

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



THIRTEENTH CONGRESS
First Regular Session

House Bill No. 3697

INTRODUCED BY HON. IGNACIO T. ARROYO

EXPLANATORY NOTE

The creation of a Special Economic Zone in the Province of Negros Occidental will effectively respond to the urgent national effort to minimize, if not eradicate poverty among our citizenry.

This proposed measure establishes the Negros Occidental Special Economic Zone and Free Port which shall cover the entire Province of Negros Occidental. The Zone shall be developed into a self-sustaining industrial, commercial, financial, investment and tourism/recreational center with free port and suitable retirement/residential areas, in order to create employment opportunities in and around the Zone, and to effectively encourage and attract legitimate and productive foreign investments therein. The envisioned seaports would provide international accessibility, critical to the influx of foreign capital. It is anticipated that the Zone will be able to provide an alternative location for investment in the Philippines

To attract foreign and local investors, the proposed measure provides, among other benefits, that registered business establishments in the Zone shall be entitled to fiscal incentives as provided for in PD No. 66, the EPZA law and the Omnibus Investment Code of 1987.

The bill will fulfill the objective of providing jobs to our local people as well as those in the neighboring provinces. This measure will also pump-prime Negros Occidental's productivity and so are its people's individual incomes, and consequently, improve the level and quality of their living conditions.

With the enactment of this bill, tremendous economic progress will be realized not only in Negros Occidental but also in the entire country.

Approval of this bill is, therefore, earnestly urged.


IGNACIO T. ARROYO
Representative
5th District , Negros Occidental

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AN ACT
ESTABLISHING THE NEGROS OCCIDENTAL SPECIAL
ECONOMIC ZONE AND FREE PORT IN THE PROVINCE OF
NEGROS OCCIDENTAL, CREATING FOR THE PURPOSE THE
NEGROS OCCIDENTAL SPECIAL ECONOMIC ZONE AND FREE
PORT AUTHORITY, APPROPRIATING 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 "Negros Occidental 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. Creation of the Negros Occidental Special Economic Zone and Free Port. - In pursuit of the foregoing declared policy and subject to the concurrence of the concerned local government units of Negros Occidental affected by the zone, there is hereby established a Special Economic Zone and Free Port, hereinafter referred to as the Negros Occidental ECOZONE. The Negros Occidental ECOZONE shall cover the entire area embraced by all the

the Cities and Municipalities of Negros Occidental. The specific metes and bounds of the Negros Occidental ECOZONE shall be more particularly defined in a presidential proclamation that shall be issued for this purpose.

Sec. 4. Governing principles. - The Negros Occidental Special Economic Zone and Free Port shall be managed and operated by the Negros Occidental a Special Economic Zone and Free Port Authority, herein referred to as the NOSEZA, to be created under Section 6 of this Act, under the following principles:

(a) Within the framework and limitations of the Constitution and applicable provisions of the Local Government Code, the Negros Occidental ECOZONE shall be developed into and operated as a decentralized, self-reliant and self-sustaining industrial, commercial/trading, agro-industrial, tourist, banking, financial and investment center with suitable residential areas.

(b) The Negros Occidental ECOZONE shall be provided with transportation, telecommunications and other facilities needed to attract legitimate and productive investments, generate linkage industries and employment opportunities for the people of the Province of Negros Occidental and its neighboring towns and cities.

(c) The Negros Occidental ECOZONE may establish mutually beneficial economic relations with other entities or enterprises within the country or, 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 foreign entities or enterprises.

(d) Foreign citizens and companies owned by non-Filipinos in whatever proportion may set up enterprises in the Negros Occidental ECOZONE, either by themselves or in joint venture with Filipinos in any sector of industry, international trade and commerce within the Negros Occidental ECOZONE.

(e) The Negros Occidental ECOZONE shall be operated and managed as a separate customs territory ensuring free flow or movement of goods and capital within, into and exported out of the Negros Occidental ECOZONE, as well as provide incentives such as tax and duty-free importations of raw materials and capital equipment. However, exportation or removal of goods from the territory of the Negros Occidental ECOZONE to the other parts of the Philippine territory shall be subject to customs duties and

taxes under the Tariff and Customs Code of the Philippines, as amended and the National Internal Revenue Code of 1997, as amended.

(f) The areas comprising the Negros Occidental ECOZONE may be expanded or reduced when necessary. For this purpose, the NOSEZA, in consultation with the local government units, shall have the power to acquire either by purchase, negotiation or condemnation proceedings, any private lands within or adjacent to the Negros Occidental ECOZONE for the following purposes: (a) consolidation of lands for Negros Occidental ECOZONE development; (2) acquisition of right of way to the Negros Occidental ECOZONE; and (3) the protection of watershed areas and natural assets valuable to the prosperity of the Negros Occidental ECOZONE.

(g) Goods manufactured by an Negros Occidental ECOZONE enterprise shall be made available for immediate retail sale in the domestic market, subject to the payment of corresponding taxes on raw materials and other regulations that may be formulated by the NOSEZA, together with the PEZA, the Bureau of Customs and the DTL. However, in order to protect the domestic industry, there shall be a negative list of industries that will be drawn up and regularly updated by PEZA. Enterprises engaged in industries included in such negative list shall not be allowed to sell their products locally.

(h) The defense of the Negros Occidental ECOZONE and the security of its perimeter fence shall be the responsibility of the national government in coordination with the Negros Occidental ECOZONE and the local government units.

Sec. 5. Incentives – Investors and business enterprises within the Negros Occidental ECOZONE shall be entitled to the following incentives.

a) *Resident Status And Visa.* Any foreign investor who establishes a business enterprise within the Negros Occidental ECOZONE who maintains capital investment of not less than One hundred fifty thousand United States dollars (US \$150,000.00) shall be granted, along with his or her spouse, dependents, and unmarried children below twenty-one (21) years of age, permanent resident status within the Negros Occidental ECOZONE and freedom of ingress and egress to and from the Negros Occidental ECOZONE without any need of any special authorization from the Bureau of Immigration. Working visas renewable every two (2) years shall be issued to foreign executives and foreign technicians with highly specialized skills, which no Filipino possesses, as certified by the Department of Labor and Employment.

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

b) *Fiscal Incentive.* Business establishments operating with the Negros Occidental ECOZONE shall be entitled to the existing fiscal incentives as provided for under Republic Act No. 7916, otherwise known as the "Special Economic Zone Act of 1995," as amended, or those provided under Book VI of Executive Order No. 226, as amended, otherwise known as the Omnibus Investment Code of 1987.

c) *Taxation.* Except for real property taxes on land owned by developers, no taxes, local and national, shall be imposed on business establishments operating within the Negros Occidental ECOZONE. In lieu thereof, five percent (5%) of the gross income earned by all business enterprises within the Negros Occidental ECOZONE shall be paid and remitted as follows:

- a) Three percent (3%) to the National Government;
- b) Two percent (2%) which shall be directly remitted by the business establishments to the treasurer's office of the municipality or city where the enterprise is located.

All persons and service establishments in the Negros Occidental ECOZONE shall be subject to national and local taxes under the National Internal Revenue Code, as amended by RA 8424, and the Local Government Code.

d) *Banking Rules and Regulations.* Existing laws and rule/regulations of the *Bangko Sentral ng Pilipinas* (BSP) shall apply to banks and financial institutions to be established in the Negros Occidental ECOZONE. Among other pertinent regulations, these include those governing foreign exchange and other concurrent account transactions (trade and non-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.

e) *Profit Remittance.* Without prior BSP approval, after tax profits and other earnings of foreign investments in enterprises in the Negros Occidental ECOZONE may be remitted outward in the equivalent foreign exchange through any of the banks licensed by the BSP in the Negros

Occidental ECOZONE; *Provided, however,* That such foreign investments in said enterprises have been previously registered with the BSP.

Sec. 6. Creation of the Negros Occidental Special Economic Zone And Free Port Authority – There is hereby created a body corporate to be known as the Negros Occidental Special Economic Zone and Free Port Authority, hereinafter referred to as the NOSEZA, which shall manage and operate, in accordance with the provisions of this Act, the Negros Occidental Special Economic Zone and Free Port. This corporate franchise shall expire in fifty (50) years counted from the first day of the fifth (5th) calendar year after the effectivity of this Act, unless otherwise extended by Congress. It shall be organized within one hundred eighty (180) days after the effectivity of this Act.

Sec. 7. Principal Office – The Negros Occidental Special Economic Zone and Free Port Authority shall maintain its principal office in Bacolod City, but it may establish branches and agencies within the Philippines and abroad as may be necessary for the proper conduct of its business.

Sec. 8. Powers and Functions of the Negros Occidental Special Economic Zone and Free Port Authority. – The Negros Occidental Special Economic Zone and Free Port Authority shall have the following powers and functions:

- (a) To operate, administer, manage and develop the Negros Occidental ECOZONE according to the principles and provisions set forth in this Act;
- (b) To recommend to the President the issuance of a proclamation to fix and delimit the site of the Negros Occidental ECOZONE;
- (c) To register, regulate and supervise the enterprises in the Negros Occidental ECOZONE in an efficient and decentralized manner, subject to existing laws;
- (d) To coordinate with local government units and exercise general supervision over the development plans, activities and operations of the Negros Occidental ECOZONE;
- (e) To regulate and undertake the establishment, operation and maintenance of utilities, other services and infrastructure in the Negros Occidental ECOZONE such as but not limited to heat, light and power, water supply, telecommunications, transport, toll roads and bridges, port services, etc. and to fix just, reasonable and competitive rates, fares, charges and prices thereof;
- (f) To construct, acquire, own, lease, operate and maintain on its own or through contracts, franchise, licenses, bulk purchase from the

private sector or permits under any of the schemes allowed in Republic Act No. 6957 (the Build-Operate-Transfer Law, as amended by RA 7718), or joint venture, adequate facilities and infrastructure required or needed for the operation and development of the Negros Occidental ECOZONE, in coordination with appropriate national and local government authorities and in conformity with applicable laws thereon;

- (g) 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;
- (h) 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;
- (i) To provide security for the Negros Occidental ECOZONE in coordination with the national and local governments. Military forces sent by the national government for the purpose of defense shall not interfere in the internal affairs of the Negros Occidental ECOZONE and expenditures for these military forces shall be borne by the national government. For this purpose, the NOSEZA may establish and maintain its security forces and firefighting capability or hire others to provide the same;
- (j) To protect, preserve, maintain and develop the virgin forests, beaches, coral and coral reefs and maintain ecological balance within the Negros Occidental Negros Occidental ECOZONE;
- (k) To create, operate and/or contract to operate such agencies and functional units of offices of the NOSEZA as it may deem necessary;
- (l) To adopt, alter and use a corporate seal; make contracts, leases, own, or otherwise dispose of personal or real property; sue and be sued; and otherwise carry out its functions and duties as provided for in this Act;
- (m) To issued certificates of origin for products manufactured or process in the Negros Occidental ECOZONE in accordance with prevailing rules of origin, and the pertinent regulations of the PEZA, DTI and/or the Department of Finance (DOF);
- (n) To issue working visas renewable every two (2) years to foreign executives and foreign technicians with highly specialized skills which no Filipinos possesses, as certified by the Department of Labor and Employment;

- (o) To report to the Bureau of Immigration the names of the foreigners who have been granted permanent resident status and working visas within thirty (30) days after issuance of such grant;
- (p) To exercise such powers as maybe essential, necessary or incidental to the powers granted to it hereunder as well as those that shall enable it to carry out, implement and accomplish the purposes, objectives and policies of this Act; and
- (q) To issue rules and regulations consistent with the provisions of this Act as maybe necessary to accomplish and implement the purposes, objectives and policies provided herein.

Sec. 9. Non-Profit Charter of the Negros Occidental Special Economic Zone and Free Port Authority. – The Negros Occidental Special Economic Zone and Free Port Authority shall be a non-profit institution and shall devote the use of its returns from capital investments as well as excess revenues from its operations for the development, improvement, maintenance and other related expenditures of the NOSEZA to pay its indebtedness and obligations and in furtherance and effective implementation of the policy provided for in this Act. In consonance with this NOSEZA is hereby declared exempt from the payment of all taxes, duties, fees, imposts, charges, costs and service fees in any court or administrative proceedings in which it may be a party.

The foregoing exemptions may, however, be entirely or partially lifted by the President of the Philippines upon the recommendation of the Secretary of Finance, not earlier than five (5) years from the effectivity of this Act, if the President shall find the NOSEZA to be self-sustaining and financially capable by then to pay such taxes, customs duties, fees and other charges after providing for debt service requirements of the NOSEZA and of its projected capital and operating expenditures.

Sec. 10. Board of Directors of the Negros Occidental Special Economic Zone and Free Port Authority. The powers of the Negros Occidental Special Economic Zone and Free Port Authority shall be vested in and exercised by a Board of Directors, hereinafter referred to as the Board, which shall be composed of the following:

- a) The Chairman who shall, at the same time be the administrator of the NOSEZA;
- b) A Vice-Chairman who shall come from among the members of the Board;
- c) Members consisting of:

- (1) The Governor of the Province of Negros Occidental;
- (2) The Congressional Representatives from all the districts of the Province of Negros Occidental.
- (3) The mayors of the Cities and Municipalities in the Province of Negros Occidental .
- (4) One (1) representative from the domestic investors;
- (5) One (1) representative from the foreign investors; and
- (6) Two (2) representatives from the workers working in Negros Occidental ECOZONE.

The Governor, the Congressional representatives and the mayors of the Province of shall serve as *ex-officio* members of the Board, whose term in the Board corresponds to their term as elected officials.

The Chairman and 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 six (6) years, unless sooner removed for cause or dies or resigns voluntarily. In case of death, resignation or removal for cause, the replacement shall serve only the unused portion of the term.

Except for the representatives of the business and labor sectors, no person shall be appointed by the President of the Philippines as a member of the Board unless he is a Filipino citizen, of good moral character, of proven probity and integrity, and a degree-holder in any of the following fields: economics, business, public administration, law, management or their equivalent, and with at least ten (10) years relevant working experience preferably in the field of management or public administration.

The members of the Board shall each receive per diem at rate to be determined by the Department of Budget and Management in accordance with existing rules and regulations: *Provided, however,* That the total per diem collected each month shall not exceed the equivalent *per diem* for four (4) meetings. Unless and until the President of the Philippines has fixed a higher per diem for the members of the board, such per diem shall not be more than ten thousand pesos (P10,000.00) for every Board meeting.

Sec. 11. Powers and Duties of the Chairman-Administrator. The Chairman-Administrator shall have the following powers and duties:

- a) To direct and manage the affairs of the NOSEZA in accordance with the policies of the Board;
- b) To establish the internal organization of the NOSEZA 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 close 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 Negros Occidental ECOZONE;
- f) To create a mechanism in coordination with relevant agencies for the promotion of industrial peace, the protection of the environment, and the advancement of the quality of life in the Negros Occidental ECOZONE; and
- g) To perform such other duties as may be assigned to him by the Board or which are necessary or incidental to his office.

Sec. 12. Personnel. The Board of Directors of the NOSEZA shall provide for an organization and staff of its officers and employees. Upon recommendation of the Chairman-Administrator, the Board shall appoint and fix the remuneration and other emoluments: *Provided*, That the Board shall have exclusive and final authority to promote, transfer, assign or reassign officers of the NOSEZA, any provision of existing law to the contrary notwithstanding: *Provided, further*, That the chairman-administrator may carry out removal of such officers and employees.

The officers and employees of the NOSEZA, including all members of the Board, shall not engage directly or indirectly in partisan activities nor take part in any election, except to vote.

No officer or employee of the NOSEZA, subject to Civil Service laws and regulations, shall be removed or suspended except for cause, as provided by law.

Sec. 13. Ipso Facto Clause – Sections 30-42 of Republic Act 7916, shall *ipso facto* apply to the Negros Occidental Special Economic Zone and Free Port.

Sec. 14. Funding. The Negros Occidental Special Economic Zone and Free Port Authority shall have an authorized capital stock of two billion (2,000,000,000) no par shares with a minimum issue value of Ten Pesos (P10.00) each. The initial amount of Two hundred and fifty million pesos (P250,000,000.00) shall be sourced from the national government.

The subsequent amount necessary to subscribe and pay for the shares of 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 NOSEZA may, from time to time and with the written concurrence of the Secretary of Finance, sell shares representing not more than forty percent (40%) of the capital stock of NOSEZA to the general public with such annual dividend policy as the Board and Secretary of Finance may determine. The national government shall in no case own less than sixty percent (60%) of the total issued and outstanding capital stock of the NOSEZA.

Sec. 15. Supervision and Coordination of Development Plans. – For purposes of policy direction and coordination, the Negros Occidental Special Economic Zone and Free Port shall be under the direct control and supervision of the Office of the President.

Sec. 16. Relationship with the Regional Development Council. The Negros Occidental Special Economic Zone and Free Port Authority shall determine the development goals for the Negros Occidental ECOZONE within the framework of national development plans, policies and goals. The Administrator shall, upon approval by the Board, submit the Negros Occidental ECOZONE plans, programs and projects to the Regional Development Council for inclusion and inputs to the overall regional development plan.

Sec. 17. Relationship with Local Government Units. Except as herein provide, the local government units comprising the Negros Occidental Special Economic Zone and Free Port shall retain their basic autonomy and identity. The Municipalities and Cities of the Province of Negros Occidental on matters affecting the Negros Occidental ECOZONE other than defense and security matters, the decision of the NOSEZA shall prevail.

Sec. 18. Interpretation/Construction. The powers, authorities and functions that are vested in the Negros Occidental Special Economic Zone and Free Port Authority are intended to establish decentralization of governmental functions and authority and promote an efficient and effective working relationship between the Negros Occidental ECOZONE, the central government and the local government units.

Sec. 19. Auditing. The Commission on Audit shall appoint a representative who shall be a full time auditor of the NOSEZA and assign such number of personnel as may be necessary to assist said representative in the performance of his/her duties. The salaries and emoluments of the assigned auditor and personnel shall be in accordance with pertinent laws, rules and regulations.

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

Sec. 21. Repealing Clause. All laws, executive orders and issuances, or any parts thereof, which are inconsistent herewith are hereby repealed or amended accordingly.

Sec. 22. Effectivity Clause. This Act shall take effect upon its publication in at least one (1) newspaper of general circulation.

Approved,