

Republic of the Philippines
House of Representatives
Quezon City, Metro Manila



THIRTEENTH CONGRESS

Second Regular Session

HOUSE BILL NO. 5467

Introduced by Honorable MONICO O. PUENTEVELLA

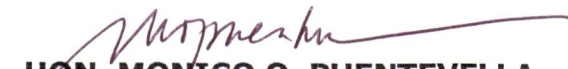
EXPLANATORY NOTE

This bill is aimed towards achieving an efficient port administration in response to the demands of times and the competitive maritime industry. Ports play a vital role in trade, commerce and tourism which are considered the primary factors affecting our economy.

This humble representation believes that creating a corporate entity charged with the administration of port terminals of Bacolod City will enhance the delivery of maritime services. Business in character, the proposed Authority will have an initiative to introduce dynamic reforms and policies including the establishment of adequate port facilities and operational requirements in our aim to have a safe, economical and efficient transport of passengers and goods.

Strategically situated and being the capital of the province of Negros Occidental, the creation of Port Authority in Bacolod City is an ideal piece of legislation in phase with our government's economic reform agenda.

Thus, immediate consideration and approval of this measure is earnestly sought.


HON. MONICO O. PUENTEVELLA
Lone District -Bacolod City

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AN ACT
CREATING THE BACOLOD CITY PORTS AUTHORITY, DEFINING ITS POWERS AND
FUNCTIONS, PROVIDING APPROPRIATION 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 and cited as the "Charter of the Bacolod City Ports Authority."

SEC 2. Declaration of Policy. - It is the declared policy of the State to promote the establishment and growth of autonomous regional port bodies to produce an efficient, safe, economical and coordinated system of movement of goods and persons through the port, consistent with the constitutional mandate to give all regions of the country optimum opportunity to develop.

SEC. 3. Creation of the Port Authority. - There is hereby created a public-benefit corporation to be known as the Bacolod City Ports Authority, hereinafter referred to as the Authority.

The Authority shall be under the supervision of the Department of Transportation and Communications for purposes of policy coordination.

SEC. 4. Definition of Terms. - For purposes of this Act, unless the context indicates otherwise, the terms used herein shall mean as follows:

- (a) "Port facility" shall include wharves, piers, slips, docks, bulkheads, basins, warehouses, cold storage, loading and unloading equipment, and passenger terminals and 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 dissipated for use of the transportation or carriage of persons or 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 any 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 lying 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" includes 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; and
- (o) "Vessels" includes any ship, boat or any waterborne craft used in the conveyance or carrying of persons, animals or goods.

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

SEC. 6. Territorial Jurisdiction. - The territorial jurisdiction of the Authority shall include all seas, lakes, rivers and all other navigable inland waterways within the territorial limits of the City of Bacolod.

SEC. 7. Powers. - The Authority shall have the power and responsibility to:

- (a) Have perpetual succession under its corporate name until 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, which shall include but not limited to those pertaining to pilotage, cargo-handling, security and others;
- (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 government institutions, domestic or foreign; Acquire,

own, hire, use, operate and dispose of personal property and to acquire, own, use, lease, operate and dispose of real property and interests thereon and to make improvements on 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 stock of, or any bond, security or other evidences of indebtedness created by any other corporation or partnership of this or 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 of any of the foregoing powers, except the power to levy taxes or assessments and, in general to exercise in connection with property within its control 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 in foreign countries 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, and

(m) Exercise all the powers of a corporation under the Corporation Law insofar as they are not inconsistent with the provisions of this Act.

SEC. 8. Governing Body. - The powers and functions of the Authority shall be vested in and exercised by a Bacolod City Port Commission composed of a Chairman, a Vice-Chairman and five (5) other Commissioners. The Chairman shall be the Secretary of the Department of Transportation and Communications or his duly designated Undersecretary. The Vice Chairman, who shall be designated as General Manager of the Authority, shall be elected by the Commissioners from among themselves.

The Commissioners shall be appointed by the President of the Philippines and shall represent the following sectors:

(a) Two (2) from the Shipowners and shipping operators;

(b) Two (2) from the Cargo-handling sector; and

(c) Two (2) from the Business sector.

SEC. 9. Powers and Functions of the Commission. – The powers and functions of the Bacolod Port Commission shall be as follows:

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

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

(c) To raise revenues for the Authority through fees, tolls, charges, rentals and the like for the use of any property, equipment or facility owned or controlled by it;

(d) To raise and administer, together with such revenues as may by law accrue to

the Authority, capital outlays by means of loans from any local or foreign financial institution to finance its projects;

(e) To determine by survey and establish by engineering design the exact location, system and character of any and all port facilities which it may own, construct, establish, effectuate, operate or control;

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

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

(h) To determine the organization of the Authority, reorganize or abolish offices, 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: Provided, that, any official or employee who may be phased out by reason of the reorganization of office shall be allowed to retire under existing retirement laws to which they are qualified: Provided, further, that those who are not qualified under existing retirement laws shall be paid separation benefits in accordance with existing laws, rules and regulations.

(i) To define the duties and fix, review or revise the compensation and benefits of the officers and employees of the Authority, in accordance with the rules and regulations of the Civil Service Commission and the Department of Budget and Management;

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

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

SEC 10. Term of Office. - The members of the Bacolod City Port Commission shall be appointed for a term of three (3) years: Provided, That any person appointed to fill a vacancy shall hold office only for the unexpired term of the Commissioner whom he succeeds.

SEC. 11. Quorum, Per Diems and Allowances. - Four (4) members of the Commission shall constitute a quorum for the transaction of business. Unless otherwise relaxed by the Commission, the Chairman and all the members shall each receive a per diem of Two thousand pesos (P2,000), exclusive of traveling expenses, for each day of meeting of the Commission, which shall not exceed four (4) meetings a month.

SEC. 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 following 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 devise the executive organization pattern of the Authority, submit from time to time to the Commission the corresponding organizational and functional charts, and enforce the executive elements thereof;

- (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 specifically by the Commission.

SEC. 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.

SEC. 14. Exemption From Real Property Taxes. – The Bacolod City Ports Authority shall be exempt from the payment of real property taxes imposed by the National Government, its agencies, instrumentalities or political subdivisions: Provided, that no tax exemption shall be extended to any subsidiary of the authority that may be organized: Provided, finally, that investments in fixed assets shall be deductible for income tax purposes.

SEC. 15. Application of Civil Service Laws. - All officers and employees of the Authority shall be subject to the Civil Service Commission and the Department of Budget and Management rules and regulations, except those whose positions may, upon recommendation of the Port Commission, be declared by the President of the Philippines as policy determining, primarily confidential or highly technical in nature.

SEC. 16. Supplies and Services Other Than Personal. – All purchases or contracts for services, except for personal services, entered into by the Authority shall be done only after public bidding therefor is held: Provided, That such bidding may be required when an emergency, as explained and certified to by the General Manager, requires immediate delivery of the supplies or performance of the services and the unit costs or prices of such emergency procurement do not exceed the latest costs or prices paid by the Authority for the same or similar goods or services: Provided, further, That the General Manager shall report under oath to the Commission the details of any such emergency procurement within two (2) weeks after its consummation, including a statement of assurance that the transaction constitutes the best arrangement possible under the circumstances.

SEC. 17. Capitalization. - The Authority shall have an authorized capital stock equal to and consisting of- (a) The value of fixed assets, including port facilities and equipment administered by the Port Management Office and such other properties, movable and immovable, within the territorial jurisdiction of the Authority as defined in Section 6 hereof, valued on the date of the effectivity of this Act; and (b) Government contribution in such amount as may be deemed an appropriate initial balance. Such initial amount, as approved by the President of the Philippines, shall be more or less equivalent to six (6) months working capital requirement of the Authority.

SEC. 18. Auditor and Personnel. - The Commission on Audit shall 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.

SEC. 19. Power to Issue Bonds. - The power of 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 the members of the Commission in 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.

SEC 20. 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 nonproductive projects so that inflation shall be held to a minimum.

SEC 21. Form, Rate of Interest, etc. of Bonds. - The Secretary of Finance, in consultation with the Monetary Board, shall the form, the rate of interest, the denominations, maturities, negotiability, convertibility, call and redemption features, and call 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.

SEC. 22. 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, buildings 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.

SEC. 23. Projects in Progress. - All ongoing projects relating to the rehabilitation and/or construction of port facilities and supply of equipment shall be administered and undertaken by the Authority.

SEC. 24. 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 the Philippine Ports Authority in respect of such physical facilities, tangible assets and completed projects within the ports shall likewise be assumed by the Authority.

SEC. 25. Abolition of the Port Management Office of Bacolod as a Port Management Unit of the Philippine Ports Authority. - The Port Management Office of Bacolod City 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 not eligible for retirement, be given gratuities equivalent to one (1) month salary for every year of continuous satisfactory service on the basis of the highest salary received in addition to other benefits accorded to them by existing laws.

SEC. 26. Annual Report. - An annual report of the Authority shall be submitted 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 the Senate of the Philippines and the Department of Transportation and Communications. The report shall include a financial statement duly certified by the Auditor of the Authority.

SEC. 27. 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.

SEC. 28. Separability Clause. - If any provision of this Act or the application of such provision to any person or circumstance 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.

SEC. 29. 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.

SEC. 30. Effectivity Clause. - This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.

Approved,