

Sixteenth Congress
First Regular Session

HOUSE BILL NO. **4371**



Introduced by Honorable Henry S. Oaminal

EXPLANATORY NOTE

This bill seeks to establish a special economic zone in the Second District of Misamis Occidental covering its two(2) cities namely: Ozamis and Tangub and five (5) municipalities, namely: Bonifacio, Clarin, Don Victoriano Chiongbian, Sinacaban and Tudela with Ozamis City as the principal site and office to promote and hasten industrial, economic and social development in the area.

The Second District of Misamis Occidental is located in the southern part of the Province of Misamis Occidental and is bounded in the north by the first district; on the east by Iligan Bay, separating the district from the two(2) geographically proximate cities that are Iligan and Cagayan de Oro; on the south by Pangil Bay; and on the west the provinces of Zamboanga del Sur and Zamboanga del Norte. The district occupies a strategic geographical location which makes it an attractive and profitable hub for investment and tourism in the area.

The District is also blessed with rich agricultural and forest lands, mineral and marine resources and scenic tourist spots. It has a steady supply of safe and potable water from its mountain springs. It has a typhoon-free climate, favorable peace and order condition and good infrastructure and utilities. Ozamis City has good harbor location, its port is the principal outlet of mineral, agricultural, forest and marine products of Misamis occidental and of the provinces of Zamboanga del Sur and Zamboanga del Norte. The City has also modern and well-equipped airport in barangay Labo. The district has also other necessary infrastructures such as roads, ports and communication facilities.

Possessed with these inherent factors of development, the establishment of the special economic zone in the Second District of Misamis Occidental will enable the exploration, development and utilization of natural resources of the area, create more employment opportunities, especially in and around the zone and encourage legitimate and productive foreign investments in one of the most promising areas of the country. The establishment of the special economic zone will bring tremendous economic progress not only in the Province Of Misamis Occidental but also the nearby provinces as well.

In view of the foregoing consideration, and in line with the government's policy to encourage, promote, induce, and accelerate a sound and balanced industrial, economic and social development of the country, immediate approval of this bill is highly recommended.

A handwritten signature in black ink, appearing to read 'Henry S. Oaminal', is written over a printed name. The signature is fluid and cursive, with a large loop at the beginning.

HENRY S. OAMINAL

Representative

2nd District, Misamis Occidental

Sixteenth Congress
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HOUSE BILL NO. 4371

Introduced by Honorable Henry S. Oaminal

AN ACT
ESTABLISHING THE MISAMIS OCCIDENTAL SPECIAL
ECONOMIC ZONE IN THE SECOND DISTRICT OF THE PROVINCE
OF MISAMIS OCCIDENTAL AND APPROPRIATING FUNDS
THEREFOR

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 “Misamis Occidental *Special Economic Zone Act.*”

SEC. 2. ***Declaration of Policy.*** – It is hereby declared the policy of the State to encourage and promote the attainment of a sound and balanced industrial, economic and social development in the country through the promotion of private enterprises. Towards this end, the State shall endeavor to establish special economic zones in suitable and selected areas in the country where enterprises will be given incentives to create an environment conducive to business. This shall be the means to attract local and foreign investors, generate employment opportunities, and encourage the regional dispersal of industries.

SEC. 3. ***MISOCC Special Economic Zone.*** – In accordance with the foregoing policy, there is hereby established a special economic zone in the

Second District of Misamis Occidental covering its two (2) cities, namely: Ozamis and Tangub, and five (5) municipalities, namely: Bonifacio, Clarin, Don Victoriano Chiongbian, Sinacaban and Tudela with Ozamis City as the principal site and office of the ECOZONE to be known as the Misamis Occidental Special Economic Zone, hereinafter referred to as the MISOCC ECOZONE. The specific metes and bounds of the MISOCC ECOZONE shall be more particularly defined in a presidential proclamation that shall be issued for this purpose.

SEC. 4. ***Governing Principles.*** – The MISOCC ECOZONE shall be managed and operated under the following principles:

a) Within the framework and limitations of the Constitution and the applicable provisions of the Local Government Code, the MISOCC ECOZONE shall be developed into a decentralized, self-reliant and self-sustaining agro-industrial, commercial, financial, investment and tourist center with suitable retirement and residential areas. The MISOCC ECOZONE shall be provided with transportation, telecommunications, and other facilities needed to attract legitimate and productive local and foreign investments, generate linkage industries and employment opportunities for the people of Misamis Occidental, particularly the second district of the Province, and its neighboring towns, cities and provinces;

b) The MISOCC ECOZONE may establish mutually beneficial economic relations with other entities within the country, or subject to the

administrative guidance of the Department of Foreign Affairs and the Department of Trade and Industry with foreign entities or enterprises;

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

d) The MISOCC ECOZONE shall be managed and operated as a separate customs territory to ensure and facilitate the free flow, entry and movement of machinery and other goods. However, exportation or removal of goods, articles and capital from the zone to other parts of the Philippine territory shall be subject to customs duties and taxes under the Customs and Tariff Code and other relevant tax laws of the Philippines. It shall be vested with the authority to issue certificates of origin for products manufactured or processed in the MISOCC ECOZONE in accordance with prevailing rules of origin, and the pertinent regulations of the duly recognized national bodies tasked to oversee all other ecozones in the country;

e) Duty free shops shall be located only within the MISOCC ECOZONE;

f) Business establishments operating within the MISOCC ECOZONE shall be entitled to the existing fiscal incentives as provided for under Presidential Decree No. 66, the law creating the Export Processing Zone Authority, or those provided under Book VI of Executive Order No. 226,

otherwise known as the Omnibus Investment Code of 1987, and such incentives, benefits or privileges presently enjoyed by business establishments operating within the Subic Special Economic Zone pursuant to Republic Act No. 7227;

g) Any provision of existing laws, rules or regulations to the contrary notwithstanding, no taxes, local and national including final withholding taxes on dividends to the parent company and remittances of profits generated by a branch to the head office of a business establishment shall be imposed on business establishments operating within the MISOCC ECOZONE. In lieu of all local and national taxes, said business establishments shall pay to the National Government a final tax of eight per centum (8%) of their net taxable income as determined in accordance with the provisions of the National Internal Revenue Code, as amended, to be divided as follows:

1. Three per centum (3%) shall accrue to the National Government;
2. Two per centum (2%) to the Second District of Misamis Occidental;
3. One per centum (1%) to be shared by the cities and municipalities affected by the declaration of the MISOCC ECOZONE in proportion to their income from business activities within the MISOCC ECOZONE; and
4. Two per centum (2%) to the MISOCC Special Economic Zone Authority which shall be created under this Act: *Provided*, That the final tax of eight per centum (8%) of net income may be increased by the President of the

Philippines after ten years from the effectivity of this Act upon the recommendation of the Secretaries of Finance and Trade and Industry, the Chairman of the National Economic Development Authority and the administrator of the MISOCC Special Economic Zone Authority: *Provided, further,* That in no case shall the final tax to be imposed exceed fifteen per centum (15%) of net income.

In case of conflict between local and national tax laws on the one hand, and the tax incentives herein granted on the other, the same shall be resolved in favor of the grant of incentives.

h) Except as otherwise provided herein, the local government units embraced within the MISOCC ECOZONE shall retain and maintain their basic autonomy and identity. The MISOCC ECOZONE shall operate and function in accordance with Republic Act No. 7160, otherwise known as the Local Government Code of 1991;

i) Any foreign investor who establishes a business enterprise within the MISOCC ECOZONE and who maintains capital investment of not less than One Hundred Fifty Thousand United States Dollars (US\$150,000) shall be granted, along with his or her spouse, dependents and unmarried children below twenty-one years of age, a permanent resident status within the MISOCC ECOZONE;

Such foreign investor and his or her spouse, dependents and unmarried children below the age of twenty-one (21) years, shall have freedom of ingress

and egress to and from the MISOCC ECOZONE without need of any special authorization from the Bureau of Immigration.

Likewise, the MISOCC Special Economic Zone Authority shall issue working visas renewable every two (2) years to foreign executives and foreign technicians with highly specialized skills which no Filipino possesses, as certified by the Department of Labor and Employment.

The names of the foreigners granted permanent resident status and working visas by the MISOCC Special Economic Zone Authority shall be reported to the Bureau of Immigration within thirty (30) days from such grant.

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.

j) The provisions of any law to the contrary notwithstanding, any foreigner, partnership, corporation, or any other business association not created and existing under the laws of the Republic of the Philippines, engaged in the business of retailing goods and merchandise, shall be permitted to engage in such retail trade within the MISOCC ECOZONE after securing license for that purpose from the MISOCC Special Economic Zone Authority: *Provided*, That only foreign nationals engaged in medium and large-scale retail trade may be permitted to engage in such business within the MISOCC ECOZONE. The determination of the medium and large scale retail trade operation shall be the responsibility of the MISOCC Special Economic Zone Authority; and

k) Existing banking laws and Bangko Sentral ng Pilipinas (BSP) rules and regulations shall apply on foreign exchange and other current account trade and non-trade transactions, 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: *Provided, however,* That the MISOCC Special Economic Zone Authority may, in coordination with the Bangko Sentral ng Pilipinas and the Department of Trade and Industry, adopt more liberal rules to attract offshore banking, financial services, trust or trading institutions to operate in the zone: *Provided, further,* That such rules if adopted will be deemed to repeal, modify or amend existing legislation on offshore banking, finance, financial services, trust or trading institutions insofar as the MISOCC ECOZONE is concerned.

SEC. 5. ***MISOCC Special Economic Zone Authority.*** – Subject to the concurrence of the local government units that will be affected by the creation of the MISOCC ECOZONE, there is hereby created a body corporate to be known as the MISOCC Special Economic Zone Authority, hereinafter referred to as the Authority, which shall manage and operate the MISOCC ECOZONE, in accordance with this Act. It shall be organized within one hundred eighty (180) days after the effectivity of this Act.

SEC. 6. ***Principal Office.*** – The Authority shall maintain its principal office in the City of Ozamis, but it may establish branches and agencies within

the Philippines and abroad as may be necessary for the proper conduct of its business.

SEC. 7. *Powers and Functions of the Authority.* – The Authority shall have the following functions:

- a) Operate, administer, and manage the MISOCC ECOZONE according to the principles and provisions set forth in this Act;
- b) Recommend to the President the issuance of a proclamation to fix and delimit the site of the MISOCC ECOZONE;
- c) Register, regulate and supervise the enterprises in the MISOCC ECOZONE in an efficient and decentralized manner;
- d) Regulate and undertake the establishment, operation and maintenance of utilities, other services and infrastructure in the MISOCC ECOZONE such as heat, light and power, water supply, telecommunications, transport, toll roads and bridges, port services, etc., and fix just, reasonable and competitive rates, fares, charges and prices therefor;
- e) Directly negotiate with and grant foreign or international airlines and carriers entry permits and landing rights into the zone;
- f) Have sole, absolute and exclusive authority to construct, acquire, own, lease, assign, establish, operate and maintain on its own or through others by virtue of contracts, franchises, licenses, or permits under any of the schemes allowed in Republic Act No. 6957, otherwise known as the Build-Operate Transfer Law, or in joint venture with the private sector without the necessity of

conducting public bidding thereon, any or all of the public utilities and infrastructure required or needed in the MISOCC ECOZONE, such as but not limited to transportation, construction of road networks, water and sewerage systems, electric power, wireline and wireless telecommunications systems, networks, facilities and services, in coordination with appropriate national and local government authorities and in conformity with applicable laws thereon;

g) To undertake all public infrastructure and utility projects within the MISOCC ECOZONE and as provided for in this Act and to contract foreign loans and grants in accordance with existing laws;

h) Operate on its own, either directly or through a subsidiary entity, or license to other tourism related activities, including games, amusements and recreational and sports facilities to provide, in cooperation with the Department of Tourism, incentives to tourism-related businesses operating within the MISOCC ECOZONE such as but not limited to duty-free buying privileges for non-resident visitors;

i) 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;

j) Provide security for the MISOCC ECOZONE in coordination with the national and local governments. For this purpose, the Authority may

establish and maintain its own security force and firefighting capability or hire others to provide the same;

k) Protect, preserve, maintain and develop, among others, the virgin forests, beaches, coral and coral reefs and minerals and mineral deposits, including precious metals within the MISOCC ECOZONE. For this purpose, the rules and regulations of the Department of Environment and Natural Resources and other government agencies involved in the above functions shall be implemented by the MISOCC ECOZONE, including the issuance of environmental clearance certificates, patents and leasehold rights over government lands and mining, drilling and timber licenses;

l) Acquire private real properties or rights thereon for infrastructure and other development projects, secure rights-of-way which are needed for said projects and the settlement of claims for payment, without further need of conducting feasibility studies, information campaign, engineering surveys, project cost estimates as required by existing laws and regulations pertinent thereto;

m) Charge reasonable fees for the provisions of services and the maintenance of infrastructure and utilities;

n) Impose fines and penalties for violations of the provisions of this Act and the rules and regulations to be issued by the Authority;

o) Phase the operationalization of the MISOCC ECOZONE by delineating secured areas within the MISOCC ECOZONE: *Provided, That*

privileges including tax and duty-free retailing provided herein shall be accorded only to the secured areas: *Provided, further,* That the Authority-registered enterprises located outside of the secured areas may still enjoy the income tax incentives and duty-free importation privileges herein granted but may not engage in tax and duty-free retailing: *Provided, finally,* That in such secured area, the component local government units may still exercise their taxing and revenue generating authority but only insofar as persons or enterprises not registered with the Authority as zone enterprises;

p) Create, operate or contract to operate such agencies and functional units or offices of the Authority, as it may deem necessary;

q) 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; and

r) Issue rules and regulations consistent with the provisions of this Act as may be necessary to implement and accomplish the purposes, objectives, and policies provided therein.

SEC. 8. *Non-profit Character of the Authority.* – The Authority shall be non-profit and shall devote the use of its returns from capital investments, as well as excess revenues from its operations, for the development, improvement, and maintenance and other related expenditures of the Authority to pay its indebtedness and obligations and in furtherance and effective implementation of the policy provided in this Act. In consonance thereto, the Authority is

hereby declared exempt from the payment of all taxes, duties, fees, imposts, charges, costs and service fees as well as any other costs and charges 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 Authority 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 Authority and of its projected capital and operating expenditures.

SEC. 9. ***Board of Directors.*** – The powers of the Authority shall be vested in and exercised by a board of directors, hereinafter referred to as the Board, which shall be composed of fifteen (15) members, to wit:

- a) The Secretary of Trade and Industry who shall serve as an *ex officio* chairperson of the board of directors and three (3) other representatives of the National Government as *ex officio* members;
- b) The Administrator of the Authority, as Vice-Chairperson; of Misamis Occidental or duly authorized representative, as *ex officio* member;
- c) The Congressional Representative of the Second District of the Province of Misamis Occidental, as *ex officio* member;
- d) The Provincial Governor of the Province of Misamis Occidental or duly authorized representative, as an *ex officio* member;

f) Two (2) representatives of the labor force from the workers in the ECOZONE, as members;

g) Three (3) representatives from the business and investment sectors in the ECOZONE, as members; and

h) Three (3) representatives of the private sector coming from the residents of the municipalities of the Second District of Misamis Occidental, as members;

The chairperson 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 three (3) 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 unexpired portion of the term.

Except for the representatives of the business and investment sectors, no person shall be appointed by the President of the Philippines as member of the Board unless he is a Filipino citizen, of good moral character and of recognized competence in some relevant fields of business, banking, shipping, business or labor management, port operations, engineering, or law.

Members of the Board shall receive a per diem of not more than Ten Thousand Pesos (P10,000.00) for every Board meeting actually attended: *Provided, however,* That no per diem shall be paid for more than four (4) board meetings per month: *Provided, further,* That the President of the Philippines may fix a higher per diem for the members of the Board.

SEC. 10. *Administrator and Chief Executive Officer.* – The President of the Philippines shall appoint a full-time professional and competent administrator and chief executive officer of the Authority who shall serve for a term of six (6) years and whose compensation shall be determined by the Board of Directors.

SEC. 11. *Powers and Duties of the Administrator and Chief Executive Officer.* – The Administrator and Chief Executive Officer shall have the following powers and duties:

- a) Direct and manage the affairs of the Authority in accordance with the policies of the Board;
- b) Establish the internal organization of the Authority under such conditions that the Board may prescribe;
- c) Submit an annual budget and necessary supplemental budget to the Board for its approval;
- d) 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; and
- e) Perform such other duties as may be assigned to him by the Board.

SEC. 12. *Industrial Peace.* – One representative each from the Department of Labor and Employment (DOLE), labor sector, business and industry sectors shall formulate a mechanism under a social pact for the enhancement and preservation of industrial peace in the MISOCC ECOZONE within thirty (30) days after the effectivity of this Act.

SEC. 13. ***Capitalization.*** – The MISOCC Special Economic Zone 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 National Government shall initially subscribe and fully pay three hundred million (300,000,000) shares of such capital stock. All unoccupied government-owned lands as of the creation of the MISOCC ECOZONE, falling within its jurisdiction shall also be included as part of the equity of the Authority and may only be disposed of by the Authority: *Provided*, That in case of absolute sale or conveyance, the Authority shall seek the approval of the Office of the President.

The initial amount necessary to subscribe and pay for the shares of stock shall be included in the General Appropriations Act of the year following the enactment of this Act and thereafter. The Board of Directors of the Authority may, from time to time, and with the written concurrence of the Secretary of Finance increase the issue value of the shares representing the capital stock of the Authority. The Board of Directors of the Authority, with the written concurrence of the Secretary of Finance, may sell shares representing not more than forty per centum (40%) of the capital stock of the Authority to the general public with such annual dividend policy as the Board and the Secretary of Finance, may determine. The National Government shall in no case own less than sixty per centum (60%) of the total issued and outstanding capital stock of the Authority.

SEC. 14. *Supervision and Devolution of Functions.* – The Authority shall be under the direct control and supervision of the Office of the President of the Philippines for purposes of policy direction and coordination.

Except as provided in this Act, all powers and functions heretofore performed by other national government agencies are hereby deemed reposed in the Authority, insofar as the zone and activities therein are concerned.

SEC. 15. *Relationship with the Local Government Units.* – In case of any conflict between the Authority and the Second District of Misamis Occidental on matters affecting the MISOCC ECOZONE other than defense, security and foreign affairs matters, the decision of the Authority shall prevail.

SEC. 16. *Non-applicability of Salary Standardization Law and Revised Compensation and Position Classification System.* – The provisions of Republic Act No. 6758, otherwise known as the Salary Standardization Law, and the Revised Compensation and Position Classification System, as amended, shall not apply to the Authority. The salaries, benefits and other emoluments of the officers, directors and employees of the Authority shall be commensurate to private industry standards to be determined by the board of directors of the Authority.

SEC. 17. *Retention of Earnings.* – The Authority shall retain all earnings from all its activities, regulatory or proprietary, and need not remit the same to the national treasury. Such earnings shall be considered as corporate income which the Authority may invest in its various infrastructure or special

projects, corporate undertakings, payment of salaries, honoraria, per diems and other related matters.

SEC. 18. *Auditor.* – The Commission on Audit shall appoint a representative who shall be a full time auditor of the Authority and its subsidiaries in which it controls a majority of the shares of stock and assigns such number of personnel as may be necessary to assist said representative in the performance of its duties. The salaries and emoluments of the assigned auditor and personnel of the Commission shall be in accordance with pertinent laws, rules and regulations. The Commission on Audit shall render an annual report to the President of the Philippines and to the Congress on the business activities, transactions and operations of the Authority.

To ensure the expeditious implementation of the economic policy and purpose embodied in this Act, the Commission on Audit in cooperation with the Authority, shall formulate special rules on audit, disbursement of funds, bidding, procurement of goods and services, accounting, use of government equipment and resources and the like, towards realizing the aforesaid needs: *Provided*, That such rules and any amendment thereto shall be approved by the President of the Philippines.

SEC. 19. *Injunctions, Restraining Orders and Other Interlocutory Orders.* – The development of the MISOCC ECOZONE is a National Government priority. In view thereof, no injunctions, restraining orders and other interlocutory orders which seek to stop or interrupt any contract entered

into or project undertaken by the Authority may be issued by any court of law or quasi-judicial body except by the Supreme Court of the Philippines.

SEC. 20. ***Separability Clause.*** – If any provision 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.*** – This Act amends Section 5 of Republic Act No. 7916 otherwise known as “The Special Economic Zone Act of 1995, as amended, by adding the Second District of the Province of Misamis Occidental as identified ECOZONE area. All laws, decrees, orders, rules and regulations, and other issuances, or parts thereof which are inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 22. ***Effectivity.*** – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a national newspaper of general circulation.

Approved