

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS

First Regular Session

House Bill No. 2743



Introduced by Rep. **HERMILANDO I. MANDANAS**

EXPLANATORY NOTE

This bill seeks to respond to our government's on-going development program to upgrade the Batangas City port into an international port. The Philippines should capitalize on its central location in the Asia-Pacific Region by developing a strong maritime industry. This should favorably situate the country in the forefront of the region's shipping, trade, industry and tourism. Indeed, we must see Batangas globally, i.e. in relation to the whole world around us, not just within the Philippine context.

The expansion of the Batangas City port signifies that our government is determined to promote the growth of the maritime industry and thus attract more investors in the field. The Batangas port is expected to receive thirty to forty percent (30%-40%) of the Manila traffic. Likewise, in accordance with the government's scheme, the Batangas port cargo capacity of 1 million tons will be increased by five (5) to six (6) times. Further, with the discovery of oil and recently, gas, in Palawan, as well as the government's plan to pump said products to Bataan through a pipeline from Palawan through Batangas, the strategic location of the latter has been enhanced.

Development of the Batangas City port would also signify that the national government is committed to decentralization and local autonomy. Creating an autonomous port authority should facilitate development not only of Batangas but the entire Southern Tagalog Region, whose demand for port services is increasing, owing to rapid industrialization.

To assist our government in its purpose to enhance the long-term prospects of the Batangas City port, there is need to create an agency specifically established and tasked to plan, integrate, develop and maintain all port facilities and operations in said port. The precipitous economic development of our nation must be coupled with the optimum utilization and development of port infrastructure and facilities to allow for the economical and efficient movement of goods and services. Moreover, it is imperative that there be an efficient port administration to ensure the smooth flow of trade and commerce. In the long run, this would create increased revenue collections for the government.

It is thus felt that a system of integrated and coordinate port administration and development could only be achieved through the creation of a Batangas Port Authority.

In view of all the foregoing, the approval of this bill is earnestly sought.



HERMILANDO I. MANDANAS

Representative
Second District, Batangas

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16 **AN ACT CREATING THE BATANGAS PORT AUTHORITY,**
17 **DEFINING ITS POWER AND FUNCTIONS,**
18 **PROVIDING APPROPRIATION THEREFOR,**
19 **AND FOR OTHER PURPOSES**
20

21 Be it enacted by the Senate and the House of Representatives of the
22 Philippines in Congress assembled:
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25 **SECTION 1. *Short Title.*** – This Act shall be known and cited as the
26 **“Charter of the Batangas Port Authority.”**
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28 **SECTION 2. *Declaration of Policy.*** – It is declared policy of the State to
29 promote the establishment and growth of autonomous regional port bodies to
30 produce an efficient, safe, commercial port, consistent with the constitutional
31 mandate to give all regions of the country maximum opportunity to develop.
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33 **SECTION 3. *Creation of the Port Authority.*** – There is hereby created a
34 public-benefit corporation to be known as the *Batangas Port Authority*, hereafter
35 referred to as the Authority. This Authority shall be under the supervision of the
36 Department of Transportation and Communications for purposes of policy
37 coordination.
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39 **SECTION 4. *Definition of Terms.*** For purposes of this Act, unless the
40 context indicates otherwise, the terms used herein shall mean as follows:
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42 (a) “Port facility” shall include wharves, piers, slips, docks, bulkheads,
43 warehouses, loading and unloading equipment and passenger terminals and
44 accessories;

(b) "Transportation facility" includes passenger and cargo boats, ferry boats, lighters, tugs, barges, scows, harbor craft of any kind, and any other kind of facility now in use or hereafter designated for use for the transportation or carriage of persons and goods;

(c) "Navigable waters" means all navigable portions of the seas, estuaries and inland waterways;

(d) "Wharf" means a continuous structure built parallel to or along the margin of the sea or alongside riverbanks, canals or other waterways where vessels may lie alongside to receive and discharge cargo or passenger, or lie at rest;

(e) "Pier" includes stage, stair, landing stage, jetty floating barge or pontoon and any bridge or other works connected therewith;

(f) "Dock" includes locks, cuts, entrances, graving docks, inclined planes, slipways, quays and other works relative thereto;

(g) "Bulkhead" means any structure serving to divide land and water areas;

(h) "Basin" means any naturally or artificially enclosed or nearly enclosed body of water in free communication with the sea;

(i) "Warehouse" means any building for storage or shed for cargo;

(j) "Lighter" means any large flat-bottomed boat or barge used in transporting goods, or in loading or unloading of vessels not linked alongside piers or wharves;

(k) "Anchorage" means any place with sufficient depth of water where vessels anchor or may ride at anchor within the harbor;

(l) "Goods" include wares and merchandise of every description;

(m) "Rates" includes tolls, fees, dues and rent imposed by the Authority;

(n) "Vehicle" includes any carriage traveling on its own wheels or runners and used or intended to be used for the conveyance or carrying of persons, animals or goods;

(o) "Vessels" includes any ship, boat or any waterborne craft used in the conveyance or carrying of persons, animals or goods.

SECTION 5. *Purposes and Objectives.* – The Authority shall have the following purposes and objectives:

(a) To integrate and coordinate the planning, development, construction and operations of ports and port facilities within its territorial jurisdiction, consistent with the needs and requirements of the region;

(b) To enhance the flow of international and domestic commerce passing through or utilizing the regional ports;

(c) To promote regional development by providing support services to sustain the growth of export and other priority industries in the region;

SECTION 6. *Territorial Jurisdiction.* – The territorial jurisdiction of the Authority shall include all seas, lakes, rivers and all other navigable inland waterways within the Province of Batangas including the City of Batangas and all other highly urbanized cities that may hereafter be created therein.

SECTION 7. *Powers.* – The Authority shall have the power and responsibility to:

(a) Have perpetual succession under its corporate name unless otherwise provided by law;

(b) Prescribe its by-laws and such rules and regulations as may be found necessary to promote or enhance the business of the Authority;

(c) Adopt and use a seal;

(d) Sue and be sued in any court;

(e) Enter into contracts, transactions and undertakings of whatever nature, which are necessary or incidental to its functions and objectives, with any natural or juridical persons or with any governmental institutions, domestic or foreign;

(f) Acquire, own, hire, use, operate and dispose of personal property and to acquire, own, use, lease, operate and dispose of real property and any interest thereon, and to make improvements to such real property, including the reclamation, for port purposes, of foreshore and submerged lands within its territorial jurisdiction, which reclaimed land shall *ipso facto* be deemed transferred in ownership to the Authority; and to enter into contracts with any public or private entity for such reclamation under such terms and conditions as it may deem to be for the public interest;

(g) Purchase, hold, alienate, mortgage, pledge, or otherwise dispose of the shares of the capital stocks of, or any bond, security, or other evidences of indebtedness created by any other country, and while the owner of said stock, to exercise all the rights of ownership, including the right to vote thereon;

(h) Exercise the right of eminent domain;

(i) Exercise all other powers not contrary to law which may be necessary or incidental to the effectuation of its authorized purposes or to the exercise in connection with property within its control of all powers which may be exercised by a natural or juridical person over its property and affairs;

(j) Levy dues and impose rates and charges for the use of the premises, works, appliances, facilities or for services provided by or belonging to the Authority, or any other organization concerned with port operations;

(k) Make expenditures to pay commissions and hire or contract experts and consultants, both foreign and local;

(l) Make expenditures for promotion of the business affairs of the Authority;

(m) Exercise all the powers of a corporation under the Corporation Code in so far as they are not inconsistent with the provisions of this Act.

156 **SECTION 8. *Governing Body.*** – The powers and functions of the Authority
157 shall be vested in and exercised by a Batangas Port Commission composed of a
158 Chairman, the Vice Chairman and five (5) other Commissioners. The Chairman
159 shall be the Secretary of Transportation and Communications or his duly
160 designated Undersecretary. The Vice Chairman, who shall be designated as the
161 Batangas Port General Manager, shall be elected by the Commissioners from
162 among themselves.

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164 The Commissioners shall be appointed by the President of the Philippines
165 and shall represent the following sectors;

- 166
167 (a) Ship owners and shipping operators;
168 (b) Cargo-handling labor sector from the locality;
169 (c) Business sector;
170 (d) Two (2) prominent citizens from the Province of Batangas.

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172 **SECTION 9. *Powers and Functions of the Commission.*** – The powers and
173 functions of the Batangas Port Commission shall be as follows:

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175 (a) To manage, administer, operate, maintain, improve and develop,
176 coordinate and otherwise govern the activities of all the ports within its territorial
177 jurisdiction;

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179 (b) To investigate, prepare, adopt, implement and execute a comprehensive
180 and orderly plan for the overall development of all ports within its territorial
181 jurisdiction and to update such plans, as may be warranted from time to time;

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183 (c) To raise revenues for the Authority, through the imposition of reasonable
184 fees, toll fees, charges and rentals and the like, as it may determine, for the use
185 of any of its properties, equipment or facilities;

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187 (d) To raise and administer, together with such revenues as may by law,
188 accrue to the Authority, capital outlays by means of loans from any local or
189 foreign financial institutions to finance its projects;

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(e) To provide and maintain port facilities including accessory buildings and installations within its territorial jurisdiction on its own or through the private sector;

(f) To prescribe and enforce rules and regulations on the use of wharves, piers and anchorages by ships and other watercraft;

(g) To determine the organization of the Authority, 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;

(h) To define the duties and fix the compensation and benefits of the General Manager, Deputy General Manager, Port Managers and other officers of the Authority, in accordance with the rules and regulations of the Civil Service Commission and the Department of Budget and Management;

(i) To approve the annual budget of the Authority and/or supplemental budgets thereof as may be submitted by the General Manager from time to time;

(j) To perform such other duties as may be necessary and convenient for the attainment of the objectives of the Authority.

SECTION 10. *Term of Office.* – The members of the Batangas Port Commission shall be appointed for a term of five (5) years; Provided, That any person appointed to fill a vacancy shall hold office only for the unexpired term of the Commissioner whom he succeeds.

SECTION 11. *Quorum, Per Diems and Allowances.* – Five (5) members of the Commission shall constitute a quorum for the transaction of business.

Unless otherwise fixed by the Commission, the Chairman and all the members shall each receive a per diem of Ten Thousand Pesos (P10,000.00) exclusive of traveling expenses, for each day of meeting of the Commission, which shall not exceed four (4) meetings a month.

SECTION 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. He shall have the powers and duties:

(a) To manage, direct and supervise the operations and internal administration of the Authority, subject to the control and supervision of the Commission;

(b) To prepare all memoranda pertaining to each and every item in the agenda for the meetings of the Commission and to submit for the consideration thereof such proposals or recommendations which he believes to be necessary to carry out effectively and beneficially the business of the Authority;

(c) To implement the policies and administer the measures approved by the Commission;

(d) To plan the executive organizational pattern of the Authority, submit from time to time to the Commission the corresponding organizational and functional charts and enforce the executive elements thereof; plan the meeting called for the purpose and approved by the President of the Philippines upon recommendation of the Secretary of Finance and the Bangko Sentral ng Pilipinas;

(e) To appoint and employ the services of subordinate officials and employees subject to the confirmation of the Commission;

(f) To prepare and submit to the Commission budget proposals of all kinds; and

(g) To perform such other duties and exercise such other powers as may be directed or authorized specially by the Commission.

SECTION 13. Prohibition Against Conflict of Interest. — No member of the Commission shall be financially interested, directly or indirectly, in any contract entered into by the Authority or in any special privilege granted by it. Violation of this prohibition shall constitute a ground for dismissal.

265 **SECTION 14. *Application for Civil Service Laws.*** — All officers and
266 employees of the Authority shall be subject to the Civil Service Commission and
267 the Department of Budget and Management rules and regulations, except those
268 whose positions may, upon recommendation of the Port Commission, be
269 declared by the President of the Philippines as policy determining, primarily
270 confidential or highly technical in nature.

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272 **SECTION 15. *Supplies and Services Other Than Personal.*** — All
273 purchases or contracts for services, except for personal services, entered into by
274 the Authority shall be done only after public bidding therefor is held, and subject
275 to the requirements and procedures under Republic Act No. 9184 and its
276 Implementing Rules and Regulations: Provided, That such bidding may be
277 required when an emergency, as explained and certified to by the General
278 Manager, requires immediate delivery of the supplies or performance of the
279 services and the unit costs or prices of such emergency procurement do not
280 exceed the latest costs or prices paid by the Authority for the same or similar
281 goods or services: Provided, further, That the General Manager shall report
282 under oath to the Commission the details of any such emergency procurement
283 within two (2) weeks after its consummation, including a statement of assurance
284 that the transaction constitutes the best arrangement possible under the
285 circumstances.

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287 **SECTION 16. *Capitalization.*** — The Authority shall have an authorized
288 capital stock equal to and consisting of:

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290 (a) The value of fixed assets, including port facilities and equipment
291 administered by or belonging to the Port of Batangas and such other properties,
292 movable and immovable, within the territorial jurisdiction of the Authority as
293 defined in Section 6 hereof, valued on the date of the effectivity of this Act; and
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295 (b) Government contribution in such amount as may be deemed an
296 appropriate initial balance. Such initial amount, as approved by the President of
297 the Philippines, shall be more or less equivalent to six (6) months working capital
298 requirement of the Authority.

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300 **SECTION 17. *Auditor and Personnel.*** — The Commission on Audit shall
301 appoint a representative who shall be the Auditor of the Authority and the

necessary personnel to assist said representative in the performance of his duties. The operating expenses of the auditing office and the salaries of both officials and employees shall be paid by the Authority.

SECTION 18. *Power to Issue Bonds.* — The Authority, to incur indebtedness or to issue bonds to carry out approved capital investment projects, shall be approved by the affirmative vote of at least four (4) of all members of the Commission is a special meeting called for the purpose and approved by the President of the Philippines upon the recommendation of the Secretary of Finance and the Central Bank of the Philippines.

SECTION 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): 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.

SECTION 20. *Form, Rate of Interest, etc. of Bonds.* — The Secretary of Finance, in consultation with the Monetary Board, shall prescribe the form, the rate of interest, the denominations, maturities, negotiability, convertibility, call and redemption features, and all other terms and conditions of issuances, placement, sale, servicing, redemption and payment of all bonds issued under the provisions of this Act.

The bonds issued by virtue of this Act shall be made payable both as to principal and interest in Philippine currency and shall be acceptable as security in any transaction with the Government in which such security is required.

SECTION 21. *Transfer of Existing Facilities and Intangible Assets.* — All existing facilities, including wharves, piers, slips, docks, bulkheads, basins, cargo terminals, warehouses, cold storage, loading and unloading equipment and

passenger terminals and accessories within the territorial jurisdiction of the authority; other lands, building and other properties, movable or immovable, belonging to or presently administered by the Philippine Ports Authority; and all assets, powers, rights, interests and privileges relating to port works or operations, including all equipment, are hereby transferred to the Authority.

SECTION 22. *Non-Impairment of Contracts.* - All ongoing projects relating to the rehabilitation and/or construction of port facilities and supply of equipment and/or services, covered by existing contracts and agreements as may have been entered into by the Philippine Ports Authority or any of its officers shall remain in force and effect, and shall bind the Authority as the successor-in-interest of the Philippine Ports Authority.

SECTION 23. *Transfer of Liabilities and Debts.* - Upon the transfer to and acceptance by the Authority of the existing physical facilities, intangible assets and completed projects referred to in the preceding sections, all debts, liabilities and obligations of such physical facilities, tangible assets and completed projects within the port shall likewise be assumed by the Authority.

SECTION 24. *Abolition of the Port Management Office of Batangas as a Port Management Unit of the Philippine Ports Authority.* - The Port Management Office of Batangas is hereby abolished. The General Manager of the Authority shall ensure the smooth transfer of responsibility from the abolished entity to the Authority as well as the determination of personnel to be retained. Provided, That all officials and employees whose services are terminated, shall, if eligible for retirement, be given gratuities equivalent to one (1) month for every year of continuous service on the basis of the highest salary received in addition to other benefits accorded them by existing laws.

SECTION 25. *Annual Report.* - The Authority shall submit an annual report to the President of the Philippines within sixty (60) days after the close of each fiscal year.

The original of said report shall be submitted to the President of the Philippines and copies thereof to the House of Representatives and Senate of the Philippines and the Department of Transportation and Communication. The

report shall include a financial statement duly certified by the Auditor of the Authority.

SECTION 26. *Appropriation.* – The amount necessary to carry out the provisions of this Act shall be included in the General Appropriations Act of the year following its enactment into law and thereafter.

SECTION 27. *Separability Clause.* – If any provision of this Act or the application of such provision to any person or circumstances 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.

SECTION 28. *Repealing Clause.* – All acts, charters, executive orders, administrative orders, rules and regulations, or parts thereof, in conflict with this Act are hereby repealed or modified accordingly.

SECTION 29. *Effectivity Clause.* – This Act shall take effect within fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.

APPROVED.