

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session



HOUSE BILL NO. 59

Introduced by : **REP. RAUL V. DEL MAR**

EXPLANATORY NOTE

The attached Bill seeks to amend certain provisions of Republic Act 7621, otherwise known as '*An Act Creating the Cebu Port Authority, Defining its Powers and Functions, Providing Appropriations Therefor,*' to strengthen the operational, financial and administrative capabilities of the Authority.

The proposed amendments essentially seek the granting of tax exemption privileges and additional administrative powers, increasing the membership of the governing body by allowing additional representations from the cargo handling sector and local government unit, providing for the mode of granting contracts or permits to operate cargo handling services, the prohibition of conflict of interest and inclusion of relevant civil service security of tenure provisions.

With these amendments, it is believed that the Cebu Ports Authority will more than able to keep pace with the demand of local and foreign trade and commerce and thus fully attain the purposes and objectives for which it was created.


RAUL V. DEL MAR

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AN ACT
AMENDING CERTAIN PROVISIONS OF REPUBLIC ACT NO. 7621
OTHERWISE KNOWN AS 'AN ACT CREATING THE CEBU PORT
AUTHORITY DEFINING ITS POWERS AND FUNCTIONS, PROVIDING
APPROPRIATION THEREFOR AND FOR OTHER PURPOSES'

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

SECTION 1. Section 3 of Republic Act 7621 is hereby amended by adding a subsection to read as follows:

“SEC. 3. (A) *EXEMPTION FROM REAL PROPERTY TAXES.* – THE CEBU PORTS AUTHORITY SHALL BE EXEMPT FROM THE PAYMENT OF REAL PROPERTY TAXES IMPOSED BY THE REPUBLIC OF THE PHILIPPINES, ITS AGENCIES, INSTRUMENTALITIES OR POLITICAL SUBDIVISIONS: *PROVIDED*, THAT NO TAX EXEMPTION SHALL BE EXTENDED TO ANY SUBSIDIARY OF THE AUTHORITY THAT MAY BE ORGANIZED: *PROVIDED, FINALLY*, THAT INVESTMENTS IN FIXED ASSETS SHALL BE DEDUCTIBLE FOR INCOME TAX PURPOSES”.

SEC. 2. Section 7 (b) of the same Act is hereby amended to read as follows:

“(b) Prescribe its by-laws and such rules and regulations as may be found necessary to promote or enhance the business of the Authority, WHICH SHALL INCLUDE BUT NOT LIMITED TO THOSE PERTAINING TO PILOTAGE, CARGO-HANDLING, SECURITY AND OTHERS,”

SEC. 3. Section 7 of the same Act is hereby further amended by adding subsections (N) and (O) to read as follows:

“(N) POLICE POWERS; AND

“(O) PILOTAGE REGULATION”

SEC. 4. Section 8 of same Act is hereby amended to read as follows:

“SEC. 8. *Governing Body.* – The powers and functions of the Authority shall be vested in the exercised by a Cebu Port Commission composed of a Chairman, a Vice-Chairman and [five(5)] NINE (9) other Commissioners. The Chairman shall be the Secretary of the Department of Transportation and Communications or his duly designated Undersecretary. The [Vice-Chairman, who shall be designated as the Cebu Port] General Manager OF THE AUTHORITY, WHO shall be [elected by the Commissioners from among themselves] APPOINTED BY THE PRESIDENT OF THE PHILIPPINES, SHALL BE THE *EX OFFICIO* VICE-CHAIRMAN OF THE COMMISSION.

“The SEVEN (7) Commissioners shall be appointed by the President of the Philippines and shall represent the following sectors:

“(a) [Shipowners] TWO (2) FROM THE SHIP-OWNERS and shipping operators;

“(b) [Cargo-handling] TWO (2) FROM THE CARGO-HANDLING [Labor] sector; [and]

“(c) [Business] ONE (1) FROM THE BUSINESS SECTOR TO BE RECOMMENDED BY THE CEBU CHAMBER OF COMMERCE AND INDUSTRY; AND

“(D) TWO (2) FROM THE CARGO-HANDLING LABOR SECTOR;

“THE GOVERNOR OF THE PROVINCE OF CEBU AND THE MAYOR OF THE CITY OF CEBU SHALL BE *EX OFFICIO* MEMBERS OF THE COMMISSION.”

SECTION 5. Subsections (h), (i), and (j) of Section 9 of Republic Act No. 7621 are hereby amended to read as follows:

“(h) To determine the organization of the Authority, REORGANIZE OR ABOLISH OFFICES, and create such functional units, therein as it may deem necessary in the proper and efficient

implementation of the functions and purposes of the Authority, including the appointment of officials and employees, [it being understood that the security of tenure of these workers shall be respected consistent with existing laws]: *PROVIDED*, THAT, ANY OFFICIAL OR EMPLOYEE WHO MAY BE PHASED OUT BY REASON OF THE REORGANIZATION OF OFFICE SHALL BE ALLOWED TO RETIRE UNDER EXISTING RETIREMENT LAWS TO WHICH THEY ARE QUALIFIED: *PROVIDED, FURTHER*, THAT THOSE WHO ARE NOT QUALIFIED UNDER ANY EXISTING RETIREMENT LAWS SHALL BE PAID SEPARATION BENEFITS IN ACCORDANCE WITH EXISTING LAWS, RULES AND REGULATIONS.

“(i) To define the duties and fix, REVIEW, OR REVISE the compensation and benefits of the [General Manager, Port Managers, and other] officers AND EMPLOYEES of the Authority, in accordance with the rules and regulations of the Civil Service Commission and the Department of Budget and Management.

“(j) To approved the annual budget of the Authority and/or such supplemental budgets thereof as may be submitted by the General Manager from time to time; [and]”

SEC. 6. Section 9 of the same Act is hereby further amended by the redesignating Subsection (K) to (L) and inserting a new Subsection (K) to read as follows:

“(K)” TO DEREGULATE THE CARGO-HANDLING SERVICES TO ENHANCE GLOBAL COMPETITIVENESS; AND”

SEC. 7. Section 10 of same Act is hereby amended to read as follows:

“SEC. 10. *Term of Office.* – The members of the Cebu Port Commission, EXCEPT FOR THE GENERAL MANAGER, shall be appointed for a term [of three (3) years] COTERMINUS WITH THE APPOINTING AUTHORITY: *Provided*, That any person appointed to fill a vacancy shall hold office only for the unexpired term of the Commissioner whom he succeeds.”

SEC. 8. Section 12 of same Act is hereby amended to read as follows:

“SEC. 12. *General Manager.* – The management of the day-to-day business and operations of the Authority shall be under the direction

and control of the General Manager WHO SHALL BE APPOINTED BY THE PRESIDENT OF THE PHILIPPINES AND ENTITLED TO SECURITY OF TENURE UNDER CIVIL SERVICE RULES AND REGULATIONS. He shall have the following powers and duties:

“X X X”

SEC. 9. Section 15 of the same Act is hereby amended to read as follows:

“SEC. 15. *Supplies and Services Other Than Personal.* – All purchases or contracts for services, except for personal service, entered into by the Authority shall be done after public bidding therefor is held: *Provided,* That such bidding may NOT be required when an emergency, as explained and certified to by the General Manager, requires immediate delivery of the supplies or performance of the services and the unit cost or prices paid by the Authority for the same or similar goods or services: *Provided, further,* That the General Manager shall report under oath to the Commission the details of any such emergency procurement within two (2) weeks after its consummation, including a statement of assurance that the transaction constitutes the best arrangement possible under the circumstances.”

SEC. 10. Section 19 of the same Act is hereby amended to read as follows:

“SEC. 19. *Bond Limits.* – The bonds that may be issued by the Authority shall in no case exceed the total [amount of One billion pesos (P1,000,000,000.00)] VALUE OF ALL ITS EXISTING ASSERS: *Provided,* That no single issue shall be made if at least seventy percent (70%) of the immediately preceding issue is not yet sold.

“The bonds shall be issued only in such amounts as will be needed at only one (1) integral operation not exceeding one (1) year duration, taking into account the state at which said bonds may be absorbed by the buying public and the fund requirements of the project ready for execution, and considering further a proper balance between productive and non-productive projects so that inflation shall be held to a minimum.”

SEC. 11. MODE OF GRANTING CONTRACTS OR PERMITS – TO PROMOTE TRANSPARENCY, ALL CONTRACTS OR PERMITS FOR THE OPERATION AND MANAGEMENT OF CARGO HANDLING SERVICES SHALL BE GRANTED BY THE AUTHORITY UPON A MANDATORY PUBLIC HEARING OF

APPLICATIONS FOR SUCH CONTRACTS OR PERMITS TO DETERMINE THE FITNESS AND QUALIFICATIONS OF APPLICANTS BASED ON THE QUALIFICATION STANDARDS, WHICH SHALL INCLUDE FINANCIAL RESOURCES, EQUIPMENT AND OTHER CARGO HANDLING GEARS FOR SAFE, EFFECTIVE AND EFFICIENT CARGO HANDLING SERVICES, TO BE PRESCRIBED BY THE AUTHORITY. CONTRACTS OR PERMITS GRANTED WITHOUT PUBLIC HEARING SHALL BE NULL AND VOID.

ALL CARGO HANDLING SERVICE PROVIDERS, WHICH ARE DULY REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION AND HAVE PERFORMED CARGO HANDLING SERVICES FOR MORE THAN TWO (2) YEARS SINCE 1997 AS AN AFFILIATE OF CARGO HANDLING SERVICE PROVIDERS WITH CONTRACTS OR PERMITS PREVIOUSLY ISSUED BY THE PHILIPPINE PORTS AUTHORITY OR WITH "HOLD-OVER PERMITS" FROM THE CEBU PORT AUTHORITY, SHALL BE GRANTED CONTRACT OR PERMITS AS CARGO HANDLERS TO OPERATE IN THE PORT WITHOUT PUBLIC HEARING BUT UPON A PERFORMANCE AND FINANCIAL AUDIT INDICATING THEIR EFFICIENCY AND CAPABILITY AND PROVIDED THEY MEET THE QUALIFICATION STANDARDS PRESCRIBED BY THE AUTHORITY.

A SHIPPING LINE OR SHIP OWNER UPON PRIOR APPROVAL OF THE AUTHORITY, SHALL HAVE THE RIGHT TO CHOOSE OR CHANGE HIS CARGO HANDLING SERVICE PROVIDER AT ANY TIME TO PREVENT DISRUPTION OF HIS BUSINESS IN CASE THE PRESENT CARGO HANDLING SERVICE PROVIDER UNDER CONTRACT SHALL HAVE A LABOR DISPUTE WITH HIS DOCK WORKERS; OTHERWISE, THE AUTHORITY SHALL IMMEDIATELY TAKE OVER THE CARGO HANDLING OPERATION IN THE INTEREST OF THE PUBLIC.

SEC. 12. *WITHDRAWAL OF DUES, FEES AND CHARGES.* – NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, EXEMPTION FROM DUES, FEES, CHARGES AND OTHER SUMS GRANTED TO OR PRESENTLY ENJOYED BY ANY PERSON, WHETHER NATURAL OR JURIDICAL, IS HEREBY WITHDRAWN UPON THE EFFECTIVITY OF THIS ACT.

SEC. 13. *EXEMPTION/REDUCTION OF DUES, RATES OR CHARGES.* – THE CEBU PORT COMMISSION MAY WAIVE OR REDUCE DUES, RATES OR

CHARGES BEING IMPOSED, UNDER SUCH TERMS AND CONDITIONS AS IT MAY DEEM NECESSARY.

SEC. 14. *PENALTY.* – ANY PERSON WHO VIOLATES THE PROVISION OF THIS ACT SHALL BE PUNISHED BY A FINE OF NOT LESS THAN FIVE THOUSAND PESOS (P5,000.00) BUT NO MORE THAN TWO HUNDRED THOUSAND PESOS (P200,000.00) OR SUFFER IMPRISONMENT OF NOT LESS THAN ONE (1) MONTH BUT NOT MORE THAN SIX (6) MONTHS OR BOTH AT THE DISCRETION OF THE COURT. IN CASE THE VIOLATION IS COMMITTED BY A CORPORATION, COMPANY OR ENTITY, ITS DIRECTORS, OWNERS, MANAGERS SHALL LIKEWISE BE LIABLE FOR SUCH VIOLATION.

SEC. 15. *Separability Clause.* –If any provision of this Act or the application of such provision to any person or circumstance is declared unconstitutional, the remainder of this Act or the application of such provision to other persons or circumstances shall not be affected by such declaration.

SEC. 16. *Repealing Clause.* – All laws, executive orders, letters of instructions, rules and regulations, or provisions thereof which are inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 17. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) national newspapers of general circulation.

Approved,