

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session

House Bill No. 1918



INTRODUCED BY THE HON. GERRY A. SALAPUDDIN

EXPLANATORY NOTE

This proposed measure seeks to establish the Basilan Special Economic Zone and Free Port, which is envisioned to cover the entire Province of Basilan. The Eco-Zone shall be developed into a self-sustaining industrial, commercial, financial, investment and tourism/recreational center with free port and suitable retirement/residential areas. It shall create and develop employment opportunities for the people of Basilan and even those of nearby provinces, and shall encourage and attract legitimate and productive local and foreign investments therein. The existing commercial seaports would provide international accessibility, critical to the influx of foreign capital. The fishing ports and the newly reopened airstrip would be improved and made accessible to increased traffic from within the Philippines and abroad. The Eco-Zone will provide an alternative location for investment in the Philippines and will exploit the BIMP-EAGA considering abundance in human (e.g. skilled labor) as well as natural resources to include its rich and arable agricultural land, diverse marine life, and the abundance of mineral resources.

To attract foreign and local investors, the proposed measure provides, among other benefits, that registered business establishments in the Eco-Zone shall be entitled to fiscal incentives as provided for in PD No. 66, the EPZA law and the Omnibus Investments Code of 1987. For this reason, the Eco-Zone shall be treated as a separate customs territory.

The creation of the Basilan Special Economic Zone will respond to our efforts to minimize, if not eradicate poverty among all Filipinos, especially those who live in Basilan, which is among the 20 depressed provinces in the country.

With the enactment of this bill, tremendous social and economic progress will be realized not only in Basilan and the Southwestern Philippines, but in the entire country as well.

Approval of this bill is therefore, earnestly sought.


GERRY A. SALAPUDDIN
Representative, Lone District, Basilan

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AN ACT
ESTABLISHING A SPECIAL ECONOMIC ZONE AND FREE PORT IN
THE ENTIRE PROVINCE OF BASILAN, PROVIDING FUNDS
THEREFOR AND FOR OTHER PURPOSES

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

SECTION 1. *Short Title.* - This Act shall be known as the "Basilan Special Economic Zone Act of 2004."

SEC. 2. *Declaration of Policy.* - It is hereby declared the policy of the State to actively encourage, promote, induce, and accelerate a sound and balanced industrial, economic and social development of the country in order to provide jobs to the people, especially those in rural areas, increase their productivity and their individual and family income, and thereby improve the level and quality of their living condition through the establishment, among others, of special economic zones and free ports in suitable and strategic locations in the country and through measures that shall effectively attract legitimate and productive foreign investments.

SEC. 3. *Basilan Special Economic Zone and Free Port.* - In accordance with the foregoing declared policy, there is hereby established a special economic zone and free port, to be known as the Basilan Special Economic Zone, hereinafter known as the Eco-Zone which shall cover the entire Province of Basilan, embraced by the City of Isabela and the Municipalities of Lamitan, Lantawan, Maluso, Sumisip, Tipo-Tipo, and Tuburan, with the seaports located in Lamitan and the City of Isabela, and the airstrip located in the City of Isabela.

SEC. 4. *Governing Principles.* - The Basilan Special Economic Zone and Free Port shall be managed and operated by the Basilan Special Economic Zone Authority, hereinafter referred to as the Authority, which shall be created under Section 5 of this Act. The Basilan Eco-Zone shall be managed and operated under the following principles:

- (a) Within the framework and limitations of the Constitution and the applicable provisions of the Local Government Code and other laws, the Eco-Zone shall be developed into and operated as a decentralized, self-reliant, and self-sustaining industrial, commercial, financial, investment and tourist/recreational center and free port with suitable retirement and residential areas, in order to create employment opportunities in and around the Eco-Zone.
- (b) The Eco-Zone shall be provided with transportation, telecommunications, and other facilities needed to attract legitimate and productive local and foreign investments, generate linkage industries and employment opportunities for the people of Basilan and its neighboring provinces.

- (c) The Eco-Zone may establish mutually beneficial economic relations with other entities and organizations, subject to the administrative guidance of the Department of Foreign Affairs (DFA), the Philippine Economic Zone Authority (PEZA), and/or the Department of Trade and Industry (DTI) with respect to foreign entities and organizations.
- (d) Business establishments operating within the Eco-Zone shall be entitled to the existing fiscal incentives as provided for under Section 23 of Republic Act No. 7916, otherwise known as the Special Economic Zone Act of 1995, such incentives, benefits, or privileges presently enjoyed by business establishments operating within the Subic Special Economic Zone pursuant to Republic Act No. 7227.
- (e) The Eco-Zone shall be managed and operated as a separate customs territory to ensure and facilitate the free flow, entry, and movement of machinery and other goods. It shall be vested with the authority to issue certificates of origin for products manufactured or processed in the Eco-Zone in accordance with prevailing rules of origin, and the pertinent regulations of the PEZA.
- (f) Any provision of existing law, rules and regulations to the contrary notwithstanding, no taxes, local and national including final withholding taxes on dividends and branch profit remittances to a business establishment's mother company, shall be imposed on business establishments operating within the Eco-Zone. In lieu of all local taxes and national taxes, said business establishments shall pay to the national government a final tax of eight percent (8%) of their net income, to be divided as follows:
 1. *three percentum* (3%) shall accrue to the national government;
 2. *two percentum* (2%) to the Province of Basilan;
 3. *one percentum* (1%) to be shared by the municipalities affected by the declaration of the Eco-Zone, in proportion to their income from business activities within the Eco-Zone; and
 4. *two percentum* (2%) to the Basilan Special Economic Zone Authority which shall be created under this Act: *Provided, however,* That the final tax of eight percent (8%) of net income may be increased by the President of the Philippines after ten (10) years from the effectivity of this Act upon the recommendation of the Secretaries of Finance, and Trade and Industry, the Chairman of the National Economic Development Authority, and the Administrator of the Basilan Special Economic Zone Authority: *Provided, further,* That in no case shall the final tax to be imposed exceed fifteen percent (15%) of net income.
- (g) The *Bangko Sentral ng Pilipinas* (BSP) shall supervise and regulate operations of banks and other financial institutions within the Eco-Zone. Banking and finance in the Eco-Zone shall be liberalized with the establishment of foreign currency deposit units or local commercial banks and offshore banking units of foreign banks.
- (h) Existing banking laws and *BSP* rules and regulations shall apply on foreign exchange and other current account transactions (trade and no-

trade), local and foreign borrowings, foreign investments, establishment and operation of local and foreign banks, foreign currency deposit units, offshore banking units and other financial institutions under the supervision of the BSP: *Provided, however,* That the Basilan Economic Zone Authority may, in coordination with the *Bangko Sentral ng Pilipinas* and the Department of Trade and Industry, adopt more liberal rules to attract offshore banking, financial, financial services or trading institutions to operate in the Eco-Zone: *Provided, further,* That such rules, if adopted, will be deemed to repeal, modify, and amend existing legislation on offshore banking, financial, financial services or trading institutions insofar as the Zone is concerned.

- (i) Any foreign investor who established enterprise within the Eco-Zone and who maintains capital investment of not less than one hundred fifty thousand United States dollars (\$150,000.00) shall be granted, along with his or her spouse, dependents, and unmarried children below twenty-one (21) years of age, a status of a permanent resident alien within the Eco-Zone. The responsibility and authority to grant such status is hereby delegated to the Basilan Economic Zone Authority referred to in Section 5 of this Act.

Such foreign investor and his or her spouse, dependents, and unmarried children below the age of twenty-one (21) years, shall have the freedom of ingress and egress to and from the Eco-Zone without the need of any special authorization from the Bureau of Immigration.

Likewise, the Basilan Economic Zone Authority shall issue working visas renewable every two (2) years to foreign executives and foreign technicians with highly specialized skills, which no Filipino citizen possesses, as certified by the Department of Labor and Employment.

The name of foreigners granted permanent resident alien status and working visas by the Basilan Economic Zone Authority shall be reported to the Bureau of Immigration within thirty (30) days from such grant.

The foregoing is without prejudice to a foreigner acquiring permanent resident alien status in the Philippines in accordance with applicable immigration, retirement, and other related laws.

- (j) Except as otherwise provide herein, the local government units totally or partially embraced within the Zone shall retain and maintain their basic autonomy and identity. The City of Isabela and the Municipalities of Lamitan, Lantawan, Maluso, Sumisip, Tipo-Tipo, and Tuburan, in the Province of Basilan, shall operate and function in accordance with Republic Act No. 7160, otherwise known as the Local Government Code of 1991, insofar as the areas within their respective jurisdiction covered in this Act are concerned.
- (k) The areas comprising the Eco-Zone may be expanded or reduced when necessary. For this purpose, the Authority, in consultation with the local government units concerned, shall have the power to acquire, either by purchase, negotiation, or condemnation, any private lands within or adjacent to the Eco-Zone for consolidation of lands for zone development purposes, for the acquisition of right of way to the Eco-Zone, and/or the protection of watershed areas and natural assets valuable to the development of the Eco-Zone.

- (l) Any incentives, powers, privileges, exemptions, and immunities granted to the Subic Special Economic Zone and Free Port, the Cagayan Special Economic Zone and Free Port, the Zamboanga Special Economic Zone under Republic Act No. 7227, and other Special Economic Zones and Free Ports, Republic Act No. 7922, and Republic Act No. 7903, respectively, except the operation of any gambling, games, amusement, recreational and sports activities such as horse racing, dog racing, casinos, and cockfighting which are not granted to the Basilan Special Economic Zone under this Act, shall be deemed extended and granted to the Basilan Special Economic Zone and Free Port.
- (m) The defense of the Eco-Zone and the security of its industrial and commercial areas shall be the responsibility of the National Government in coordination with the Authority. In this regard, the Authority may establish its own internal security and fire-fighting forces.

SEC. 5. *Creation of the Basilan Special Economic Zone Authority (BEZA).* – A body Corporate to be known as the Basilan Special Economic Zone Authority, hereinafter referred to as the BEZA or the Authority, is hereby created to manage and operate, in accordance with the provisions of this Act, the Basilan Special Economic Zone and Free Port. This corporate franchise shall extend for fifty (50) years, to be counted from the first day of the fifth (5th) calendar year after the effectivity of this Act, unless otherwise extended by Congress.

SEC. 6. *Powers and Functions of the Basilan Economic Zone Authority.* – The Authority shall have the following powers and functions:

- (a) To adopt, alter, use a corporate seal; to contract, lease, buy, sell, acquire, own and dispose movable and immovable as well as personal and real property of whatever nature (including but not limited to shares of stock or participation in private corporations or in limited partnerships, or in joint, ventures with limited liability), bonds, precious metals in bullion, ingots, and easily convertible foreign exchange; to sue and be sued in order to carry out its duties, responsibilities, privileges, powers and functions as granted and provided for in this Act, and to exercise the power of eminent domain for public use and public purpose;
- (b) Within the limitation provided by law, to raise or borrow adequate and necessary funds from local or foreign sources to finance its projects and programs under this Act, and for that purpose, to issue bonds, promissory notes, and other forms of securities, and to secure the same by a guarantee, pledge, mortgage, deed of trust, or an assignment of all or part of its property or assets;
- (c) To approve, accept, accredit and allow any local or foreign business, enterprise or investment in the Eco-Zone subject only to such rules and regulations as the Authority may promulgate from time to time in conformity with the provisions of this Act and the limitations provided by the Constitution;
- (d) To authorize or undertake, on its own or through others, and regulate the establishment, operation and maintenance of public utilities, services, and infrastructures in the Eco-Zone, such as shipping, ship building, ship registry and every matter related or attendant thereto, barging, stevedoring, cargo handling, hauling, warehousing, storage of cargo, port services or concessions, piers, wharves, bulkheads, bulk terminals, mooring areas, storage areas, roads, bridges, terminals, conveyors, water supply and storage, sewerage, drainage, airport operations in coordination with the

Civil Aeronautics Board, and such other services or concessions or infrastructure necessary or incidental to the accomplishment of the objectives of this Act: *Provided, however,* That the private investors in the Eco-Zone shall be given priority in the awarding of contracts, franchises, licenses, or permits for the establishments, operation and maintenance of utilities, services and infrastructure in the Eco-Zone;

- (e) To construct, acquire, own, lease, operate and maintain on its own or through others by virtue of contracts and franchises, licenses, or permits under the built-operate-transfer scheme or under a joint venture with the private sector, any or all of the public utilities and infrastructures required or needed in the Eco-Zone, in coordination with the appropriate national and local government authorities and in conformity with applicable laws thereon;
- (f) To operate on its own, either directly or through a subsidiary entity, or license to other tourism-related activities, including games, amusements, recreational and sports facilities such as horse racing, dog racing, gambling, casinos, golf courses, and others, under priorities and standards set by the BEZA;
- (g) To protect, preserve, maintain and develop, among others, the virgin forests, beaches, corals and coral reefs, and minerals and mineral deposits, including precious metals within the Eco-Zone. The virgin forest within the Eco-Zone shall be proclaimed as a national park and shall be covered by a permanent total log ban. For this purpose, the rules and regulations of the Department of Environment and Natural Resources and other government agencies involved in the above functions shall be implemented by the BEZA, including the issuance of environmental clearance certificates, patents and leasehold rights over government lands and mining, drilling, and timber licenses;
- (h) To adopt, implement and enforce reasonable measures and standards to control pollution within the Eco-Zone;
- (i) To form, establish, organize and maintain subsidiary corporation, as its business and operations may require, whether under the laws of the Philippines or not;
- (j) To issue rules and regulations consistent with the provisions of this Act as may be necessary to implement and accomplish the purposes, objectives and policies herein provided;
- (k) To provide, in cooperation with the Department of Tourism, incentives to tourism-related businesses operating within the Eco-Zone, such as but not limited to duty-free buying privileges for non-resident visitors;
- (l) To charge reasonable fees for the provision of services and the maintenance of infrastructures and utilities;
- (m) To impose fines and penalties for violations of the provisions of this Act, the rules and regulations to be established by the BEZA or any other law that the BEZA is tasked to enforce; and
- (n) To exercise such powers as may be essential, necessary or incidental to the powers granted to it hereunder as well as those that shall enable to it to carry out, implement, and accomplish the purposes, objectives and policies

of this Act.

SEC. 7. *Board and Directors of BEZA.* – The powers of the Basilan Special Economic Zone Authority shall be vested in and exercised by a Board of Directors, hereinafter referred to as the Board, which shall be composed of seventeen (17) members, to wit:

- (a) The Secretary of Trade and Industry who shall serve as the *ex-officio* Chairman of the Board of Directors;
- (b) one (1) representative of the national government;
- (c) The Administrator and Chief Executive Officer of the BEZA who shall serve as *ex-officio* Vice-Chairman of the Board;
- (d) The Director General of the National Economic Development Authority, or his/her representative, as *ex-officio* member of the Board;
- (e) The Congressman of the Lone District of Basilan or his representative, as *ex-officio* member;
- (f) The Secretary of the Department of Trade and Industry of the Autonomous Region in Muslim Mindanao, as *ex-officio* member;
- (g) The Chairman of the Regional Board of Investments of the Autonomous Region in Muslim Mindanao, as *ex-officio* member;
- (h) The Mayors of the City of Isabela and the Municipalities of Lamitan, Lantawan, Maluso, Sumisip, Tipo-Tipo, and Tuburan, as *ex-officio* members;
- (i) One (1) representative from the investors in the Basilan Special Economic Zone;
- (j) One (1) representative of labor from among the workers in the Basilan Special Economic Zone;
- (k) One (1) representative of the private sector coming from the residents of the Province of Basilan.

The Members of the Board, except the *ex-officio* members, shall be appointed by the President of the Philippines to serve for a term of three (3) years unless sooner removed for a cause, the replacement shall serve only the unexpired portion of the term.

The members of the Board shall receive a *per diem* of not more than Ten Thousand pesos (P10,000.00) for every board meeting actually attended: *Provided, however,* That no *per diem* shall be paid for more than four (4) board meetings per month: *Provided, further,* That the President of the Philippines may fix a higher *per diem* for the members of the Board.

SEC. 8. *Powers, Functions, and Duties of the Board.* – In addition to the powers vested in the Board in the other Sections of this Act, the Board shall have the following functions, powers, and duties:

- (a) To define and approve the programs, plans, policies, procedures, and guidelines of the Eco-Zone for its development and operation.
- (b) To approve the organizational and administrative structure of the Eco-Zone, including its staffing pattern, operating and capital expenditures, and financial budgets, upon the recommendation of the Administrator and Chief Executive Officer, subject to existing laws, rules, and regulations.

- (c) To approve salary ranges, benefits, and other terms and conditions for the service of all employees of the Eco-Zone, upon recommendation of the Administrator and Chief Executive Officer, which shall, as far as possible, be competitive with those offered in the private sector, subject to existing laws, rules, and regulations.
- (d) To fix the rate of dues, charges, fees, or assessments for the use of the Eco-Zone premises, work, appliances, facilities, concessions, services, and other fees and charges related to the activities of the Eco-Zone upon recommendation of the Administrator and Chief Executive Officer.
- (e) Generally, to exercise all the functions and powers necessary or incidental to attain the purposes and objectives of this Act.

SEC. 9. *The Administrator and Chief Executive Officer.* The President of the Philippines shall appoint a full-time professional and competent Administrator and Chief Executive Officer of the Basilan Economic Zone Authority who shall serve for a term of six (6) years and whose compensation shall be determined by the Board of Directors.

SEC. 10. *The Powers and Duties of the Administrator and Chief Executive Officer.* The management of the day-to-day business and operations of the Eco-Zone shall be under the direction of the Administrator and Chief Executive Officer. He shall have the following powers and duties:

- (a) To direct, manage, , and supervise the operations and internal affairs of the Authority in accordance with the policies of the Board;
- (b) To establish the internal organization of the Authority under such conditions that the Board may prescribe;
- (c) To submit an annual budget and necessary supplemental budget to the Board for its approval;
- (d) To submit within thirty (30) days after the end of each fiscal year an annual report to the Board and such other reports as may be required;
- (e) To submit to the Board for its approval policies, systems, procedures, rules and regulations that are essential to the operation of the Eco-Zone;
- (f) To create a mechanism in coordination with relevant agencies for the promotion of industrial peace in the economic zone, the protection of the environment, and the advancement of the quality of life in the Eco-Zone;
- (g) To perform such other duties as may be assigned to him by the Board.

SEC. 11. *Relationship with the Autonomous Region in Muslim Mindanao.* The Authority shall determine the development goals for the Eco-Zone within the framework of national development plans, policies, and goals. The Administrator shall, upon the approval of the Board, submit the Eco-Zone plans, programs, and projects to the Regional Governor of the Autonomous Region in Muslim Mindanao (ARMM) for inclusion in and as inputs to the over-all regional development plan.

SEC. 12. *Relationship with the Local Government Units.* – Except as herein provided, the local government units comprising the Eco-Zone shall retain their basic autonomy and identity. The Province of Basilan and its component city and municipalities shall operate and function in accordance with Republic Act No. 7160, otherwise known as the Local Government Code of 1991.

In case of conflict between the Authority and the local government units comprising the Eco-Zone on matters affecting the Eco-Zone other than defense, health, and sanitation, the decision of the Authority shall prevail.

SEC. 13. *Capitalization.* The Basilan Special Economic Zone Authority shall have an authorized capital stock of Two Billion Pesos (P2,000,000,000.00) no par shares with a minimum issue value of Ten Pesos (P10.00) each. The National Government shall initially subscribe and fully pay Three Hundred Million Pesos (P300,000,000.00) shares of such capital stock. All unoccupied government-owned lands as of the creation of the Eco-Zone, falling within its jurisdiction, shall also be included as part of equity of the BEZA and may only be disposed of by the BEZA: *Provided*, That in case of absolute sale or conveyance, the BEZA shall seek the approval of the Office of the President. The initial amount necessary to subscribe and pay for the shares of the stock shall be included in the General Appropriations Act of the year following its enactment into law and thereafter. The Board of directors of the BEZA may, from time to time and with written concurrence of the Secretary of Finance, increase the issue value of the shares representing the capital stock of the BEZA. The Board of Directors of the BEZA, with the written concurrence of the Secretary of Finance, may sell shares representing not more than forty *per centum* (40%) of the capital stock of the BEZA to the general public with such annual dividend policy as the Board and the Secretary of Finance may determine. The national government shall, in no case, own less than sixty *per centum* (60%) of the total issued and outstanding capital stock of the BEZA.

SEC. 14. *Supervision and Coordination of Development Plans.* For purposes of policy direction and control, The Basilan Special Economic Zone shall be under the direct control and supervision of the Office of the President.

SEC. 15. *Legal Counsel.* The Basilan Special Economic Zone Authority and the corporations in which the BEZA owns a majority of the issued capital stock shall have its own internal legal counsel who shall be solely responsible for reviewing the contract entered into by the BEZA. When the exigencies of its business and operations demand it, the BEZA may engage the services of an outside counsel, either on a case-to-case basis or on a fixed retainer.

SEC. 16. *Non-Applicability of Salary Standardization Law and Revised Compensation and Classification System.* The provisions of Republic Act No. 6758, otherwise known as the Salary Standardization Law and the Revised Compensation and Position Classification System, shall not apply to the Basilan Special Economic Zone Authority. The salaries, benefits and other emoluments of the officers, directors, and employees of the BEZA shall be determined by the Board of Directors of BEZA and shall be commensurate to private industry standards.

SEC. 17. *Retention of All Earnings.* The BEZA shall retain all earnings from all its activities, regulatory or proprietary, and need not remit the same to the National Treasury. Such earnings shall be considered as corporate income which the BEZA may invest in its various infrastructures or special projects, corporate undertakings, payment of salaries, *honoraria*, *per diems* and/or other related matters.

SEC. 18. *Auditing.* The Commission on Audit shall appoint a representative who shall be full time auditor of the Basilan Special Economic Zone Authority and its subsidiaries in which it controls a majority of the shares of stock, and assign such number of personnel as may be necessary to assist said representative in the performance of his or her duties. The salaries and emoluments of the assigned auditor and personnel of the Commission on Audit shall be in accordance with the Revised Compensation and Position Classification System. The Commission on Audit shall render an annual report to the President of the Philippines and to Congress on the business activities, transactions and operations of the Basilan Special Economic Zone Authority.

To ensure the expeditious implementation of the economic policy and purpose embodied

in this Act, the Commission on Audit, in cooperation with the Basilan Special Economic Zone Authority, shall formulate special rules on audit, disbursement of funds, bidding, procurement of goods and services, accounting, use of government equipment and resources and the like, towards realizing the aforesaid needs: *Provided*, That such rules and any amendment thereto shall be approved by the Office of the President.

SEC. 19. *Injunctions, Restraining Orders and Other Interlocutory Orders.* The development of the Basilan Special Economic Zone and Freeport is a national government priority and therefore, no injunctions, restraining orders and other interlocutory orders which seek to stop or interrupt any contract entered into or project undertaken by the BEZA may be issued by any court of law or quasi-judicial body except by the Court of Appeals or the Supreme Court.

SEC. 20. *Separability Clause.* If any provision of this Act shall be declared unconstitutional or invalid, the other provisions not otherwise affected, shall remain in full force and effect.

SEC. 21. *Repealing Clause.* All laws, executive orders of issuance, or any parts thereof which are inconsistent therewith are hereby repealed or amended accordingly.

SEC. 22. *Implementing Rules and Regulations.* The Department of Trade and Industry, the National Economic Development Authority, the Department of Finance, the Bureau of Customs, the Department of Agrarian Reform, the Department of the Interior and Local Government, the Philippine Economic Zone Authority, and the representatives from the technical staff from both Houses of Congress shall formulate the implementing rules and regulations of this Act within ninety (90) days from its approval. Such rules and regulations shall take effect fifteen (15) days after their publication in at least two (2) newspapers of general circulation in the Philippines.

SEC. 23. *Effectivity Clause.* - This Act shall take effect upon its publication in at least two (2) newspapers of general circulation.

Approved,