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Third Regular Session)

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HOUSE OF REPRESENTATIVES

Introduced by Representative Rufus B. Rodriguez

House Bill No. 10509

EXPLANATORY NOTE

In 1974, the Philippine Ports Authority (PPA) was created by virtue of Presidential Decree (PD) 857, as amended, to implement an integrated program for the planning, development, financing and operation of piers or port districts for the entire country.

Through the years, the port users (e.g., domestic shippers, exporters and importers) have complained of low service levels, inefficient port operations and ever-increasing port charges. They claim that the high cost of transport serves as an effective barrier to increased trade (both local and foreign) and undermines the country's overall competitiveness.

There is an urgent need to reform the country's ports administration by separating the regulatory and development functions of the Philippine Ports Authority (PPA) by converting it into a Philippine Ports Corporation and transferring its regulatory functions to the Maritime Industry Authority (MARINA).

RUFUS B. RODRIGUEZ

NINETEENTH CONGRESS)
REPUBLIC OF THE PHILIPPINES)
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AN ACT
SEPARATING THE REGULATORY AND COMMERCIAL FUNCTIONS OF THE PHILIPPINE PORTS AUTHORITY (PPA) BY CONVERTING IT INTO PHILIPPINE PORTS CORPORATION FOR DEVELOPMENT, MANAGEMENT AND OPERATION OF PUBLIC PORTS WITHIN ITS SYSTEM AND TRANSFERRING THE REGULATORY FUNCTIONS TO THE MARITIME INDUSTRY AUTHORITY (MARINA)

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

Section 1. Title. This Act shall be known as the Philippine Ports Corporation (PHILPORTS) Act.

Section 2. Declaration of Policies and Objectives. It is hereby declared to be the policy of the State to avoid conflict of interest arising from regulatory agencies vested with both regulatory and development or commercial functions. Under no circumstance should a regulatory agency benefit from its own regulation and/or use its regulatory powers to protect itself from competition at the expense of public interest. It is in this regard that this Act separates the regulatory and development functions of the Philippine Ports Authority (PPA) by converting it into a corporation solely for commercial and development purposes and transferring its regulatory functions and powers to the Maritime Industry Authority (MARINA).

Section 3. The Philippine Ports Corporation —

(a) The PPA shall be converted into Philippine Ports Corporation (PHILPORTS), a government-owned and controlled corporation (GOCC) attached to the Department of Transport (DOTr) and mandated to own, develop, manage and operate public ports within the port system of the old PPA.

(b) While PHILPORTS is a public enterprise, it is not primarily a revenue generating entity but a service provider. As such, it shall always give utmost priority and importance to public service delivery and promotion of public interest over commercial/financial profit.

(c) PHILPORTS shall be governed by a Board with fifteen (15) members composed of representatives from government agencies and industry associations:

GOVERNMENT
1. Secretary of Transport (DOTr) as Chairman of the Board
2. Secretary of Trade and Industry (DTI)
3. Secretary of Agriculture (DA)
4. Socio-Economic Planning Secretary (NEDA)
5. Secretary of Public Works and Highways (DPWH)
6. Secretary of Tourism (DOT)
7. Secretary of Environment and Natural Resources (DENR)

8. President of PHILPORTS

PRIVATE SECTOR

9. BUSINESS: Representative from the Philippine Chamber of Commerce and Industry (PCCI)
10. LOGISTICS: Representative from the Supply Chain Management Association of the Philippines (SCMAP)
11. PORT USERS: Representative from the Port Users Confederation (PUC)
12. EXPORTERS: Representative from the Philippine Exporters Confederation (PHILEXPORT)
13. TOURISM: Representative from the National Tourism Congress
14. SHIPPING: Representative from the shipping industry (PISA) and
15. CARGO HANDLERS: Philippine Chamber of Arrastre and Stevedoring Operators (PCASO)

(d) PHILPORTS shall prepare a long-term port system development plan — taking into consideration the needs and requirements of manufacturing, agro-fisheries, tourism, transport, and logistics sectors — that will be integrated into the overall transport plan of the DOTr and the road infrastructure development plan of the Department of Public Works and Highways (DPWH) to promote and ensure inter-modal seamless connectivity. The Plan shall likewise take into account the regional development thrusts of the National Economic and Development Authority (NEDA).

(e) The Board shall formulate the necessary policies and guidelines for the implementation of the Port System Development Plan. These policies must be geared towards the enhancement of the country's overall competitiveness. Moreover, port operations and performance standards must be developed and used in the development, operations and maintenance of its ports.

(f) PHILPORTS shall collect only the port fees and dues duly approved by the MARINA. PHILPORTS shall not:

(i) Share from cargo handling revenues and/or any service providers contracted by PHILPORTS; and
(ii) Share from any revenue generated by private commercial ports.

(g) The revenues collected by PHILPORTS shall be used for the development, modernization, expansion, operation and maintenance of its ports. PHILPORTS shall be exempt from declaring corporate dividends to the National Treasury in order to provide adequate resources for port development and modernization.

(h) Within one hundred and eighty (180) days from its constitution, in compliance with RA 10149 (GOCC Governance Act of 2011) and the rules and regulations of the Governance Commission for GOCCs (GCG), PHILPORTS shall adopt an ownership and operations manual and the government corporate standards governing GOCCs. The manual shall be consistent with the Medium-Term Philippine Development Plan issued by the National Economic and Development Authority (NEDA) and shall include:

(i) Objectives of State ownership
(ii) Role of national government in the governance of GOCCs
(iii) Modes of implementation of the ownership policy

(iv) Guidelines on the monitoring of the operations of all GOCCs including their Related Corporations. These shall include Strategy Maps, Charter Statements, Performance Commitments and such other mechanisms;
(v) The roles, relationships and responsibilities of the State, the Government Agencies to which the GOCC is attached, and the GOCC
(vi) Disclosure and transparency requirements vii. Code of Ethics of Directors and Officers
(vii) Creation of board committees and similar oversight bodies
(viii) Integrated corporate reporting system
(ix) Statement of the social responsibilities of the GOCC, and
(x) Such other matters as the GCG may deem proper to include in the ownership policy

(i) The Board of Directors as well as key officers of PHILPORTS shall be governed by the "fit and proper rule" guidelines stipulated by the Governance Commission for GOCCs (GCG).

(j) PHILPORTS shall likewise:

(i) establish performance evaluation systems including performance scorecards and conduct periodic study, examination, evaluation and assessment of its performance
(ii) conduct compensation studies and develop a competitive compensation and remuneration system which shall attract and retain talent, at the same time allowing the GOCC to be financially sound and sustainable
(iii) maintain a website and post therein for unrestricted public access, in compliance with GCG's full disclosure requirements, PHILPORTS'

(a) annual audited financial statements for the last 5 years
(b) performance report
(c) quarterly, annual reports and trial balance
(d) current corporate operating budget
(e) complete compensation package of all the board members and officers, including travel, representation, transportation and any other form of expenses or allowances
(f) local and foreign borrowings
(g) performance scorecards and strategy maps
(h) government subsidies and net lending among others.

(k) PHILPORTS, with approval from the Board, may issue bonds and incur indebtedness, if necessary, to carry out its Programs. It may also enter into joint venture arrangements with the private sector in the development and operation of its ports.

(l) PHILPORTS shall develop a port privatization program in keeping with the principles of New Public Management that posits greater private sector participation in the delivery of public services.

Section 4. Regulatory Functions transferred to MARINA. All regulatory powers and functions of the defunct PPA shall be transferred to the MARINA.

a) Prescribe rules and regulations, procedures, and guidelines on the planning, development, construction, maintenance, control, supervision and management of any Port or Port District all ports in the country;
b) Impose, modify, enforce, and regulate dues, rates, or charges on port services or port related services;

c) Issue, regulate, and supervise permits or licenses to construct ports, ports facilities, warehouses, and other facilities within port districts;
d) Exercise control or administer any foreshore rights or leases which may be vested to MARINA from time to time;
e) Control, regulate, and supervise pilotage and the conduct of pilots in any Port District;
f) Direct and regulate the appropriate berthing, mooring, anchoring, or removal of any vessel; and
g) Exercise the right of eminent domain, by expropriating the land or areas surrounding the Port of harbor, which in the opinion of MARINA, are vital or necessary for the total development of the Port District.

Section 5. Implementing Rules and Regulations. Within ninety (90) days from the effectivity of this Act, the government agencies that will serve as members of the Board shall promulgate the necessary rules and regulations to implement this Act.

Section 6. Repealing and Separability Clauses. PD 505, PD 857, LOI 1005-A, and all laws, decrees, orders, rules and regulations, policies, programs or parts thereof, which are inconsistent with any of the provisions of this Decree, are hereby repealed or modified accordingly.

Section 7. Separability Clause. If, for any reason, any section or provision of this Act is declared to be unconstitutional or invalid, the other sections or provisions of this Act which are not affected thereby shall continue to be in full force and effect.

Section 8. Effectivity Clause. This Act shall take effect fifteen (15) days after its publication in the Official Gazette or a newspaper of general circulation.

Approved,