

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 376

Introduced by : **REP. RAUL V. DEL MAR**

EXPLANATORY NOTE

The proposed amendments seek to amend certain provisions of Republic Act 7621, otherwise known as "An Act Creating the Cebu Port Authority, Defining its Powers and Functions, Providing Appropriations Therefor," to strengthen the operational, financial and administrative capabilities of the Authority.

The proposed amendments essentially seek the granting, among others, of tax exemption privileges, full fiscal autonomy, additional administrative powers to make the Authority more effective and efficient in carrying out its mandate in port development, maintenance dredging of ports, pilotage, police authority, the ample protection of the welfare of its workers, injunctive powers, and providing punitive provision for violators of the Authority's port rules and regulations.

With these proposed amendments, it is believed that the Cebu Port Authority will be able to address current and future demands of its stakeholders, spur maritime commerce in the region, and thus fully attain the purposes and objectives for which it was created.


RAUL V. DEL MAR

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AN ACT
AMENDING CERTAIN PROVISIONS OF REPUBLIC ACT NO. 7621 OTHERWISE
KNOWN AS 'AN ACT CREATING THE CEBU PORT AUTHORITY DEFINING ITS
POWERS AND FUNCTIONS, PROVIDING APPROPRIATION THEREFOR AND
FOR OTHER PURPOSES'

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

SECTION 1. Section 3 of Republic Act 7621 is hereby amended by adding a subsection to read as follows:

"SEC. 3. (A) TAX EXEMPTION. - THE AUTHORITY SHALL BE EXEMPT FROM THE PAYMENT OF CORPORATE INCOME TAXES, THE AUTHORITY SHALL LIKEWISE BE EXEMPT FROM REALTY TAXES IMPOSED BY THE NATIONAL GOVERNMENT OR ANY OF ITS POLITICAL SUBDIVISIONS, AGENCIES AND INSTRUMENTALITIES: PROVIDED, THAT NO TAX EXEMPTION HEREIN GRANTED SHALL EXTEND TO ANY SUBSIDIARY WHICH MAY BE ORGANIZED BY THE AUTHORITY".

"(B) AUTONOMY - THE CEBU PORT AUTHORITY SHALL BE AUTONOMOUS OF ANY NATIONAL PORT BODY, WHETHER EXISTING OR CREATED HEREAFTER. THE AUTHORITY SHALL LIKEWISE ENJOY FULL FISCAL AUTONOMY." (n)

SEC. 2. Section 7 (b) and (f) of the same Act are hereby amended to read as

follows:

"(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,"

x x x

"(f) 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; PROVIDED FURTHER, THAT EXISTING OR FUTURE FORESHORE LEASE AGREEMENTS (FLA) OR SIMILAR PERMITS DEVOTED TO PORT DEVELOPMENT OR PORT OPERATION SHALL BE TRANSFERRED TO AND OWNED BY THE AUTHORITY UPON THE EXPIRATION OF THE FORESHORE LEASE OR PERMIT.

SEC. 3. Section 7 of the same Act is hereby further amended by adding subsections (N), (O) and (P) to read as follows:

"(N) POLICE AUTHORITY WITHIN THE PORTS ADMINISTERED BY IT AS MAY BE NECESSARY TO CARRY OUT ITS POWERS AND FUNCTIONS AND ATTAIN ITS PURPOSES AND OBJECTIVES WITHOUT PREJUDICE TO THE EXERCISE OF THE FUNCTIONS OF THE BUREAU OF CUSTOMS AND OTHER LAW ENFORCEMENT BODIES WITHIN THE AREA SUCH POLICE AUTHORITY SHALL INCLUDE THE FOLLOWING:

"(i.) TO PROVIDE SECURITY TO CARGOES, PORT EQUIPMENT, STRUCTURE, FACILITIES, PERSONNEL, AND DOCUMENTS; PROVIDED, HOWEVER, THAT IN THE PORTS OF ENTRY, PHYSICAL SECURITY TO IMPORT AND EXPORT CARGOES SHALL BE EXERCISED JOINTLY WITH THE BUREAU OF CUSTOMS;

"(ii.) TO REGULATE THE ENTRY TO, EXIT FROM, AND MOVEMENT WITH THE PORT, OF PERSONS AND VEHICLES, AS WELL AS THE MOVEMENT WITHIN THE PORT OF WATERCRAFT;

"(iii.) TO MAINTAIN PEACE AND ORDER INSIDE THE PORT, IN COORDINATION WITH THE LOCAL POLICE AUTHORITIES;

"(iv.) TO SUPERVISE PRIVATE SECURITY AGENCIES OPERATING WITHIN THE PORT AREA;

"(v.) TO DEPUTIZE OTHER LAW ENFORCEMENT AGENCIES TO ASSIST THE AUTHORITY IN THE ENFORCEMENT OF ITS ORDERS, DIRECTIVES, POLICIES, AND RULES AND REGULATIONS;

"(vi.) TO ENFORCE RULES AND REGULATIONS PROMULGATED BY THE AUTHORITY PURSUANT TO LAW."

"(O) TO CONTROL, REGULATE, AND SUPERVISE PILOTAGE AND THE CONDUCT OF PILOTS IN THE PORTS WITHIN ITS TERRITORIAL JURISDICTION."

"(P) TO CONDUCT MAINTENANCE DREDGING OF THE PORT(S) AND ITS APPROACHES OR WHERE DREDGING IS NECESSARY FOR A PORT PROJECT OR PORT DEVELOPMENT, ON ITS OWN OR THRU THE PRIVATE SECTOR, PROVIDED THAT SILT/DREDGED MATERIALS SHALL BE DISPOSED IN AN AREA DEEMED BY THE AUTHORITY TO BE SUITABLE AND WILL NOT POSE A HAZARD TO NAVIGATION; PROVIDED, FURTHER THAT NOTICE SHALL BE GIVEN TO THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES (DENR) FOR COORDINATION PURPOSES.

SEC. 4. Subsections (h), (l), and (j) of Section 9 of the same Act are hereby amended to read as follows:

"(h) To determine the organization of the Authority, REORGANIZED 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, THE AUTHORITY MAY ESTABLISH AN EARLY RETIREMENT PLAN FOR ITS OFFICIALS AND EMPLOYEES AND

THAT ANY OFFICIAL OR EMPLOYEE WHO OPTS TO RETIRE SHALL BE GRANTED NOT LESS THAN TWO (2) MONTHS BASIC PAY FOR EVERY YEAR OF SERVICE IN ADDITION TO THE BENEFITS UNDER EXISTING RETIREMENT LAWS, AND THOSE WHO ARE PHASED OUT BY REASON OF ANY REORGANIZATION OF OFFICE SHALL BE GRANTED NOT LESS THAN THREE (3) MONTHS BASIC PAY FOR EVERY YEAR OF SERVICE.

“(i) To define the duties and fix, REVIEW, OR REVISE the compensation and benefits of the officers and EMPLOYEES of the Authority COMPARABLE TO THOSE OF SIMILAR POSITIONS IN OTHER GOVERNMENT OWNED AND CONTROLLED CORPORATIONS, THE PROVISIONS OF EXISTING RULES AND REGULATIONS AND WAGE AND POSITION CLASSIFICATION NOTWITHSTANDING ALL POSITIONS IN THE AUTHORITY SHALL BE GOVERNED BY A COMPENSATION POSITION CLASSIFICATION AND QUALIFICATION STANDARD APPROVED BY THE CEBU PORT COMMISSION BASED ON A COMPREHENSIVE JOB ANALYSIS AND AUDIT OF THE ACTUAL DUTIES AND RESPONSIBILITIES. THE COMPENSATION PLAN SHALL BE COMPARABLE WITH THE COMPENSATION PLANS IN THE PRIVATE SECTOR WITHOUT PREJUDICE TO YEARLY MERIT INCREASE BASED ON PRODUCTIVITY AND PROFITABILITY. THE AUTHORITY SHALL THEREFORE BE EXEMPT FROM REPUBLIC ACT 6758 OR ANY FUTURE SALARY STANDARDIZATION LAW AS WELL AS ATTRITION LAW WHICH MAY HEREAFTER BE ENACTED.”

“(j) TO PREPARE AND ADOPT ANNUAL ESTIMATES OF INCOME AND EXPENDITURES AND ESTIMATES OF CAPITAL EXPENDITURE OF THE AUTHORITY FOR THE ENSUING YEAR AND APPROVE ITS ANNUAL BUDGET and/or such supplemental budgets thereof as may be submitted by the General Manager from time to time;

SEC. 5. Section 9 of the same Act is hereby amended by redesignating subsections (K) to (L) and inserting a new subsection (K) to read as follows:

(K) TO ISSUE CEASE AND DESIST ORDERS AGAINST ANY PERSON OR ENTITY THAT OPERATES A PORT OR ENGAGES IN PORT OPERATIONS AND OTHER PORT RELATED ACTIVITIES WITHOUT

HAVING FIRST SECURED A PERMIT AND/OR ACCREDITATION FROM THE AUTHORITY OR IN VIOLATION OF THE RULES AND REGULATIONS OF THE AUTHORITY”

SEC. 6. Section 10 of the same Act is hereby further amended to read as follows:

“SEC. 10. *Term of Office.* - The members of the Cebu Port Commission, EXCEPT FOR THE GENERAL MANAGER who shall have a term of Six (6) years, shall be CO-TERMINUS WITH THE APPOINTING AUTHORITY. PROVIDED THAT ALL COMMISSIONERS MUST BE REGISTERED VOTERS OF CEBU AND ACTUAL RESIDENTS THEREOF PRIOR TO THEIR APPOINTMENT.

SEC. 7. Section 15 of the same Act is hereby amended to read as follows:

“SEC. 15. *Supplies and Services Other Than Personal.* - All purchases or contracts for services, except for personal service, entered into by the Authority shall be done after public bidding therefor is held: Provided, That such bidding may NOT 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 cost 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. 8. Section 19 of the same Act is hereby amended to read as follows:

SEC. 19. *Bond Limits.* - The bonds that may be issued by the Authority shall in no case exceed the total [amount of One billion pesos (P1,000,000,000.00)] VALUE OF ALL ITS EXISITING ASSETS: 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. 9. MODE OF GRANTING CONTRACTS OR PERMITS. - TO PROMOTE TRANSPARENCY, ALL CONTRACTS OR PERMITS FOR THE OPERATION AND MANAGEMENT OF CARGO HANDLING SERVICES SHALL BE GRANTED BY THE AUTHORITY UPON A MANDATORY PUBLIC HEARING OF APPLICATIONS FOR SUCH CONTRACT OR PERMITS TO DETERMINE THE FITNESS AND QUALIFICATIONS OF APPLICANTS BASED ON THE QUALIFICATION STANDARDS, WHICH SHALL INCLUDE FINANCIAL RESOURCES, EQUIPMENT AND OTHER CARGO HANDLING GEARS FOR SAFE, EFFECTIVE AND EFFICIENT CARGO HANDLING SERVICES, TO BE PRESCRIBED BY THE AUTHORITY. CONTRACTS OR PERMITS GRANTED WITHOUT PUBLIC HEARING SHALL BE NULL AND VOID.

ALL CARGO HANDLING SERVICE PROVIDERS, WHICH ARE DULY REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION AND HAVE PERFORMED CARGO HANDLING SERVICES FOR MORE THAN TWO (2) YEARS SINCE 1997 AS AN AFFILIATE OF CARGO HANDLING SERVICE PROVIDERS WITH CONTRACTS OR PERMITS PREVIOUSLY ISSUED BY THE PHILIPPINE PORTS AUTHORITY OR WITH "HOLD-OVER PERMITS" FROM THE CEBU PORT AUTHORITY, SHALL BE GRANTED CONTRACT OR PERMITS AS CARGO HANDLERS TO OPERATE IN THE PORT WITHOUT PUBLIC HEARING BUT UPON A PERFORMANCE AND FINANCIAL AUDIT INDICATING THEIR EFFICIENCY AND CAPABILITY AND PROVIDED THEY MEET THE QUALIFICATIONS STANDARDS PERECRIBED BY THE AUTHORITY.

A SHIPPING LINE OR SHIP OWNER UPON PRIOR APPROVAL OF THE AUTHORITY, SHALL HAVE THE RIGHT TO CHOOSE OR CHANGE HIS CARGO HANDLING SERVICE PROVIDER AT ANY TIME TO PREVENT DISRUPTION OF HIS BUSINESS IN CASE THE PRESENT CARGO HANDLING SERVICE PROVIDER UNDER CONTRACT SHALL HAVE A LABOR DISPUTE WITH HIS DOCK WORKERS; OTHERWISE, THE AUTHORITY SHALL IMMEDIATELY TAKE

OVER THE CARGO HANDLING OPERATION IN THE INTEREST OF THE PUBLIC.

SEC. 10. WITHDRAWAL OF EXEMPTION FROM PAYMENT OF DUES, FEES AND CHARGES. - NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, EXEMPTION FROM DUES, FEES, CHARGES AND OTHER SUMS GRANTED TO OR PRESENTLY ENJOYED BY ANY PERSON, WHETHER NATURAL OR JURIDICAL, IS HEREBY WITHDRAWN UPON THE EFFECTIVITY OF THESE AMENDMENTS.

SEC. 11. EXEMPTION/REDUCTION OF DUES, RATES OR CHARGES. - THE CEBU PORT COMMISSION MAY WAIVE OR REDUCE DUES, RATES OR CHARGES BEING IMPOSED, UNDER SUCH TERMS AND CONDITIONS AS IT MAY DEEM NECESSARY.

SEC. 12. PENALTY. - ANY PERSON WHO VIOLATES THE PROVISION OF THIS ACT OR ANY RULES AND REGULATIONS OF THE AUTHORITY SHALL BE PUNISHED BY A FINE OF NOT LESS THAN FIVE THOUSAND PESOS (P5,000.00) BUT NO MORE THAN TWO HUNDRED THOUSAND PESOS (200,000.00) OR SUFFER IMPRISONMENT OF NOT LESS THAN ONE (1) MONTH BUT NOT MORE THAN SIX (6) MONTHS OR BOTH AT THE DISCRETION OF THE COURT. IN CASE THE VIOLATION IS COMMITTED BY A CORPORATION, COMPANY OR ENTITY, ITS DIRECTORS, OWNERS, MANAGERS SHALL LIKEWISE BE LIABLE FOR SUCH VIOLATION.

SEC. 13. NO RESTRAINING ORDER/INJUNCTION. - NO OFFICE OR COURT, EXCEPT THE SUPREME COURT, MAY ISSUE A TEMPORARY RESTRAINING ORDER OR WRIT OF PRELIMINARY INJUNCTION OR ANY INJUNCTIVE WRIT AND/OR CEASE AND DESIST ORDER AGAINST THE AUTHORITY IN CONNECTION WITH ITS OPERATION AS A PUBLIC UTILITY, INCLUDING ARRASTE & STEVEDORING, AND AS REGARDS ANY OF ITS INFRASTRUCTURE PROJECTS.”

SEC. 14. Separability Clause. - If any provisions 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. 15. *Repealing Clause.* - All laws, executive orders, letters of instructions, rules and regulations, or provisions thereof which are inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 16. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) national newspapers of general circulation.

Approved,