

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS

First Regular Session

HOUSE BILL NO. 2316



Introduced by HONORABLE JACINTO V. PARAS

EXPLANATORY NOTE

Cognizant of the recent developments in the aviation industry, this proposed bill seeks the establishment of a unified Civil Aviation Authority, under the Department of Transportation and Communications, defining its powers and function. The Philippine Civil Aviation Authority, if created, will be tasked to provide safe and efficient air transport and regulatory services.

The Philippine Civil Aviation Authority will govern the technical, economic and security aspects of civil aviation for the safety, benefit and interest of the public. Moreover, the Authority will exercise overall jurisdiction over the supervision and regulation of safety in the Manila International Airport, Mactan – Cebu International Airport, Clark International Airport Authority, and other airport authorities that will be created in the future.

Currently, the Air Transportation Office (ATO) and the Civil Aeronautics Board (CAB) are handling civil aviation matters in the country. Under this bill, the powers and duties of these two agencies will be transferred to the Aviation Authority. The reorganization of these agencies through an integrated approach enhances the coordination and systematization of authority and command with a deliberate effort to hasten the development of the aviation industry in the Philippines.

It is in this view that the early consideration of this bill is earnestly sought.


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**AN ACT
CREATING THE PHILIPPINE CIVIL AVIATION AUTHORITY,
AUTHORIZING THE APPROPRIATION OF FUNDS THEREFORE, AND FOR
OTHER PURPOSES**

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

**ARTICLE I
GENERAL PROVISIONS**

SEC. 1. Title. - This Act shall be known as the “ Philippine Civil Aviation Authority Act of 2004.”

SEC. 2. Declaration of Policy - It is hereby declared the policy of the Government to provide safe and efficient air transport and regulatory services in the Philippines by providing for the creation of a single, unified civil aviation authority, with sole jurisdiction over the restructuring of aviation regulatory regime, the promotion, development and regulation of the technical, economic, and aviation security functions, and the unification of the oversight functions of government under one agency.

**ARTICLE II
THE CIVIL AVIATION AUTHORITY**

SEC. 3. Creation of the Authority - There is hereby created a body to be known as the Philippine Civil Aviation Authority (PCAA), hereinafter referred to as the “ Authority “ attached to the Department of Transportation and Communications for purposes of policy coordination. It shall be composed of a governing Board of Directors to be known as the PCAA Board.

SEC. 4. Powers of the Authority - In addition to the powers provided for under Republic Act No. 776, as amended, the Authority shall have the following powers and functions:

- a) To provide safe and efficient air transport and regulatory services in the Philippines;
- b) To promulgate rules and regulations, governing the technical, economic and security aspects of civil aviation, as the Authority may find necessary and proper, for the safety, benefit, and interest of the public, consistent with the purposes of this Act;

- c) To exercise supervision, control, and regulation over civil aviation, including but not limited to the air transportation of passengers, cargo, mail, air services, aviation companies, and persons, firms, corporations engaged in providing air transportation services, and related services;
- d) To provide for civil airways, navigation facilities, offices, stations, aerodromes, airport-related facilities and equipment, throughout the Philippines for the purposes of carrying out its oversight and services functions, consistent with International Civil Aviation Organization standards of safety of navigation, aircraft, passengers and cargo, and the requirements of the industry;
- e) To exercise overall jurisdiction over governmental functions of civil aviation, including the supervision, control and regulation, and conduct of air safety in the skies under Philippine jurisdiction, aircraft, facilities, installation airports, whether government or privately owned, as well as the supervision and regulation of safety in the Manila International Airport Authority, Mactan – Cebu International Airport Authority, Clark International Airport Authority, and other airport authorities which shall be created in the future;
- f) To provide for tariffs, fares, rates, charges and fees as may be deemed necessary for air services, air traffic, navigational and other services, and prescribe the manner it shall be paid and collected, subject to the provisions of this Act, notwithstanding any laws to the contrary;
- g) To exercise the power of eminent domain over areas under its jurisdiction;
- h) To exercise police powers and other law enforcement powers over areas under its jurisdiction and for this purpose, to coordinate with the Philippine National Police and other law enforcement agencies;
- i) To receive gifts, donations, grants, bequests, services, properties, whether personal or real, and assistance of all kinds, from private and public sources, firms, institutions, domestic and foreign governments, and international institutions, and utilize the same;
- j) To adopt and promulgate such other rules and regulations to implement the provisions of this Act.

ARTICLE III BOARD OF DIRECTORS

SEC. 5. Board of Directors - The powers and functions of the Authority shall be vested in, and exercised by, a Board of Directors which are as follows:

- a) To provide comprehensive policy guidance for the promotion and development of the aviation industry as provide for in this Act;
- b) Decide the objectives, strategies, and policies to be followed by the Authority;
- c) Ensure that the Authority performs its functions in a proper, efficient, and effective manner;
- d) Determine the organizational structure of the Authority, establish a human resources management system based on merit and fitness, and adopt a rationale compensation and benefit scheme;
- e) Approve the annual and supplementary budgets for submission to the Congress of the Philippines;

- f) Approve the annual budget plan for utilization of the retained revenue; and
- g) Submit an annual report to the President of the Philippines.

SEC. 6. Meetings - The Board shall meet regularly once a month and may hold special meetings to consider urgent matters upon call of the Chairman or any three (3) members.

Internal rules of procedure in the conduct of Board meetings shall be prescribed by the Board.

SEC. 7. Composition - The Board shall be composed of seven (7) members as follows who shall all be appointed by the President, to wit:

- a) Chairman - the Secretary of Transportation and Communications shall be the ex – officio chairman;
- b) Vice – Chairman - the President of the Authority who shall also be known as the Director General of Civil Aviation (DGCA);
- c) Five (5) other members who shall come from either the private sector or relevant government agencies.

The Vice – Chairman and members shall be appointed by the President. The appointed members of the Board shall have a term of five (5) years. Of the initial members of the Board, the Vice – Chairman shall be appointed for a term of five (5) years; two (2) shall be appointed for a term of four (4) years; two (2) for a term of three (3) years, and one (1) for a term of two (2) years. In case of vacancy, the appointee shall serve the unexpired term of the predecessor.

No person shall be appointed or designated as a member of the Board unless he is a Filipino citizen, of good moral character, unquestionable integrity and recognized competence in the field of aviation, aeronautical engineering, economics, law and internal relations, and management in related fields. Further, no person shall be appointed as Director – general / Vice Chairman of the Board unless he is an airman or must have been an airman with ten years of experience in the field of civil aviation, five years of which shall be in senior management position.

Members of the Board shall be reimbursed by the Authority for actual expenses, including traveling and subsistence and representation expenses, incurred by them in the performance of their duties. The per diems of the members of the Board shall be determined pursuant to a resolution to be adopted by the same, which shall be adjusted annually, based on the consumer price index as determined by the National Government.

No member of the Board shall have financial, or pecuniary interest, directly or indirectly, in any business contract or transaction into by the Authority or in any privilege granted by it. Neither shall a member have any interest, financial or otherwise, in any undertaking or business with an inherent conflict of interest with the Authority.

ARTICLE IV
THE PRESIDENT AND DIRECTOR – GENERAL,
OTHER OFFICIALS AND PERSONNEL

SEC. 8. The President and Director – General. - The President shall be the Chief Executive and Operating Officer of the Authority. He shall have the following powers, duties and responsibilities:

- a) To execute, administer and implement the objectives, policies and programs approved by the Board; enforce decisions, order, rules and regulations approved or prescribed by the Board;
- b) To direct, supervise the management, operations and administration of the Authority;
- c) To represent the Authority in all dealings with offices, agencies and instrumentality of the Government, and with all persons, firms and institutions, public and private, domestic and foreign, including the International Civil Aviation Organization, other international agencies, and institutions; to act as the primary government representative in all matters relating to international aviation, bilateral, multilateral consultations, talks, conferences, negotiations, and the like;
- d) To provide for rules and regulations, as maybe required, covering (i) air traffic services, (ii) air navigation services including the establishment, administration, registrations, inspections, classification, ratings, issuance, denial revocation, cancellation, modification, investigations, of civil airways navigation radio and telecommunication facilities, aerodromes, repair stations, training schools, and other air agencies and installations, (iii) licenses, permits, certificates, type certificates of all kinds classes and nature, (iv) aircraft accidents, and (v) such other rules, regulations, standards, practices, methods, procedures as the Director General may determine, enforce the same, impose fines, penalties and similar sanctions for any violations thereof; to ensure the safety, effectiveness and efficiency of air transportation, consistent with national objectives, and existing treaties, conventions and agreements;
- e) To exercise police powers in all areas within the jurisdiction of the Authority, enforce all laws, regulations and rules relating thereto in the exercise of these powers, he shall coordinate closely with the Philippine National Police and other law enforcement agencies of government;
- f) To perform such other powers, and duties provided for in this Act, or as may be delegated by the Board; and
- g) To continue to exercise the powers provided for in Republic Act No. 776, not inconsistent with this Act, nor otherwise repealed, until declared null and void by the Authority in relation to the duties and responsibilities of his office, and to the purpose and objectives of the Authority.

SEC. 9. Management Official and Employees; Merit System. - The Authority shall establish human resources management system which shall be based on merit and fitness and will promote professionalism at all levels of the Authority in accordance with sound principle of management.

SEC.10. Exemption form Rules and Regulations of the Compensation and Position Classification Board. - The Authority shall have the power to determine and fix the compensation of employees holding a technical position that is not common to other agencies of the government as

maybe specified in the Implementing Rules and Regulations. The Authority shall be exempt from coverage of the rules and regulations of the Compensation and Position Classification Board.

SEC. 11. Exemption from Taxes, Customs and Tariff Duties. - The importation of equipment, machineries, spare parts, accessories, and other materials, including supplies and services used in the operations of the Authority, not obtainable locally on favorable terms, shall be exempt from all direct and indirect taxes, customs duties, fees, imports, tariff duties, compensating taxes, wharfage fees and other charges and restrictions, the provisions of existing laws to the contrary notwithstanding.

All obligations entered into by the Authority and any income derived therefrom, including those contracted with private international banking and financial institutions, shall be exempt from all taxes on both principal and interest.

The Authority shall also be exempt from the payment of capital gains tax, local government imposts and fees.

SEC. 12. Development of Feeder Airports. - The development and construction of new feeder airports will be under the Department of Transportation and Communications (DOTC) subject to the transfer of its maintenance and management to CAA when said airports become operational.

SEC. 13. Retention of Moneys Collected and Dispositions Thereof. - Eighty (80%) of the total moneys collected by the Authority under the provisions of this Act shall be retained by the Authority which shall be disbursed, as the Authority may deem necessary and appropriate, to carry out the objectives and policies of this Act.

ARTICLE V MISCELLANEOUS PROVISIONS, ADDITIONAL POWERS, RELATIONSHIPS WITH GOVERNMENT AGENCIES

SEC. 14. The Authority of Officers to Administer Oaths. - The Director – general and such other duly designated officers of the Authority shall have the authority to administer oaths in the transactions and performance of official business.

SEC. 15. Statutory Lien on Aircraft, Equipment, Machinery. - The Authority shall have the power to impose lien on any aircraft, equipment, machinery:

- a) if the charges and other fees are not paid in full on the due date for payment, or any part of the charge, or the late payment penalty thereto remains unpaid;
- b) For serious and gross violations of the rules and regulations promulgated by the Authority in connection with its oversight functions, involving safety navigation, within the various territories of the Authority, such as, aerodrome zones, the air space above said zones, including the landing approaches and departures therefrom, and relevant navigation requirement.

Aircraft levied upon pursuant to this Section shall be in custody of the Authority, and its clearance shall be withheld until the fines imposed shall be fully

paid; or the same levied – upon which aircraft may be sold after notice to the owners and the proceeds of the sale shall be applied to the payments of the fines and penalties and other obligations that are due and payable.

SEC. 16. Lien on Real, Personal Properties. – The Authority shall have the power to impose lien on the personal and real properties.

Entities and other assets of persons, corporations, partnerships, and such other entities shall be in default, or shall fail to perform their obligations, pursuant to regulations promulgated by the Authority, or shall fail to pay the fines and other penalties imposed for violations of the law, rules and regulations of the Authority.

Properties, moneys and assets, levied upon, after due notice to the owner or owners thereof, with the opportunity to be heard, may be sold and the proceeds thereof applied to the satisfaction of the obligation, as the Authority may determine.

SEC. 17. - Power to Regulate Height of Building and Installations that may Endanger the Safety of Flights. - The Authority shall have the power to regulate the height of the buildings, towers, antennae, and other edifices, situated within the vicinity of or in close proximity to airports which shall endanger flights of aircraft. It shall also have the power to prohibit or regulate the establishment and operations of electrical, electronics, sound, magnetic, laser, or other gadgets or installations which shall interfere with or impair air navigation and may cause mishaps in the operations of aircraft in accordance with the international standards and recommended practices on aerodromes as recommended by the International Civil Aviation Organization (ICAO).

SEC. 18. Building Permits Subject to Prior Approval of Authority. - No building permit or other license, or authority of any kind or nature shall be granted by local authorities with respect to buildings and installations covered by the next preceding Section, or for any other activity that may endanger the safety of navigation or flight, without the prior approval of the Authority. Should any conflict arise between the Authority and the local government units concerned on matters affecting the safety of navigation as aforesaid above, or other matters within the jurisdiction of the Authority, the decision of the Authority shall prevail.

For this purpose, the Authority may call upon any law enforcement agency, other instrumentality of the government, or local government, to enforce its rules and regulations, which may include the removal of the obstructions to the safety of flight, including the seizure of movable or personal properties that directly or indirectly may cause danger to the safety of navigation or flight.

SEC. 19. Role of Departments, Bureaus, Offices and Other Agencies and instrumentalities of the Government. - All Heads of Departments, Bureaus, Offices, Agencies and instrumentality of the Government are hereby directed to give full support to the institutionalization and restructuring program of civil aviation, and to cooperate and coordinate with the Authority to facilitate and expedite the implementing programs.

Sec. 20. Relationship with Local Governments. - Provisions with existing laws, rules and regulations to the contrary, notwithstanding, the Authority shall exercise administrative, regulatory powers, police power over any land, buildings, installations and appurtenances thereto, including the construction of any building, roads, towers within the territorial areas, the airspace above the zones, including the navigable air spaces.

SEC. 21. Police Authority. - The Authority shall have the power to exercise such police authority, as it may deem necessary, within its premises or area of operations, to carry out its functions and attain its purposes and objectives: Provided, That the Authority may request the assistance of any law enforcement agency, including request for deputation as may be required. Such police authority shall be exercised in relation to the following: providing safety, maintaining peace and order, ensuring the security of passengers, crew, cargo and aircraft, buildings, installations, equipment and machinery; regulating and controlling entry into, and exit from, and movement within controlled areas; supervising private security guards; and enforcing rules and regulations of the Authority.

ARTICLE VI

TRANSITORY PROVISIONS ABOLITION OF AIR TRANSPORTATION OFFICE, CIVIL AERONAUTICS BOARD

SEC. 22. Abolition of the Air Transportation Office. – The Air Transportation Office (ATO), and the Civil Aeronautics Board (CAB), under the Department of Transportation and Communications, are hereby abolished.

All powers and duties, rights and choice of actions, vested by laws and exercised by the said Air Transportation Office (ATO) and the Civil Aeronautics Board (CAB) are hereby transferred to the Authority.

All assets, real and personal properties which upon the effectivity of this Act are vested in, and owned by, the different Services and Offices of the ATO and off the aforementioned Agencies, are transferred to the Authority by way of conveyance, transfer or assignment. Likewise, funds, revenues and properties owned by the ATO and CAB are hereby transferred to the Authority.

All contracts, records and documents relating to the operations of the abolished agencies and their offices and branches are hereby transferred to the Authority.

SEC. 23. Transfer of Personnel of the Air Transportation Office and the Civil Aeronautics Board. - To ensure smooth transition into a corporate structure, the incumbent Assistant Secretary of the Air Transportation Office shall continue to hold office and assume the powers of the Director – General until his successor shall have been appointed and inducted into office. Officials and employees of the ATO and CAB shall be absorbed into the Authority on the basis of merit and fitness: Provided, That the officials and employees who shall be laid – off during the first two years of the effectivity of this Act and as a result of the organization of the Authority, shall be entitled to gratuity at the rate equivalent to two (2) months salary for every year of continuous and satisfactory service rendered or the equivalent nearest fraction thereof favorable to them on the basis of the highest salary received, in addition to the retirement benefits or pensions under existing retirement law. Retirement gratuities of officials and employees who shall not be retained by the Authority shall be for the account of and reimbursed by the National Government.

Any of such officers and employees who may later be reinstated in the Authority, or who shall be rehired in any government office or instrumentality, shall refund the unearned portion of gratuity received from the Authority before he shall be reinstated or rehired.

SEC. 24. Organization of the Authority. - Within sixty (60) days upon the effectivity of this Act, the Board of Directors of the Authority, or if none are as yet appointed, the incumbent Director – General, or Assistant Secretary of ATO, as the case may be, shall organize the Authority.

SEC. 25. Appropriations. - To provide for any extraordinary expenses of the Authority upon its organization, unavailed portion of the excess of actual operating income over the estimated expenses of the ATO and CAB if any at the time of the passage of this Act is hereby appropriated for purposes that the Board may approve.

For the purpose of funding the gratuity aforementioned, the amount of Four hundred million pesos (P400,000,000.00) inclusive of the amount referred to above, is hereby appropriated out of any funds available and not otherwise appropriated in the National Treasury.

SEC. 26. Saving Clause. - All orders, determinations, rules, regulations, permits, certificates, licenses and privileges which have been issued, made, granted, or allowed to become effective by the former ATO or its predecessors or by the CAB, respectively, shall continue to be in effect according to their terms until modified, amended, revoked, canceled, superseded, or set aside.

Causes of actions, suits or other proceedings may be asserted by or against the Authority or such official of the Authority, and its predecessors; or the Civil Aeronautics Board; as may be appropriate.

ARTICLE VII FINAL PROVISIONS

SEC. 27. Injunction and Restraining Order. - The implementation of the projects for the institutionalization and restructuring of the aviation industry are urgent and necessary and shall not be restrained or enjoined except by an order issued by the Supreme Court of the Philippines.

SEC. 28. Legal Counsel - Without prejudice to the appointment of a Corporate Counsel by the Board, the Government Corporate Counsel shall be the ex – officio counsel of the Authority.

SEC. 29. Auditor. - The Commission on Audit shall appoint a representative who shall be the full – time auditor of the Authority, and such personnel as may be necessary to assist said representative in the performance of his duties.

SEC. 30. Separability Clause - If for any reason, any section or provision of this Act shall be declared unconstitutional or invalid, the other sections or provisions hereof, which are not affected thereby, shall continue in full force and effect.

SEC. 31. Repealing Clause - All acts, decrees, orders, executive orders, instructions, rules and regulations or parts thereof, inconsistent with the provisions of this Act are repealed or modified accordingly.

SEC. 32. Effectivity - This Act shall take effect thirty (30) days after its approval and publication in the Official Gazette and in one (1) newspaper of general circulation.

Approved,