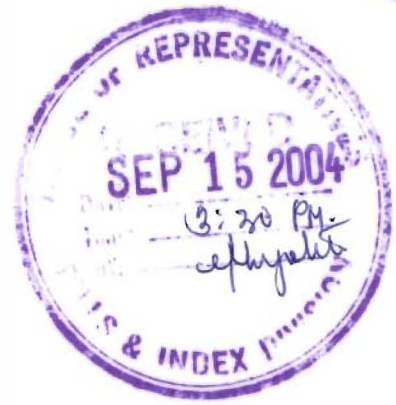


Republic of the Philippines  
HOUSE OF REPRESENTATIVES  
Quezon City



**THIRTEENTH CONGRESS**

**FIRST REGULAR SESSION**

**HOUSE BILL NO. 2912**

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**Introduced By JACINTO V. PARAS**

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**EXPLANATORY NOTE**

This is a refiled legislative proposal originally registered in the 11<sup>th</sup> Congress as House Bill No. 1420 entitled " An Act Amending Section 7, sub – section A (vii) and Sub-section B of Presidential Decree No. 857, Otherwise Known as the Revised Charter of the Philippine Ports Authority, As Amended. " House Bill No. 1420 along with House Bill No. 226, 1013, 1162, 1398 and 2708 were consolidated by the Committee on Transportation and Communication into House Bill No. 12586 per Committee Report No. 1290 dated November 07, 2000.

The PPA, which was organized in 1974 to manage and operate the seaports all over the country in lieu of the Bureau of Customs, has become a virtual monopoly. However, despite being a government – owned monolith, the PPA's record of accomplishment in port development has been lackluster and at best, mediocre. At present, our port infrastructure facilities is either inadequate and are unresponsive to the needs of the users. The delivery of port services is ineffective and inefficient. In addition, the productivity of the cargo handling services is on the decline.

This legislative proposal seeks to amend certain provisions of PD No. 857 otherwise known and cited as " Revised Charter of the Philippine Ports Authority, As Amended " with the aim in view of : 1) enhancing competition and efficiency in port infrastructure development and services; 2) promoting private sector participation in the planning and development of seaports in the country; 3) encouraging decentralization of local port management offices; and 4) decoupling of the PPA's regulatory and commercial functions.

In the context of a projected growth in cargo and passenger traffic in the near term, this legislative measure is being proposed and approval is earnestly sought.

  
**JACINTO V. PARAS**

Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**  
Quezon City

**THIRTEENTH CONGRESS**

First Regular Session

**HOUSE BILL NO. 2912**

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**Introduced By Rep. JACINTO V. PARAS**

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**AN ACT**  
**AMENDING PRESIDENTIAL DECREE NO. 857, OTHERWISE KNOWN AS**  
**THE REVISED CHARTER OF THE PHILIPPINE PORTS AUTHORITY**  
**(PPA), AS AMENDED, TO STRENGTHEN AND STREAMLINE THE**  
**AUTHORITY, AND FOR OTHER PURPOSES.**

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

SECTION 1. Sec. 2, ***Declaration of Policies and Objectives***, is hereby amended by adding paragraphs g ) and h ) to read as follows:

G) FOSTER VIABLE COMPETITION AMONG PORTS AND ENSURE EFFICIENT PROVISION OF PORT SERVICES TAKING INTO CONSIDERATION THE PHYSICAL CONFIGURATION OR CONSTRAINTS OF THE PORTS, VESSEL AND CARGO TRAFFIC AND SUCH OTHER RELEVANT FACTORS;

H ) TO ENCOURAGE PRIVATIZATION AND EXPAND THE PARTICIPATION OF THE PRIVATE SECTOR IN THE DEVELOPMENT, MANAGEMENT AND OPERATIONS OF PORTS THRU THE BUILD – OPERATE – AND – TRANSFER – SCHEME OR ITS VARIANTS, JOINT VENTURES OR SUCH OTHER SCHEMES AUTHORIZED BY THIS ACT OR OTHER LAWS AND EXISTING POLICIES, PROVIDED THAT PORT PRIVATIZATION SHALL NOT INCLUDE THE SALE OR TRANSFER OF OWNERSHIP OF PORT ASSETS OR FACILITIES.

Section 2 . Section 3. Definitions, is hereby adding paragraphs v), w) and x), to read as follows:

V) “ **PORT SYSTEM** “ INCLUDES GOVERNMENT PORTS, WHICH, AS DETERMINED BY THE AUTHORITY ON THE BASIS OF CARGO, VESSEL, AND PASSENGER TRAFFIC, STRATEGIC LOCATION AND DEVELOPMENT POTENTIALS, CAN PROVIDE EFFECTIVE AND ECONOMICAL TRANSPORT FOR GOODS AND PASSENGERS;

W) “ **SUBSIDIARY** “ REFERS TO CORPORATION ORGANIZED BY THE AUTHORITY IN ACCORDANCE WITH THE CORPORATION LAW TO DEVELOP, MAINTAIN, MANAGE AND OPERATE PORTS AND PORT SERVICES AS A FINANCIALLY AUTONOMOUS ENTITY;

X ) “ **JOINT VENTURE** “ OF THE AUTHORITY AND THE PRIVATE SECTOR REFERS TO CORPORATION OR ENTITY ORGANIZED UNDER EXISTING LAWS, WITH THE AUTHORITY AS THE MINORITY STOCKHOLDER AND THE PRIVATE SECTOR AS THE MAJORITY STOCKHOLDER, TO DEVELOP, MAINTAIN, MANAGE AND OPERATE PORT OR PORT SERVICES AS COMMERCIAL ENTERPRISES.

Section 3. Sec. 4, Creation of the Philippine Ports Authority, is hereby amended, by redesignating paragraph b ) as paragraph c ) and inserting a new paragraph b), to read as follows:

B) THE AUTHORITY SHALL, IN ADDITION TO ITS POWERS AND JURISDICTION OVER THE DEVELOPMENT, MAINTENANCE, MANAGEMENT AND OPERATIONS OF PORTS UNDER ITS PORT SYSTEM, SERVE AS THE NATIONAL PORT PLANNING BODY OTHER GOVERNMENT AGENCIES SUCH AS THE LOCAL GOVERNMENT UNITS, PHILIPPINE FISHERIES DEVELOPMENT AUTHORITY (PFDA), DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS ( DOTC ), DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS ( DPWH ), CEBU PORT AUTHORITY ( CPA ) AND OTHER INDUSTRIAL ESTATES OR SPECIAL ECONOMIC ZONES INVOLVED IN THE DEVELOPMENT OR CONSTRUCTION OF PORTS EXCEPT MILITARY SHALL COORDINATE WITH THE AUTHORITY WITH RESPECT TO THEIR PORT PLANS AND PROGRAMS.

Section 4. Sec. 5, Port District is hereby amended to read as follows:

SECTION 5. PORT DISTRICT - [ The authority may from time to time submit to the President, through the National Economic and Development Authority, application for the declaration of specific areas as Port Districts. Such applications shall be accompanied by a survey plan indicating the geographical location of the area or areas to be declared as port Districts with their respective boundaries properly delineated. ] THE NATIONAL PORT SYSTEM SHALL COMPRISE ALL PORTS IN THE COUNTRY, WHETHER OWNED BY THE GOVERNMENT OR UNDER PRIVATE OWNERSHIP AND WHETEHER OPERATED COMMERCIALY OR FOR A SPECIAL PURPOSE. THE AUTHORITY SHALL HAVE JURISDICTION ON ALL PORTS INTENDED OR USED FOR A COMMERCIAL PURPOSE OR THOSE BUILT PRIMARILY FOR RECEIVING VESSELS FOR THE PURPOSE OF LOADING OR DISCHARGING PASSENGERS AND CARGOES SHIPPED BY THE GENERAL PUBLIC. PORTS HEREINAFTER DEVELOPED OR CONSTRUCTED BY OTHER AGENCIES OF THE GOVERNMENT SHALL FALL UNDER THE JURISDICTION OF THE AUTHORITY UPON THEIR FORMAL TURN OVER TO THE LATTER. PRIVATE PORTS THAT CATER EXCLUSIVELY FOR THE TRANSPORT NEEDS OF ITS OWNER OR OPERATOR SHALL LIKEWISE FALL UNDER THE JURISDICTION OF THE AUTHORITY.

AS HEREIN DEFINED, THE AUTHORITY SHALL ESTABLISH AND ADMINISTER A PORT SYSTEM COMPRISING OF VITAL PORTS CRITICAL FOR THE COUNTRY'S TRADE AND TRANSPORT NETWORK.

SECTION 5. Sec. 6 – a), Corporate Duties of the Authority, sub – paragraphs (I), ( vii ) and ( viii ), are hereby amended and a new sub – paragraph ( ix ) added to read as follows:

- (i) To formulate in coordination with the DOTC, National Economic Development Authority (NEDA) AND DPWH, a comprehensive [ and practicable ] NATIONAL Ports Development Plan (NPDP) [ for the state and to program its implementation, renew and update the same annually in coordination with other national agencies ] RESPONSIVE TO THE NEEDS OF TRADE AND REGIONAL ECONOMIC DEVELOPMENT AND COMPATIBLE WITH THE NATIONAL INTERMODAL AND MULTIMODAL TRANSPORT NETWORK;
- (vii) TO EXERCISE CONTROL OR ADMINISTER ANY FORESHORE RIGHTS OR LEASES, INCLUDING THE PORT FACILITIES AND IMPROVEMENTS THEREON WHICH ARE DELINEATED IN COORDINATION [ coordinate] with the Bureau of Lands AND DECLARED BY THE PRESIDENT AS PORT ZONE [ or any other government agency or corporation, in the development of any foreshore area ]. EXISTING LEASES ON FORESHORE AREAS DEVOTED TO PORT DEVELOPMENT AND OPERATIONS ARE HEREBY TRANSFERRED FROM THE BUREAU OF LAND MANAGEMENT TO THE AUTHORITY.
- (viii) To control, regulate, and supervise pilotage [ and the conduct of pilots in any Port District ] SERVICES BY:
  - (viii.i) DETERMINING PILOTAGE SERVICES AND FEES;
  - (viii.ii) ACCREDITING QUALIFIED HARBOR PILOTS, AND PILOTAGE ORGANIZATIONS; AND
  - (viii.iii) IDENTIFYING WHAT PORTS IN THE COUNTRY SHALL BE UNDER COMPULSORY OR OPTIONAL PILOTAGE.
- (ix) TO ENSURE SAFE AND EFFICIENT NAVIGATION, THE AUTHORITY SHALL PROVIDE WITHIN THE PORT LIMITS SUCH NAVIGATIONAL AIDS AND LIGHTHOUSES AND COMMUNICATION SERVICES AND FACILITIES WHICH SHALL BE ALLOCATED AND EXCLUSIVE RADIO FREQUENCY LINE BY THE CONCERNED LICENSING GOVERNMENT AGENCY AMONG OTHERS.

The original sub – paragraph ( ix ) are hereby renumbered as ( x ) and ( xi).

SECTION 6. Sec. 6 – b, Corporate Powers of the Authority, sub-paragraphs ( y ), and ( x ) are hereby amended and sub – paragraphs (xv ), ( xvi ), and ( xviii ) added, to read as follows:

(y) To create, REORGANIZE OR ABOLISH OFFICES, DETERMINE STAFFING PATTERN AND NUMBER OF PERSONNEL AND STAFF THE ORGANIZATION WITH APPROPRIATE AND QUALIFIED PERSONNEL. [ or alter its own organization or any Port management Unit, and staff such an organization or Port Management Unit with appropriate and qualified personnel ] in accordance with what may be deemed [ proper or ] necessary to achieve objectives of the Authority. ANY OFFICIAL OR EMPLOYEE WHO MAY BE PHASED OUT BY REASON OF REORGANIZATION SHALL, IN ADDITION TO THE BENEFITS UNDER EXISTING RETIREMENT LAWS, BE GRANTED NOT LESS THAN THREE ( 3 ) MONTHS BASIC SALARY FOR EVERY YEAR OF SERVICE.

( x ) To [ claim ] excavate, enclose or raise any part of the lands OR RECLAIM WATER AREAS FOR PORT- RELATED PURPOSES, ON ITS OWN OR THROUGH A PRIVATE DEVELOPER, UNDER SUCH ARRANGEMENT AS THE AUTHORITY MAY DEEM PROPER. THE AREAS THUS RECLAIMED SHALL BE ELIGIBLE FOR TITLING IN THE NAME OF THE AUTHORITY AND / OR THE PRIVATE DEVELOPER [ vested in the Authority].

(xv ) TO ISSUE PERMIT ON CONSTRUCTION OF PORT FACILITIES OR STRUCTURES. IN PARTICULAR, TO ENCOURAGE THE ESTABLISHMENT AND OPERATION OF PRIVATE PORTS PROVIDED THAT THE OPERATION AND MAINTENANCE THEREOF SHALL BE DIRECTLY CONNECTED TO AND IS AN INTEGRAL PART OF THE PRINCIPAL BUSINESS OF THE PRIVATE PORT OPERATOR.

( xvi ) TO UNDERTAKE CONSTRUCTION OF PORT FACILITIES AND PROVIDE SERVICES, AND IN FURTHERANCE THERE WITH, NO RESTRAINING ORDER OR INJUNCTION SHALL BE ISSUED AGAINST THE AUTHORITY.

( xvii ) TO ENSURE AMPLE PROTECTION TO PORT LABOR IN CASE OF CHANGE IN THE MANAGEMENT AND OPERATIONS OF CARGO HANDLING AND PORT SERVICES, THE LABOR FORCE OF THE OUTGOING CARGO HANDLING AND PORT SERVICE OPERATOR SHALL AS FAR AS PRACTICABLE, BE ENTITLED TO THE FOLLOWING:

( xvii.i ) ABSORPTION FOR EMPLOYMENT BY THE INCOMING PORT SERVICE OPERATOR;

( xvii.ii ) PURCHASE EQUITY STOCK NOT TO EXCEED TWENTY (20%) PERCENT OF THE AUTHORIZED CAPITAL STOCK OF THE FIRM;

( xvii.iii ) PAYMENT BY THE OUTGOING SERVICE OPERATOR OF THE BENEFITS WHICH HAVE ACCRUED TO THE LABOR FORCE UP TO THE TIME OF THE TRANSFER OR ABSORPTION BY THE NEW OPERATOR, IN ACCORDANCE WITH LABOR AND SOCIAL LEGISLATIONS AND OTHER APPLICABLE LAWS. SAID BENEFITS SHALL CONSTITUTE A LIEN ON THE ASSETS AND EQUIPMENT OF THE OUTGOING CARGO HANDLER AND PORT SERVICE OPERATOR WHICH THE AUTHORITY SHALL TAKE INTO CUSTODY AND PROPERLY DISPOSE TO SATISFY LIEN.

( xvii.iv ) TO CREATE A PORT WORKER AMELIORATION FUND (PWAF) WHICH SHALL BE ADMINISTERED AND MAINTAINED BY THE AUTHORITY TOGETHER WITH REPRESENTATIVES FROM THE CARGO HANDLER'S ORGANIZATION / PORT OPERATOR AND THE LABOR FORCE.

SECTION 7. Sec. 7, Board of Directors, sub – paragraph ( ix ) of Sub – section a ) and sub – section c) are hereby amended as follows:

(ix) THREE (3) [ One ( 1 ) ] PRIVATE SECTOR REPRESENTATIVES [ other person ] who shall be appointed by the President [ of the Philippines, representing the private sector ] ONE (1) FROM THE SHIPOWNERS SECTOR AND ONE ( 1 ) FROM THE CHAMBER OF COMMERCE AND INDUSTRY SECTOR, who by reason of [ his ] THEIR knowledge [ or ] AND experience [ is ] ARE COMPETENT TO BE MEMBERS OF THE BOARD OF DIRECTORS, [ in the opinion of the President, fit and proper person to be Director of the Board. ] PROVIDED, That, in the absence of the Director appointed in sub-sections ( iii ) to ( viii ) the Director concerned shall designate the officer next in rank to him in his department or office to act on his behalf as Director.

- c) The members of the Board or their respective alternates shall receive a per diem AND REPRESENTATION ALLOWANCE as it may approve for each Board meeting actually attended by them: Provided, That, [ such per diems shall not exceed one thousand pesos during any month for each member: Provided further; That no other allowances or any form of compensation shall be paid them except actual expenses in traveling to or from their residence to attend Board meetings ] THE AMOUNT OF SUCH PER DIEMS AND ALLOWANCES SHALL BE COMPARABLE TO THE PER DIEMS AND ALLOWANCES OF THE MEMBERS OF THE BOARD OF OTHER GOVERNMENT CORPORATIONS SIMILAR IN SIZE AND INCOME WITH THE AUTHORITY.

SECTION 8. Sec. 8, Management and Staff, paragraph c) is hereby amended and a new paragraph d) added to read as follows:

- c) The general manager shall, subject to the approval of the Board, [ determine the staffing pattern and the number of personnel ] PROVIDE FOR AN ORGANIZATION AND STAFF OF OFFICERS AND EMPLOYEES of the Authority [ , ] AND define their duties and responsibilities [ , and ] AS WELL AS fix their COMPENSATION { salaries } and OTHER emoluments. [ For professional and technical positions, the General Manager shall recommend salaries and emoluments that are comparable to those of similar positions in other government – owned corporations, the provisions of existing rules and regulations on wage and position classification notwithstanding.] ALL POSITIONS IN THE AUTHORITY SHALL BE GOVERNED BY A COMPENSATION POSITION CLASSIFICATION AND QUALIFICATION STANDARD APPROVED BY THE BOARD BASED ON A COMPREHENSIVE JOB ANALYSIS AND AUDIT OF ACTUAL DUTIES AND RESPONSIBILITIES. THE COMPENSATION PLAN SHALL BE COMPARABLE WITH PREVAILING COMPENSATION PLANS IN THE PRIVATE SECTOR AND SUBJECT TO REVIEW, WITHOUT PREJUDICE TO YEARLY MERIT INCREASE BASED ON PRODUCTIVITY AND PROFITABILITY. THE AUTHORITY SHALL, THEREFORE, BE EXEMPT FROM 1989 OR ANY FUTURE SALARY STANDARDIZATION LAW AS WELL AS ANY ATTRITION LAW WHICH HEREIN AFTER BE ENACTED.
- d) PERSONNEL OF THE AUTHORITY WHO ARE AFFECTED BY THE CREATION OF A SUBSIDIARY, JOINT VENTURE OR TRANSFER OF THE MANAGEMENT, DEVELOPMENT, MAINTENANCE AND OPERATIONS FUNCTIONS OF THE PORTS AND / OR PORT SERVICES TO THE PRIVATE SECTOR SHALL BE ENTITLED TO THE

SAME BENEFITS AS THOSE AFFECTED BY THE REORGANIZATION AND SHALL FURTHER BE ABSORBED BY THE PORT OPERATING FIRMS AND ENTITLED TO OR GUARANTEED WITH SECURITY OF EMPLOYMENT FOR NOT LESS THAN FIVE ( 5 ) YEARS.

The original paragraphs d), e) and f) are accordingly re – designated as paragraphs e), f) and g).

Sec. 9 . Section 9 – A. **National Port Advisory Council**, is hereby amended as follows:

SECTION 9 – A [ **National } Port Advisory Councils** – There [ is hereby created a National ] SHALL BE ESTABLISHED Port Advisory Councils AT THE PORT DISTRICT OFFICES AND PORT MANAGEMENT OFFICES to be composed of [ the General Manager of the Philippine Ports Authority as Chairman and a representative each from the Department of Labor and Employment, the Bureau of Customs, Chambers of Commerce and Industry, import and export associations, the local shipping companies, the foreign shipping companies, arrastre and stevedoring companies, consumer group, shippers council and such other aggrupation as the Authority may deem expedient as members, which shall act as an advisory body to assist the Authority in the formulation of its policies.] REPRESENTATIVES FROM PPA AS CHAIRMAN AND DOTC, LOCAL GOVERNMENT UNITS ( LGU ) MARITIME INDUSTRY AUTHORITY ( MARINA ), PHILIPPINES COAST GUARD (PCG), AND NON-GOVERNMENTAL ORGANIZATIONS CONCERNED WITH PORT AND MARITIME SECTORS AS MEMBERS TO ASSIST THE AUTHORITY IN THE FORMULATION OF PORT DEVELOPMENT PLANS AND OPERATIONAL POLICIES AND RESOLUTIONS OF RELATED ISSUES.

SECTION 10. Sec. 13, Borrowing Powers, Sub – section a ) is hereby amended to read as follows:

Sec. 13. **Borrowing Powers –**

- a) The authority may after consultation with the [ central bank ] BANGKO SENTRAL NG PILIPINAS and the Department of Finance, and with the approval of the President of the Philippines raise funds, either from local or international sources by way of loans, credits or securities, and borrowing instruments, including the power to create pledges, mortgages and other voluntary liens or encumbrances on any of its assets or properties INCLUDING THE FLOTATION OF BONDS.

SECTION 11 Sec. 22, **Remedies for Non –Payment**, is hereby amended to read as follows:

SECTION 22. Remedies for Non-payment – If the master, owner, or agent of any vessel refuses or neglects to pay on demand any dues, rates, or charges made under this Decree or any part thereof OR ON ANY DETERMINED DAMAGED TO PORT FACILITIES, the Authority may, in addition to any other remedy provided by law, detain or arrest on its own authority such vessel and tackle, apparel or furniture belonging to the vessel, and detain the same until the amount or amounts due have been paid.

SECTION 12. Sec. 30, ***Transfer of Existing and Completed Physical Facilities***, is hereby amended by adding a second and third paragraphs, to read as follows:

SECTION 30. ***Transfer of Existing and Completed Physical Facilities*** –  
A ) In accordance with the transitory provisions of this Decree, there shall be transferred to the Authority all existing and completed public port facilities, quays, wharves, docks, land buildings and other property, movable or immovable, belonging to those ports declared as Port Districts for purposes of this Decree.

B) THE ADMINISTRATION, REVENUE COLLECTION, MANAGEMENT, OPERATION AND DEVELOPMENT OF GOVERNMENT PORTS WHICH ARE NOT EMBRACED OR INCLUDED IN THE PORT SYSTEMS ESTABLISHED BY THE AUTHORITY MAY UPON ITS CONCURRENCE BE DEVOLVED TO THE LOCAL GOVERNMENT UNIT ( LGU ) CONCERNED.

PRIOR TO ANY DEVOLUTION, THE AUTHORITY SHALL ENSURE THAT THE LGU CONCERNED SHALL HAVE THE PROPER TRAINING TO OPERATE AND MANAGE THE DEVOLVED PORTS. DOTC AND OTHER AGENCIES WHICH HAVE FINANCED AND CONSTRUCTED PORTS ON THEIR OWN MAY TURN THEM OVER TO THE AUTHORITY FOR OPERATION. THE SAME PORTS MAY ALSO BE DEVOLVED BY THE AUTHORITY TO THE LGUS.

SECTION 13. ***Implementing Rules and Regulations*** - The Authority is hereby authorized to promulgate the appropriate rules and regulations for the proper implementation of this Act.

SECTION 14. ***Amendment Clause*** – Any amendment of any provision of this Act shall be effected only by a special law enacted for the purpose.

SECTION 15. ***Repealing Clause*** – All laws, decrees, Letters of Instructions, Orders, rules and regulations, policies, programs or part thereof, inconsistent with or contrary to any of the provision of this Act are hereby repealed or modified accordingly.

SECTION 16. ***Separability Clause*** - If, for any reason, any section or provision of this Act is declared to be unconstitutional or invalid, the other sections or provisions of this Act which are not affected thereby shall continue to be in full force and effect.

SECTION 17. ***Effectivity*** - This Act shall take effect after fifteen ( 15 ) days following its publication in the Official Gazette or any newspaper of general circulation.

**Approved,**