

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 5732



Introduced by: Representative Shernee A. Tan

EXPLANATORY NOTE

The Maimbung Municipal Port located in the Municipality of Maimbung, Province of Sulu was constructed as a municipal fish port and cold storage facility in 2011 from the funding allocation of the Philippine Fisheries Development Authority (PFDA), Department of Agriculture (DA).

The paramount objective of the establishment of the port was to transform Maimbung into a major fish trading center in Western Mindanao that would effectively provide small fisherfolk and their families sustained source of income and a more stable livelihood.

It is a reality however, that the local government of the said municipality cannot cope with the increasing demands resulting from the growing population with diverse needs and interests. The operation and maintenance, and possible expansion to accommodate more vessels, both passenger and fishing vessels, therefore of the Maimbung Municipal Port would be extremely difficult to bear due mainly to its limited financial resources. There is an urgent need that this port must be managed and maintained by a team of professionals with special skills in port management to ensure its successful operation.

This bill therefore seeks to convert the Maimbung Municipal Port into Maimbung Port Authority in order to ignite the engine of economic development not only of the Municipality of Maimbung but also the localities in the entire Sulu Archipelago.

The foregoing reasons warrant the approval of this bill.


SHERNEE A. TAN
Representative
Kusug Tausug Partylist

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AN ACT
CONVERTING THE MAIMBUNG MUNICIPAL PORT LOCATED IN THE
MUNICIPALITY OF MAIMBUNG, PROVINCE OF SULU INTO A PORT
AUTHORITY TO BE KNOWN AS THE MAIMBUNG PORT AUTHORITY,
DEFINING ITS POWERS AND FUNCTIONS, 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 cited as the
“**Charter of the Maimbung Port Authority.**”

SEC. 2. Declaration of Policy. – It is hereby declared the policy of the State to encourage and promote the establishment and development of autonomous regional port bodies to bring about a safe, efficient, economical and systematic movement of goods and persons through the port, in line with the constitutional framework to break the cycle of poverty by giving all regions, including those in the remote areas, maximum utilization of resources and opportunity to spur economic development.

SEC. 3. Conversion of Maimbung Municipal Port. – The Maimbung Municipal Port located in the Municipality of Maimbung, Province of Sulu is hereby converted into a port authority to be known as the Maimbung Port Authority hereinafter referred to as the Authority.

The Authority shall be under the supervision of the Department of Transportation (DOTr) for purposes of policy coordination.

SEC. 4. *Definition of Terms.* – For purposes of this Act, the following terms shall mean:

- a. “Port facility” shall include wharf, warehouses, cold storage, loading, and unloading equipment, and passenger terminals and accessories;
- b. “Navigable waters” means all navigable portions of the seas, estuaries and inland waterways;
- c. “Wharf” means a continuous structure built parallel to or along the margin of the sea or alongside riverbanks, canals, or waterways where vessels may lie alongside to receive and discharge cargo or passenger, or lie at rest;
- d. “Pier” includes any stage, stair, landing stage, jetty, floating barge or pontoon, and any bridge or other works connected therewith;
- e. “Dock” includes locks, cuts, entrances, graving docks, inclined planes, slipways, quays and other works relative thereto;
- f. “Warehouse” means any building for storage or shed for cargo;
- g. “Anchorage” means any place with sufficient depth of water where vessels anchor or may ride at anchor within the harbor;
- h. “Goods” includes wares and merchandise of every description;
- i. “Rates” includes tools, fees, dues and rent imposed by the Authority;
- j. “Vehicle” includes 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.

SEC. 5. *Purposes and Objectives.* – The Authority shall have the following purposes and objectives:

- a. To integrate the planning, development, construction and operations of the 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 regional 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 Province of Sulu .

SEC. 7. Powers and Responsibilities. - 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;
- c. Adopt and use a seal;
- d. Sue and be sued in any court;
- e. Enter into contract, 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;
- 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 interests;
- 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 co-partnership of this or any to her 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;
- m. Exercise all the powers of a corporation under the Corporation Law insofar as they are not inconsistent with the provisions this Act.

SEC. 8. Governing Body. – The powers and functions of the Authority shall be vested in and exercised by a Maimbung Port Commission composed of a Chairman, a Vice-Chairman and five other Commissioners. The Chairman shall be the Secretary of the Department of Transportation or his duly designated undersecretary. The Vice-Chairman, who shall be designated as the Maimbung Port General Manager, 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. Shipowners and shipping operators
- b. Cargo-handling labor sector; and
- c. Business sector.

SEC. 9. Powers and Functions of the Commission. – The powers and functions of the Commission of Maimbung 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 the 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, pier and anchorages by ships and other watercraft;
- h. To determine the organization of the Authority and create such functions 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, it being understood that the security of tenure of the workers shall be respected consistent with existing laws;
- i. To define the duties and fix the compensation and benefits of the General Manager, Deputy General manager, Port Managers, and other officers 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 Maimbung Port Commission shall be appointed for a term of three (3) years: *Provided*, That any person appointed to fill the 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 fixed by the Commission, the Chairman and all the members shall each receive a *per diem* of Ten thousand pesos (P10,000.00), 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. *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. 15. *Supplies and Services Other Than Personal Services.*
– All purchases or contracts for services, except for personal services, entered into by the Authority shall be done only after public bidding therefore 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 units 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. 16. Capitalization. – The Authority shall have an authorized capital stock equal to and consisting of the following:

- a. The value of fixed assets, including port facilities and equipment administered by or belonging to the Port of Maimbung 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 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. 17. Auditor and Personnel. – The Commission on Audit (COA) 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 shall be paid by the Authority.

SEC. 18. Power to Issue Bonds. – 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 Bangko Sentral ng Pilipinas.

SEC. 19. Bond Limits. – The bonds that may be issued by the Authority shall in no case exceed the total amount One billion pesos (P1,000,000,000.00): *Provided*, That no single issue shall be made if at least seventy percent (70%) of the immediately preceding issue is not yet sold.

SEC. 20. Form, Rate of Interest, etc. of Bonds. – The Secretary of Finance, in consultation with the Monetary Board, shall prescribe the form, the rate of interest, the denominations, maturities, negotiability, convertibility, call and redemption features, and all 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 the Philippine currency and shall be acceptable as security in any transaction with Government in which such security is required.

SEC. 21. *Transfer of Existing Facilities and Intangible Assets.*- All existing facilities, including loading and unloading equipment, and passenger terminal 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 Municipality of Maimbung, Province of Sulu, and all other assets, powers, rights, interest and privileges relating to port works or operations, including all equipment, are hereby transferred to the Authority.

SEC. 22. *Projects in Progress.* - All on-going projects, if there is any, relating to the rehabilitation and/or construction of port facilities and supply of equipment shall be administered and undertaken by the Authority.

SEC. 23. *Transfer of Liabilities and Debts.* - Upon the transfer to and accepted 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 Municipality of Maimbung, Province of Sulu relating to the operation and maintenance and other matters appurtenant thereto of the Maimbung Municipal Port in respect of such physical facilities, tangible assets and completed projects within the ports shall likewise be assumed by the Authority.

SEC. 24. *Abolition of the Maimbung Municipal Port as a Port Management Unit of the Municipality of Maimbung, Province of Sulu.* - The Maimbung Municipal Port 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 the 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. 25. *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 copy 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 (DOTr). The report shall include a financial statement duly certified by the Auditor of the Authority.

SEC. 26. 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. 27. 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. 28. Repealing Clause. – All laws, decrees, executive orders, rules and regulations, which are inconsistent with this Act, are hereby repealed, amended or modified accordingly.

SEC. 29. Effectivity.– This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,