

THIRTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES
First Regular Session

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SENATE

S. No. 465

Introduced by Senator S. R. Osmeña III

EXPLANATORY NOTE

This bill proposes the creation of Autonomous Port Authorities (APAs) all over the country which will be subsidiaries of the Philippine Ports Authority (PPA), and subject to the supervision of the latter for purposes of regulation, policy making, planning and development.

This happy compromise allows the government to ensure that the national perspective is reflected in port policy-making, planning and development, while at the same time accommodating the need on the part of local governments for greater autonomy in the administration of local public facilities.

In effect, representation of local governments in the APA governing board will make the APAs accountable to their respective local constituencies as far as the delivery of services is concerned. However, the continuing regulatory and supervisory powers of the Philippine Ports Authority over the APA will ensure that developmental issues are addressed, and that appropriate market interventions are applied across various local port situations.

Fiscal autonomy is also provided in the bill, where the APA is allowed to retain 95% of gross revenues or 65% of net income to finance the working capital requirement of the local port. 5% of gross revenues or 35% of net income which will be remitted to the PPA will constitute the APA's contribution to the developmental agenda of the countrywide port system.

The most appealing argument to advance the devolution of service-oriented agencies has been the claim that local governments are better able to identify and address local needs. The most powerful deterrent has been the threat of fragmentation in policy-making. This bill seeks to achieve a workable compromise that will minimize the tradeoff between these two.

In view of the foregoing, the immediate approval of this bill is earnestly requested.

S. Osmeña III
SERGIO OSMEÑA III
Senator

THIRTEENTH CONGRESS OF THE REPUBLIC
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S E N A T E

S. No. 465

Introduced by Senator S. R. Osmeña III

AN ACT
CREATING AUTONOMOUS PORT ADMINISTRATIONS [APAs], DEFINING
THEIR POWERS AND FUNCTIONS, AND FOR OTHER PURPOSES

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

1 SECTION 1. **Title.** This Act shall be known and cited as the "**Philippine Ports**
2 **Autonomy Act**".

3 SEC. 2. **Policy.** – It is the declared policy of the State to promote the
4 establishment and growth of autonomous regional port bodies to produce an efficient,
5 safe, economical and coordinated system of transporting goods and persons
6 throughout the country, consistent with the constitutional mandate to pursue the
7 development of all the regions of the country. Towards this end, the State recognizes
8 the importance of a national agency mandated to ensure that all ports in the country
9 are part of a whole integrated port system, while ensuring that each port is focused on
10 delivering adequate port services in its respective local community in the most
11 efficient ways possible.

12 SEC. 3. **Creation of Autonomous Port Administration (APAs).** – The
13 creation of Autonomous Port Administrations, hereinafter referred to as the APAs
14 which shall serve as autonomous corporate subsidiaries of the Philippine Ports
15 Authority (PPA), is hereby authorized subject to the provisions of this Act.

1 The Autonomous Port Administrations (APAs) shall be under the supervision of
2 the Philippine Ports Authority for purposes of regulation, policy coordination, planning
3 and development.

4 SEC. 4. **Criteria for the Establishment of Autonomous Port**
5 **Administrations** - An Autonomous Port Administration may be established in a
6 proclamation to be issued by the President of the Philippines subject to the evaluation
7 and recommendation of the PPA, based on a detailed feasibility and engineering
8 study which must conform to the following criteria:

- 9 (a) The proposed port must be identified as a regional growth center in the Medium
10 Term Philippine Development Plan or by the Regional Development Council;
- 11 (b) The area must have significant incremental advantage over existing ports,
12 and its financial feasibility and potential profitability can be established; and
- 13 (c) The area must be strategically located

14 Other ports which do not meet the foregoing criteria may be established as
15 APAs: *Provided*, That said port shall be developed only through local government
16 and/or private sector initiative under any of the schemes allowed in Republic Act No.
17 6957 (the build-operate-transfer law) and without any financial exposure on the part of
18 the national government *Provided, further*, That after five (5) years the port must
19 have attained a substantial degree of development, the indicators of which shall be
20 formulated by the PPA.

21 SEC. 5. **Definition of Terms**. - For purposes of this Act, unless the context
22 indicates otherwise, the terms used herein shall mean as follows:

- 23 a) "**Authority**" shall mean the Philippine Ports Authority established under PD
24 505 and PD 857 as amended;
- 25 b) "**Port facility**" shall include wharves, piers, slips, docks, bulkheads, basins,
26 warehouses, cold storage, loading and unloading equipment, and
27 passenger terminals and accessories;
- 28 c) "**Transportation facility**" includes passenger and cargo boats, ferry boats,
29 lighters, tugs, barges, scows, harbor draft of any kind, and any other kind of

- 1 facility now in use or hereafter designated for use of the transportation or
2 carriage of persons or goods;
- 3 d) "**Navigable waters**" means all navigable portions of the seas, estuaries and
4 inland waterways;
- 5 e) "**Wharf**" means a continuous structure built parallel to or along the margin
6 of the sea or alongside riverbanks, canals or other waterways where
7 vessels may lie alongside to receive and discharge cargo or passenger, or
8 lie at rest;
- 9 f) "**Pier**" includes any stage, stair, landing stage, jetty, floating barge or
10 pontoon, any bridge or other works connected therewith;
- 11 g) "**Dock**" includes locks, cuts, entrances, graving docks, inclined planes,
12 slipways, quays and other works relative thereto;
- 13 h) "**Bulkhead**" means any structure serving to divide land and water areas;
- 14 i) "**Basin**" means any naturally or artificially enclosed or nearly enclosed body
15 of water in free communication with the sea;
- 16 j) "**Warehouse**" means any building for storage or shed for cargo;
- 17 k) "**Lighter**" means any large flat-bottomed boat or barge used in transporting
18 goods, or in loading or unloading of vessels not lying alongside piers or
19 wharves;
- 20 l) "**Anchorage**" means any place with sufficient depth of water where vessels
21 anchor or may ride at anchor within the harbor;
- 22 m) "**Goods**" includes wares and merchandise of every description;
- 23 n) "**Rates**" includes tolls, fees, dues and rent imposed by the Authority;
- 24 o) "**Vehicle**" includes any carriage travelling on its own wheels or runners and
25 used or intended to be used for the conveyance or carrying of persons,
26 animals or goods; and
- 27 p) "**Vessels**" includes any ship, boat or any water borne craft used in the
28 conveyance or carrying of persons, animals or goods.

1 SEC. 6. **Purposes and Objectives.** The Autonomous Port Administrations
2 (APAs) shall have the following purposes and objectives:

- 3 a) To administer, manage and operate the port and terminals under its
4 jurisdiction;
- 5 b) To integrate and coordinate with the Authority the planning, development,
6 construction and operations of ports and port facilities and implementation
7 of policies and programs within its territorial jurisdiction, consistent with the
8 needs and requirements of their respective territorial jurisdiction;
- 9 c) To enhance the flow of international and domestic commerce passing
10 through or utilizing the regional ports;
- 11 d) To promote regional development by providing support services to sustain
12 the growth of export and other priority industries in the region;
- 13 e) To serve as a link between inland areas and other ports in the country to
14 foster efficient movement of people and goods; and,
- 15 f) To establish mutually beneficial economic relations which other entities
16 within the country, or, subject to the administrative guidance of the
17 Department of Foreign Affairs and/or the Department of Trade and
18 Industry, with foreign entities and enterprises.
- 19 g) To regulate private terminals within its jurisdiction, subject to the rules and
20 regulations that the Authority may formulate.

21 SEC. 7. **Territorial jurisdiction.** The territorial jurisdiction of the APA shall
22 include all seas, lakes, rivers, and all other navigable inland waterways within the city
23 or province, including waterways, the metes and bounds of which are to be delineated
24 and more particularly described in a proclamation to be issued by the President of the
25 Philippines, upon recommendation of the Authority, in coordination with the
26 municipal or city council, National Land Use Coordinating Committee and/or the
27 Regional Land Use Committee.

28 SEC. 8. **Powers.** – The APA is hereby vested with the power to:

- 1 a) Have perpetual succession under its corporate name until otherwise
2 provided by law;
- 3 b) Prescribe its by-laws and such rules and regulations as may be found
4 necessary;
- 5 c) Adopt and use a seal;
- 6 d) Sue and be sued in any court;
- 7 e) Enter into contracts, transactions, and undertakings of whatever nature,
8 which are necessary or incidental to its functions and objectives, with any
9 natural or juridical persons or with any government institutions, domestic or
10 foreign;
- 11 f) Acquire, own, hire, use, operate and dispose of personal property and to
12 acquire, own, use, lease, operate and dispose of real property and interest
13 thereon and make improvements on such real property, including the
14 reclamation, for port purposes, of fore shore and submerged lands within its
15 territorial jurisdiction; which reclaimed land shall ipso facto be deemed
16 transferred in ownership to the Administration; and to enter into contracts
17 with any public or private entity for such reclamation under such terms and
18 conditions as it may deem to be for the public interest;
- 19 g) Purchase, hold, alienate, mortgage, pledge or otherwise dispose of the
20 shares of the capital stock of, or any bond, security or other evidences of
21 indebtedness created by any other corporation or co-partnership of this or
22 any other country, and while the owner of said stock, to exercise all the rights
23 of ownership, including the right to vote thereon;
- 24 h) Exercise all other powers not contrary to law which may be necessary or
25 incidental to the effectuation of its authorized purposes or to the exercise of
26 any of the foregoing powers, except the power to levy taxes or assessment
27 and, in general, to exercise in connection with property within its control all
28 powers which may be exercised by natural or juridical persons over its
29 property and affairs;

- 1 i) Levy dues and impose rates, charges for the use of the premises, works,
2 appliances, facilities or for services provided by or belonging to the
3 Administration, or any other organizations concerned with port operations,
4 subject to uniform structures established by the Authority;
- 5 j) Hire or contract experts and consultants, both foreign and local; and
- 6 k) Exercise all powers of a corporation under the Corporation Law insofar as
7 they are not inconsistent with the provision of this Act.

8 **SEC. 9. Powers of the Authority over APAs.** – The Authority shall have
9 regulatory power over APAs and shall prescribe rules and regulations necessary to this
10 effect. The Authority shall also exercise the powers provided under Section 6 of PD
11 857, as amended, which are not inconsistent with the provisions of this Act.

12 **SEC. 10. Obligations.** – The APAs shall remit to the Authority 5% of its gross
13 monthly income or 35% of net monthly income, whichever is higher as its contribution
14 to the overall development of the country's integrated port system. The residual
15 amount of 95% of gross monthly income of 65% of net income, whichever is lower
16 shall be used by the APA to finance the working capital requirements of the local port.

17 **SEC. 11. Governing Body..** – The powers and functions of each APAs shall
18 be vested in and exercised by a Port Commission composed of a Chairman, a Vice-
19 Chairman and five (5) other Commissioners. The Chairman shall be the District
20 Manager of the Authority. The Port Administrator shall act as Vice-Chairman of the
21 commission.

22 The Commissioners shall be appointed by the PPA Board of Directors from the
23 following sectors:

- 24 a) Representative of the Province, nominated by the Governor;
- 25 b) Representative of the City/Municipality, nominated by the Mayor;
- 26 c) Shipping sector, nominated by the largest local Ship owners organization;
- 27 d) Trade or business sectors, nominated by the largest local Business
28 Organization; and
- 29 e) Labor and other port sectors.

1 SEC. 12. ***Powers and functions of the Commission.*** - The powers and

2 functions of each Port Commission shall be as follows:

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

6 b) In coordination and subject to final approval by the Authority, to investigate,
7 prepare, adopt, implement and execute a comprehensive and orderly plan
8 for the overall development of all the ports within its territorial jurisdiction,
9 and to update such plan, as may be required by the Authority from time to
10 time;

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

14 d) To raise and administer, together with such revenues as may by law accrue
15 to the APA, capital outlays by means of loans from any local or foreign
16 financial institution to finance its projects;

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

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

23 g) To prescribe and enforce rules and regulations on the use of wharves, piers
24 and anchorages by ships and other water craft;

25 h) To determine the organization of the APA and create such functional units
26 therein as it may deem necessary in the proper and efficient implementation
27 of its functions and purposes, including the appointment of officials and
28 employees, it being understood that the security of tenure of these workers
29 shall be respected consistent with existing laws;

- 1 i) To define the duties and fix the compensation and benefits of the Chairman,
2 Vice-Chairman and the Commissioners of the Port Commission in
3 accordance with the rules and regulations of the Civil Service Commission
4 and the Department of Budget and Management;
- 5 j) To approve the annual budget of the APA and/or such supplemental budget
6 thereof as may be submitted by the APA from time to time; and
- 7 k) To perform some other duties as may be necessary and convenient for the
8 attainment of the objectives of the APA.

9 **SEC. 13. Term of office.** - Except for the chairman and vice-chairman, the
10 members of each Autonomous Port Commission shall be appointed for a term of three
11 (3) years; Provided, That any person appointed to fill a vacancy shall hold office only
12 for the unexpired term of the Commissioner whom he succeeds.

13 **SEC. 14. Quorum, Per Diems and Allowances.** - Four (4) members of the
14 Commission shall constitute a quorum for the transaction of business.

15 Unless otherwise fixed by the Commission, the Chairman and all the members
16 shall each received a per diem of Two Thousand Pesos (P2,000) or such amount as
17 maybe authorized by the Authority, exclusive of travelling expenses, for each day of
18 meeting of the Commission, which shall not exceed four (4) meetings a month.

19 **SEC. 15. Port Administrator.** - The management of the day-to-day business
20 and operations of the APA shall be under the direction and control of the Port
21 Administrator who shall be appointed by the PPA Board of Directors. His duties and
22 responsibilities are:

- 23 a) To keep secure all port properties and activities within its jurisdiction;
- 24 b) To manage, direct and supervise the operations and internal administration
25 of the APA, subject to the control and supervision of the Commission;
- 26 c) To prepare all memoranda pertaining to each and every item in the agenda
27 for the meetings of the Commission and to submit for the consideration
28 thereof such proposals or recommendation which he believes to be
29 necessary to carry out effectively and beneficially the business of the APA;

- 1 d) To implement the policies and administer the measures approved by the
2 Commission;
- 3 e) To devise the executive organization pattern of the APA, submit from time to
4 time to the Commission the corresponding organizational and functional
5 charts, and enforce the executive elements thereof;
- 6 f) To appoint and employ the services of subordinate officials and employees,
7 subject to the confirmation of the Commission;
- 8 g) To prepare and submit to the Commission, budget proposals of all kinds; and
- 9 h) To perform such other duties and exercise such other powers as may be
10 directed or authorized specifically by the Commission.

11 SEC. 16. ***Prohibition Against Conflict of Interest.*** - No member of the
12 Commission shall be financially interested, directly or indirectly, in any contract entered
13 into by the APA or in any special privilege granted by it. Violation of this prohibition
14 shall constitute a ground for dismissal.

15 SEC. 17. ***Appointment of Personnel.*** - All officers and employees of the
16 APA shall be subject to the Civil Service Commission and the Department of Budget
17 and Management rules and regulations, except those whose positions may, upon
18 recommendation of the Port Commission, thru the Authority, be declared by the
19 President of the Philippines as policy determining, primarily confidential or highly
20 technical in nature.

21 SEC. 18. ***Capitalization.*** - The APA shall have an authorized capital stock
22 equal to and consisting of:

- 23 a) The value of fixed assets, including port facilities and equipment
24 administered by or belonging to the autonomous ports and such other
25 properties, movable and immovable, within the territorial jurisdiction of the
26 APA as defined in Section 5 hereof, valued on the date of effectivity of this
27 Act; and,
- 28 b) Government contribution in such amount as may be deemed an appropriate
29 initial balance. Such initial amount, as approved by the President of the

1 Philippines, shall be more or less equivalent to six (6) months working capital
2 requirement of the APA.

3 SEC. 19. **Auditor and Personnel.** - The Commission on Audit shall appoint
4 a representative who shall be the Auditor of the APA and the necessary personnel to
5 assist said representative in the performance of his duties. The operating expenses of
6 the auditing office and the salaries of both officials and employees shall be paid by the
7 APA.

8 SEC. 20. **Power to Issue Bonds.** - The power of the APA to incur
9 indebtedness or to issue bonds to carry out approved capital investment projects, shall
10 be subject to approval by the affirmative vote of at least five (5) members of the Port
11 Commission in a special meeting called for the purposes and approved by the
12 President of the Philippines upon the recommendation of the Secretary of Finance and
13 the Bangko Sentral ng Pilipinas, thru the Authority.

14 SEC. 21. **Bond Limits.** - The bonds that may be issued by the APA shall in
15 no case exceed the total amount of One Billion Pesos (P1,000,000,000.00): Provided,
16 that no single issue shall be made if at least seventy percent (70%) of the immediately
17 preceding issue is not yet sold.

18 The bonds shall be issued only in such amounts as will be needed at only one
19 (1) integral operation not exceeding one (1) year duration, taking into account the state
20 at which said bonds may be absorbed by the buying public and the fund requirements
21 of the project ready for execution, and considering further a proper balance between
22 productive and non-productive projects so that inflation shall be held to a minimum.

23 SEC. 22. **Form, Rate of Interest, etc. of Bonds.** - The Secretary of Finance,
24 in consultation with the Monetary Board, shall prescribe the form, rate of interest,
25 denominations, maturities, negotiability, convertibility, call and redemption, features,
26 and all other terms and conditions of issuances, placement, sale, servicing, redemption
27 and payment of all bonds issued under the provision of this Act.

1 The bonds issued by virtue of this Act shall be made payable both as to principal
2 and interest in Philippine currency and shall be acceptable as security in any
3 transaction with the government in which such security is required.

4 **SEC. 23. *Transfer of Existing Facilities and Intangible Assets.*** All existing
5 facilities including wharves, piers, slips, dock, bulkheads, basins, cargo terminals,
6 warehouses, cold storage, loading/unloading equipment, and passenger terminals and
7 accessories, within the territorial jurisdiction of the APA; other lands, buildings and
8 other properties, movable and immovable, belonging to or presently administered by
9 the Authority; and all assets, powers, rights, interests and privileges relating to port
10 works or operations, including all equipment, shall be transferred by the Authority to the
11 APA, and shall constitute the equity investment of the PPA in the APA except for such
12 properties reserved for use by a Port District Management Office.

13 **SEC. 24. *Project in Progress.*** - All ongoing projects relating to the
14 rehabilitation and/or construction of port facilities and supply of equipment shall be
15 administered and undertaken by the APA.

16 **SEC. 25. *Transfer of Liabilities and Debts.*** - Upon the transfer to and
17 acceptance by the APA of the existing physical facilities, intangible assets and
18 completed projects referred to in the preceding sections, all debts, liabilities and
19 obligations of the Authority in respect of such physical facilities, tangible assets and
20 completed projects within the port shall likewise be assumed by the APA.

21 **SEC. 26. *Absorption of Affected Port Management Offices and Head***
22 ***Office Units/Port District Office.*** - The affected Port Management Offices shall be
23 absorbed into the APA upon its activation. The Port Administrator of each APA thus
24 activated shall ensure the smooth transfer of responsibilities from the Port
25 Management Office to the APA; *Provided,* That all officials and employees in the Port
26 Management Offices shall be absorbed in their current positions by the APA or
27 transferred in other assignments in the Authority

28 **SEC. 27. *Annual Report.*** - An annual report of the APA shall be submitted
29 to the Authority within ninety (90) days after the close of each fiscal year.

1 The originals of said report shall be submitted to the Authority and copies
2 thereof to the President of the Philippines, and the Department of Transportation and
3 Communications. The report shall include a financial statement duly certified by the
4 Auditor of the APA.

5 SEC. 28. **Appropriation.** - The amount necessary to carry out the provisions
6 of this Act shall be included in the Annual Corporate Budget of the Autonomous Port
7 Administrations (APAs) subject to the approval of the Port Commission. Gratuities,
8 retirement and other benefits due to PPA officials and employees who will be
9 terminated due to the enactment of this Act shall be included in the PPA's corporate
10 budget.

11 SEC. 29. **Fiscal Autonomy.** - The APA shall have fiscal autonomy and shall
12 comply with the rules and regulations provided by the Authority to this effect.

13 SEC. 30. **Transitory Provisions.** - Within 120 days from effectivity of this
14 Act, the Philippine Ports Authority shall submit to the PPA Board of Directors a list of
15 Port Management Offices to be devolved to APAs through Presidential Proclamation,
16 as provided in Sec. 4. The Authority shall schedule the activation of approved APAs
17 one year from the effectivity of this Act. Thereafter, the Authority may submit thru its
18 Board of Directors the creation of APAs for Presidential Proclamation as the need
19 arises.

20 SEC. 31. **Separability Clause.** - If any provisions of this Act or the
21 application of such provision to any person or circumstance is declared
22 unconstitutional, the remainder of this Act or the application of such provision to other
23 persons or circumstances shall not be affected by such declaration.

24 SEC. 32. **Repealing Clause.** - All acts, charters, executive orders,
25 administrative orders, rules and regulations or parts thereof, in conflict with this Act are
26 hereby repealed or modified accordingly.

27 SEC. 33. **Effectivity Clause.** - This Act shall take effect fifteen (15) days after
28 its publication in at least two (2) national newspapers of general circulation.

29 Approved,