country of law with all its instruments aims to protect human rights and provide justice for the majority of its citizens who are very urgent now to "bring justice to the people" by properly resolving issues that the people consider must be resolved legally. Another problem is when the act is disliked or hated by the community because it is detrimental or causes victims. In other words, to what extent does the issue or act conflict with the values that apply in society and the community considers it appropriate or inappropriate to be punished in order to organize public welfare and security.

Observing the legal system in Indonesia, the Law that will be produced from the Omnibus Law concept could lead to being an Umbrella Law because it regulates comprehensively and then has power over other regulations. However, in Indonesia, it does not adopt the Umbrella Law because the position of all Laws is the same. The problem that arises when examined from the perspective of the theory of legislation regarding its position, so that its position must be given legitimacy in Law Number 12 of 2011 concerning the Formation of Legislation must be amended.

The omnibus law concept has been implemented in our country, namely: (Results of the Seminar held by the Coordinating Ministry for Economic Affairs on October 30, 2019 in Jakarta) Government Regulation in Lieu of Law Number 1 of 2017 concerning Access to Financial Information for Tax Purposes in conjunction with Law Number 9 of 2017, which revokes Article 35 paragraph (2) & Article 35A of the Law on General Provisions and Tax



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Procedures Article 40 & Article 41 of the Banking Law Article 47 of the Capital Market Law, Article 17, Article 27, & Article 55 of the Commodity Futures Trading Law, Article 41 and Article 42 of the Sharia Banking Law, Law Number 23 of 2014 concerning Regional Government, which revokes Law Number 5 of 1962 concerning Regional Companies, Article 157, Article 158 paragraph (2) to paragraph (9), and Article 159 of the Regional Tax and Regional Retribution Law, Article 1 number 4, Article 314 to Article 412, Article 418 to Article 421 of Law Number 17 of 2014 concerning the MPR, DPR, DPRD, and DPD

Sustainable Development Goals (SDGs) are development that maintains the continuous improvement of people's economic welfare, development that maintains the sustainability of people's social life, development that maintains the quality of the environment and development that ensures justice and the implementation of governance that is able to maintain the improvement of the quality of life from one generation to the next. The preparation of the RAD-SDGs (Regional Action Plan - Sustainable Development Goals) of Mojokerto Regency for 2019-2021 is intended to identify and integrate SDGs targets and indicators into development planning documents.

Legal Updates on the Governance of Regionally-Owned Enterprises (BUMD) in the Framework of Realizing Sustainable Development, which have made a significant contribution to the economy and development of the country, and are then explicitly stated in the opening of the 1945 Constitution in the fourth paragraph, are actually intended for the characteristics of a state of law as stated in Article 1 paragraph (3) of the 1945 Constitution which states that "The State of Indonesia is a state of law." Thus, Legal Updates on the Governance of Regionally-Owned Enterprises (BUMD) in the Framework of Realizing Sustainable Development, can be done vertically by classifying the regulations governing BUMD from the highest level to the lowest or arranged hierarchically. Legal Updates on the Governance of Regionally-Owned Enterprises (BUMD) in the Framework of Realizing Sustainable Development, when examined according to the theory of vertical synchronization, are in accordance with the hierarchy and order of laws and regulations. Several things that need to be considered are related to the effectiveness of these laws and regulations. Mochtar Kusumaatmadja said that by achieving order in society, it is hoped that human interests will be protected. The presence of law according to Satjipto Rahardjo is to



integrate and coordinate interests that can conflict with one another. In order to achieve the objectives of law and the presence of the law, it begins with the formation of law or the creation of legislation (law making).

The theory of development law was initiated by Mochtar Kusumaatmadja as an Indonesian legal scholar regarding the function of law in national development which is described by the expression as a means of community renewal or as a means of development, the main ideas can be briefly stated as follows: That law is a means of community renewal based on the assumption that the existence of order or regularity in development or renewal efforts is something that is desired or even considered (absolutely) necessary. That law in the sense of legal rules or regulations can indeed function as a tool (regulator) or means of development in the sense of channeling the direction of human activities in the direction desired by development or renewal. Both functions are expected to be carried out by law in addition to its traditional function, namely to guarantee certainty and order.

Development is carried out to achieve the goals of the state in order to realize the desired situation and conditions of society as mandated in the opening of the 1945 Constitution of the Republic of Indonesia. According to Sunaryati Hartono, in achieving these goals must be achieved based on the philosophy of Pancasila. It is further stated that national development aims to realize a just and prosperous society that is evenly distributed materially and spiritually based on Pancasila in the framework of the Unitary State of the Republic of Indonesia which is independent, sovereign, united and sovereign of the people in an atmosphere of national life that is safe and peaceful, orderly and dynamic, as well as in an environment of world relations that is free, friendly, orderly and peaceful.

### **Conclusion**

Omnibus law is a product of a law that can revoke or change several existing laws that apply which can be spread across several regulations, then streamlined in one law to be more targeted which becomes a solution to the conflict between government administrators and laws and regulations with a specific aim to improve the investment climate and as a guarantee of legal certainty and legal protection for policy makers. In the hierarchy / order of laws and regulations in Indonesia, the concept of Omnibus Law has not been included as one of the



principles in the source of law, but harmonization of laws and regulations in Indonesia continues to be carried out to minimize conflicts of laws and regulations. The law that will later be produced from the Omnibus Law concept can be directed as an Umbrella Law because it regulates comprehensively and then has power over other regulations. However, in Indonesia, it does not adopt the Umbrella Law because the position of all laws is the same

Presidential Regulation Number 59 of 2017 confirms that the President of the Republic of Indonesia personally leads the implementation of TPB/SDGs as the Chairman of the Steering Committee and the Minister of National Development Planning/Head of BAPPENAS is appointed as the Implementation Coordinator. In the Cabinet Meeting in December 2015, the President of the Republic of Indonesia directed to optimize the coordinating role of the Ministry of PPN/BAPPENAS by involving all parties (government, parliament, mass organizations and media, philanthropy and business, experts and academics) to synergize according to the roles, functions and capabilities of the parties, and use existing institutions so that they can work directly, both strategically and operationally. The Ministry of PPN/BAPPENAS will coordinate the preparation of the TPB/SDGs Roadmap as a document of the stages of the TPB/SDGs implementation strategy for 2016-2030, the preparation of the TPB/SDGs National Action Plan which is a five-year document of the implementation of activities, both directly and indirectly, and facilitate the preparation of the Regional Action Plan as a five-year TPB/SDGs planning document at the regional level. Presidential Decree Number 59 of 2017 mandates that the preparation of the National Action Plan be completed within six months from the Presidential Decree being ratified, and the preparation of the Regional Action Plan and Roadmap be completed within one year .

### **Suggestion**

Sustainable development clearly requires economic growth in the place where the BUMD is located, preferably with an existence where the main needs of the community cannot be consistent with economic growth, as long as the content of growth reflects the principles of sustainability. However, in reality the existence of BUMD with all its production activities can occur simultaneously with widespread poverty.



This condition can endanger the environment. So sustainable development requires that the community's needs are met by increasing their production potential and at the same time guaranteeing equal opportunities for all local communities to enjoy the existence of the BUMD. The concept of sustainability is

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