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SENATE

S. No. 466

Introduced by Senator S. R. Osmeña III

EXPLANATORY NOTE

Davao City prides itself as being the premiere city of Mindanao. Next only to Puerto Princesa, it is the country's largest city with a land area of 244,000 hectares. In the year 1996 alone, its share in the Internal Revenue Allotment from the national government amounted to almost P 800 million. This is more than enough to sustain a population of 1.2 million.

The thriving Davao City enjoys an ever increasing income levels from its port operations. At least five luxury liners call on its port weekly, aside from several inter-island cargo vessels and sea-going ships.

The crisis of growth sustainability may, however, confront its port operations in the future. Poor loading and unloading facilities continue to hamper its operations. The lack of passenger terminals is taking its toll on the decreasing number of passengers using the port as jump-off point to other parts of the island.

To address this problem, this bill mandates the creation of the Davao Port Authority, defining its powers and functions and providing appropriations therefor. Its primary functions are: to be integrated and coordinated with the development plan of the Davao Provinces and City known as the Davao Gulf Integrated Development Plan; to enhance the flow of international and domestic commerce utilizing its ports; to promote the safety of passengers of water transportation; and to promote regional development.

The Authority will be governed by a nine-man Davao Port Commission. Its membership shall come from all the Provinces and City of the Davao. It will be mainly tasked to manage, administer, operate, maintain, improve and develop, coordinate and otherwise govern all the activities of all the ports in its territorial jurisdiction.

With the Davao Port Authority, the Constitutional mandate to give all regions optimum opportunity for development may be realized in this part of our country. The promotion of the establishment and development of autonomous regional port bodies to produce an efficient, safe, economical and coordinated system of movement of goods and persons through the ports will commence.

In view of the above, the early consideration of this bill is earnestly requested.

S. Osmeña III
SÉRGIO OSMEÑA III
Senator

THIRTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES
First Regular Session

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SENATE
S. No. 466

Introduced by Senator S. R. Osmeña III

**AN ACT
CREATING THE DAVAO PORT AUTHORITY, DEFINING ITS POWERS AND
FUNCTIONS, PROVIDING APPROPRIATIONS THEREFOR, AND FOR OTHER
PURPOSES**

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

1 SECTION 1. *Title.* – This Act shall be known and referred to as the
2 “**Charter of the Davao Port Authority**”.

3 SEC. 2. *Declaration of Policies.* – It is declared the policy of the State to
4 promote the establishment and growth of autonomous regional port bodies to
5 produce an efficient, safe, economical and coordinated system of movement of
6 goods and persons through the ports, consistent with the constitutional mandate
7 to give all regions of the country optimum opportunity for development.

8 SEC. 3. *Davao Port Authority : Creation.* – There is hereby created a
9 public corporation to be known as the Davao Port Authority, hereinafter referred
10 to as the “Authority”, under the supervision of the City of Davao.

11 SEC. 3. *Definition of Terms.* – For the purpose of this Act, unless the
12 context indicates otherwise, the terms used herein shall mean as follows:

13 a) “Port Facility” – shall include wharves, piers, ships, docks, bullheads,
14 basins, warehouses, cold storage, loading and unloading equipment and
15 passenger terminal and accessories;

1 b) "Transportation Facility" – shall refer to passenger and cargo boats,
2 ferry boats, lighters, barges scows, harbor crafts of any and all kinds, and any
3 other kind of facility now in use or hereinafter designated for use for the
4 transportation or carriage of persons or goods;

5 c) "Navigable Waters" – shall mean all navigable portions of the seas,
6 estuaries and inland waterways;

7 d) "Wharf" – shall mean a continuous structure built parallel to or along
8 the margin of the sea or alongside riverbanks, canals or other waterways where
9 vessels may lie alongside to receive and discharge cargo or passenger, or lie at
10 rest;

11 e) "Pier" – shall include any stage, landing stage, jetty, floating barge or
12 portion, and any bridge or other works connected therewith;

13 f) "Duck" – shall include locks, cuts, entrances, graving docks, inclined
14 planes, slipways, quays and other works connected thereto;

15 g) "Bulkhead" – shall mean any structure serving to divide land and water
16 areas;

17 h) "Basin" – shall mean any naturally – or artificially enclosed or nearly
18 enclosed body of water in free communication with the sea;

19 i) "Warehouse" – shall mean any building for storage or shed for cargo;

20 j) "Lighter" – shall mean any large flat-bottomed boat or barge used in
21 transporting goods, or in loading or unloading of vessels not lying alongside piers
22 or wharves;

23 k) "Anchorage" – shall mean any place with sufficient depth of water
24 where vessels anchor or may ride at anchor within the harbor;

25 l) "Goods" – shall include wares and merchandise of every description;

26 m) "Rates" – shall include tolls, fees, dues and rent imposed by the
27 authority;

1 n) "Vehicles" – shall include any carriage travelling on its own wheels and
2 used or intended to be used for the conveyance or carrying of persons, animals
3 or goods; and

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

6 a) To integrate and coordinate with the Davao Gulf Integrated
7 Development Plan of the Davao provinces and the City of Davao in the
8 Development of the Davao coastal areas and the Davao gulf vicinity for port
9 facilities consistent with the needs and requirements of the region;

10 b) To enhance the flow of international and domestic commerce passing
11 through or utilizing the regional ports;

12 c) To promote regional development by providing support services to
13 sustain growth of export and other priority industries in the region; and

14 d) To promote the safety of passengers and goods by water
15 transportation.

16 SEC. 6. *Territorial Jurisdiction.* – The territorial jurisdiction of the
17 Authority shall include all seas, lakes, rivers and all other navigable inland
18 waterways within the Provinces of Davao and the City of Davao, including all
19 other highly urbanized cities or towns which may hereafter be created therein.

20 SEC. 7. *Powers.* – The Authority shall have the following powers:

21 a) Have perpetual succession under its corporate name until otherwise
22 provided by law;

23 b) Prescribe its by-laws, and such rules and regulations as may be found
24 necessary to promote or enhance the business of the Authority;

25 c) Adopt and use a seal;

26 d) Sue and be sued in any court;

27 e) Enter into contracts, transactions, and undertakings of whatever
28 nature, which are necessary or incidental to its functions and objectives, with any

1 natural or juridical persons or with the government institutions, domestic or
2 foreign;

3 f) Acquire, own, hire use, operate and dispose of personal property and
4 to acquire, own, use, lease, operate and dispose of real property and interest
5 therein, and to make improvements on such real property, including the
6 reclamation for port purposes, of foreshore and submerged lands within its
7 territorial jurisdiction, which reclaimed land shall *ipso facto* be deemed
8 transferred in ownership to the authority; and to enter into contracts with any
9 public or private entity for such reclamation under such terms and conditions as it
10 may deem to be for the public interest;

11 g) Purchase, hold, alienate, mortgage, pledge or otherwise dispose of the
12 shares of the capital stock of, or any bond, security or other evidence of
13 indebtedness created by any other corporation or co-partnership of this or any
14 other country, and as the owner of the said stock, to exercise all the rights of
15 ownership, including the right to vote thereon;

16 h) Exercise the right of eminent domain;

17 i) Regulate and supervise pilotage, collect shares out of the pilotage
18 services, and appoint harbor pilots in consultation with the Davao Pilot
19 Association, who shall serve until they shall reach retirement age unless sooner
20 revoked for cause;

21 j) Determine pilotage fees in consultation with the Chief Pilot, provided
22 such fees may exceed but may not be less than those prescribed by existing
23 regulations;

24 k) Exercise all other powers not contrary to law, which may be necessary
25 or incidental to the effectuation of its purposes or to the exercise of any of the
26 foregoing powers, except the power to levy taxes or assessments and, in
27 general, to exercise in connection with property within its control, powers which
28 may be exercised by natural or juridical person over its property and affairs.

1 l) Levy dues and impose rates and charges for the use of the premises,
2 works, appliances, facilities , or for services provided by or belonging to the
3 Authority, or any organization concerned with the port operations;

4 m) Make expenditures in foreign countries, to pay commissions and hire
5 or contract experts and consultants, both foreign and local;

6 n) Make expenditures for the promotion of the business affairs of the
7 Authority;

8 o) Exercise all the powers of a corporation under the Corporation Law
9 insofar as they are not inconsistent with the provisions of this Act; and

10 p) Exercise the power to issue permits for the construction of and
11 supervision over private and other ports within its jurisdiction.

12 SEC. 8. *Governing Body.* – The power and functions of the Authority
13 shall be vested in and exercised by the Davao Port Commission, hereinafter
14 referred to as the “Commission”, composed of the following:

15 a) A Chairman who shall be appointed by the City Mayor of Davao; and

16 b) Eight (8) other Commissioners.

17 Of the eight (8) commissioners, four (4) Commissioners shall come from
18 the provinces of Davao del Norte, Davao del Sur, Davao Oriental and
19 Compostela Valley. The Commissioners shall be appointed by their respective
20 Governors.

21 The other four (4) Commissioners shall come from the following sectors to
22 be appointed by the President of the Philippines, from among a list submitted by
23 the respective sectors:

24 1) Shipping Firms:

25 2) Arrastre or Stevedoring Firms;

26 3) Exporters' or Importers' groups; and

27 4) Labor Groups, Cooperatives, Unions and Non-Government
28 Organizations (NGOs).

1 The Commissioners shall elect among themselves a Vice-Chairman and a
2 General Manager.

3 SEC. 9. *Powers and Functions.* – The powers and functions of the
4 Davao Port Commission shall be as follows:

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

8 b) To investigate, prepare, adopt, implement and execute a
9 comprehensive and orderly plan for the overall development of all ports within its
10 territorial jurisdiction, and to update such plans, as may be warranted from time
11 to time;

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

15 d) To raise and administer together with such revenues as may by law
16 accrue from any local or foreign financial institutions to finance its projects;

17 e) To determine by survey and establish 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 jurisdiction on its own
21 or through the private sector;

22 g) To prescribe and enforce rules and regulations on the use of wharves,
23 piers and anchorage by ships and other watercrafts;

24 h) To determine the organization of the Authority and create such
25 functional units therein as it may deem necessary in the proper and efficient
26 implementation of the functions and purposes of the Authority; including the
27 appointment of officials and employees: *Provided*, That the security of tenure of
28 said workers shall be respected consistent with existing laws;

1 i) To define the duties and fix the compensation and benefits of the
2 General Manager, Assistant General Manager, Port Manager and other officers
3 of the Authority, in accordance with the rules and regulations of the Civil Service
4 Commission and the Department of Budget and Management;

5 j) To approve the annual budget of the Authority and/or such
6 supplemental budgets thereof as may be submitted by the General Manager
7 from time to time; and

8 k) To perform such other duties as may be necessary and convenient for
9 the attainment of the objectives of the Authority.

10 SEC. 10. *Term of Office.* – The members of the Davao Port Authority
11 shall be appointed for a term of three (3) years: *Provided,* That any person
12 appointed to fill a vacancy shall hold office only for the unexpired term of the
13 Commissioner whom he succeeds.

14 SEC. 11. *Quorum, Per Diems and Allowances.* – Five (5) members of
15 the Commissioner shall constitute a quorum for the transaction of business.

16 Unless otherwise fixed by the Commission, the Chairman and all
17 members shall receive a per diem of Three thousand pesos (P3,000.00),
18 exclusive of travelling expenses, for each day of meeting of the Commission,
19 which shall not exceed four (4) meetings a month.

20 SEC. 12. *General Manager.* – The management of the day-to-day
21 operations of the Authority shall be under the direction and control of the General
22 Manager, elected from among members of the Commission. He shall have the
23 following powers and duties:

24 a) To manage, direct and supervise the operations and internal
25 administration of the authority, subject to the control and supervision of the
26 Commission;

27 b) To prepare all memoranda pertaining to each and every item in the
28 agenda for the meetings of the Commission and to submit for the consideration

1 thereof such proposals or recommendation which believes to be necessary to
2 carry out effectively and beneficially the business of the Authority;

3 c) To implement the policies and administer the measures approved by
4 the Commission;

5 d) To devise the executive organization pattern of the authority, submit
6 from time to time to the Commission the corresponding organizational and
7 functional charts, and enforce the executive elements thereof;

8 e) To appoint and employ the services of subordinate officials and
9 employees, subject to the confirmation of the Commission;

10 f) To prepare and submit to the Commission budget proposals of all
11 kinds; and

12 g) To perform such other duties and exercise such other powers as may
13 be directed or authorized specifically by the Commission.

14 SEC. 13. *Prohibition Against Conflict of Interest.* – No member of the
15 Commission shall be financially interested, directly or indirectly , in any contract
16 entered into by the Authority or in any special privilege granted by it. Violation of
17 this prohibition shall constitute a ground for dismissal without prejudice to the
18 institution of a criminal action.

19 SEC. 14. *Application of Civil Service Laws.* – All officers and employees
20 of the Authority shall be subject to the Civil Service Commission and the
21 Department of Budget and Management rules and regulations, except those
22 whose position may, upon recommendation of the Port Commission, be declared
23 as policy-determining, primarily confidential, or highly technical in nature.

24 SEC. 15. *Supplies and Services Other than Personal.* – All purchases or
25 contracts for services, except for personal services, entered into by the Authority
26 shall be done only after public bidding is held: Provided, That such bidding may
27 be required when an emergency, as explained and certified to by the General
28 Manager, requires immediate delivery of the supplies or performance of the
29 services and the unit costs or prices of such emergency procurement do not

1 exceed the latest costs or prices paid by the Authority for the same or similar
2 goods or services: *Provided, further,* That the General manager shall report
3 under oath to the Commission the details of any such emergency procurement
4 within two (2) weeks after its consummation, including a statement of assurance
5 that the transaction constitute the best arrangement possible under the
6 circumstances.

7 SEC. 16. *Capitalization.* – The Authority shall have an authorized capital
8 stock equal to and consisting of:

9 a) The value of fixed assets, including port facilities and equipments
10 administered by or belonging to the Port of Davao and such other properties,
11 movable and immovable, within the territorial jurisdiction of the Authority as
12 defined in Section 6 hereof, valued on the date of effectivity of this Act; and

13 b) Government contribution in such amount as may be deemed an
14 appropriate initial balance. Such initial amount shall be more or less equivalent
15 to six (6) months working capital requirement of the Authority.

16 SEC. 17. *Auditor and Personnel.* – The Commission on Audit shall
17 appoint a representative who shall be the Auditor of the Authority and the
18 necessary personnel to assist said representative in the performance of his
19 duties. The operating expenses of the auditing office and the salaries of both
20 officials and employees shall be paid by the Authority.

21 SEC. 18. *Power to Issue Bonds.* – The Authority to incur indebtedness
22 or to issue bonds to carry out approved capital investment projects, shall be
23 approved by the affirmative vote of at least seven (7) of all the members of the
24 Commission in a special meeting called for the purposes.

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

1 The bonds shall be issued only in such amount as will be needed at only
2 one (1) integral operation not exceeding one (1) year duration, taking into
3 account the state at which said bonds may be absorbed by the buying public and
4 the fund requirements of the present ready for execution, and considering further
5 a proper balance between productive and nonproductive projects so that inflation
6 shall be held to a minimum.

7 SEC. 20. *Form, Rates of Interest of Bonds.* – The Secretary of Finance,
8 in consultation with the Monetary Board, shall prescribe the form, the rate of
9 interest, denominations, maturities, negotiabilities, call and redemption features,
10 and all other terms and conditions of issuances, placement, sale servicing,
11 redemption and payment of all bonds issued under the provisions of this Act.

12 The bonds issued by virtue of this Act shall be made payable both as to
13 principal and interest in Philippine Currency and shall be acceptable as security
14 in any transaction with the Government in which such security is required.

15 SEC. 21. *Transfer of Existing Facilities and Intangible Assets.* – All
16 existing facilities including wharves, piers, slips, docks, bulkheads, basins, cargo
17 terminals, warehouses, cold storage, loading and unloading equipments and
18 passenger terminals and accessories within the territorial jurisdiction of the
19 Authority; other lands, buildings and other properties, movable or immovable,
20 belonging to or presently administered by the Philippine Port Authority.

21 SEC. 22. *Project in Progress.* – All ongoing projects relating to the
22 rehabilitation and/or construction of port facilities and supply of equipment shall
23 be administered and undertaken by the Authority.

24 SEC. 23. *Transfer of Liabilities and Debts.* – Upon the transfer to and
25 acceptance by the Authority of the existing physical facilities, intangible assets
26 and completed projects referred to in the preceding sections, all debts, liabilities
27 and obligations of the Philippine Ports Authority in respect to such physical
28 facilities, tangible assets and completed projects within the ports shall likewise be
29 assumed by the Authority.

1 SEC. 24. *Abolition of the Port Management Office of Davao.* – The Port
2 Management Office of Davao is hereby abolished as the Port Management Unit
3 of the Philippine Port Authority. The General Manager of the Authority shall
4 ensure the smooth transfer of responsibility from the abolished entity to the
5 Authority as well as the Determination of personnel to be retained: *Provided,*
6 That all officials and employees whose services are terminated shall, if not
7 eligible for retirement, be given gratuities equivalent to one (1) month salary for
8 every year of continuous satisfactory service on the basis of the highest salary
9 received in addition to other benefits accorded to them by existing laws.

10 SEC. 25. *Annual Report.* – An annual report of the Authority shall be
11 submitted to the President of the Philippines within sixty (60) days after the close
12 of each fiscal year.

13 The original of said report shall be submitted to the President of the
14 Philippine and copies thereof to the House of Representatives and the Senate of
15 the Philippines. The report shall include a financial statement duly certified by
16 the Auditor of the Authority.

17 SEC. 26. *Appropriations.* – The amount necessary to carry out the
18 provisions of this Act shall be included in the General Appropriations Act of the
19 year following its enactment into law and thereafter.

20 SEC. 27. *Separability Clause.* – If any provision of this Act is declared
21 unconstitutional or invalid, such parts or portions not affected thereby shall
22 remain in full force and effect.

23 SEC. 28. *Repealing Clause.* – All laws, decrees, executive orders, rules
24 and regulations, or parts hereof inconsistent with the provision of this Act are
25 hereby repealed, amended or modified accordingly.

26 SEC. 29. *Effectivity.* – This Act shall take effect fifteen (15) days after its
27 publication in the *Official Gazette* or in at least two (2) newspapers of general
28 circulation whichever comes earlier.

Approved,