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SENATE

S.B. No. 878

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Introduced by **SENATOR JINGGOY EJERCITO ESTRADA**

EXPLANATORY NOTE

Ports play an indispensable role in support of national development, particularly in archipelagic countries like the Philippines where domestic shipping is so vital. The fundamental function of ports is a distribution link. The smooth functioning of ports as the junction between water and land transportation results in a stabilized and abundant consumer life for the people of the country and substantively helps the nation's economic growth by increasing its trade.

There are at present approximately 19 base ports, 75 secondary ports, 528 municipal or tertiary ports and more than 300 private ports throughout the country. The control, management and operation of these ports, particularly the base and secondary or terminal ports, is lodged with the Philippine Ports Authority (PPA) which was created under P.D. No. 504, as amended by P.D. No. 857. With respect to municipal ports which are owned by local government units (LGUs), a majority of these are also managed or supervised by the PPA.

There appears to be no clear statutory authority vesting LGUs with the power to control, manage and operate ports within their respective jurisdictions. Section 17 of the Local Government Code provides that LGUs shall exercise and discharge such other functions and responsibilities as are necessary, appropriate, or incidental to efficient and effective provision of basic services and facilities to their constituents. Although Sec. 17 (e) of the said Code states that national agencies and offices shall devolve to LGUs the responsibilities enumerated in Section 17 (b) thereof, it will be noted from the list of infrastructure facilities to be devolved to LGUs that insofar as ports are concerned, only fishports are to be devolved.


Aside from the above vague and limited power of LGUs on the management and operation of ports. Sec. 133 of the same Code further provides that unless otherwise provided therein, the exercise of taxing powers of provinces, cities, municipalities and barangays shall not extend to the levy of taxes, fees and charges and other impositions upon goods carried into or out of, or passing through, the territorial jurisdictions of LGUs in the guise of charges for wharfage, tolls for bridges or otherwise, or other taxes, fees or charges in any form whatsoever upon such goods or merchandise.

In view of the vague and limited powers exercised by LGUs over municipal ports under their respective jurisdictions, they are, therefore, deprived of substantial revenues derived therefrom.

This bill, therefore, seeks to devolve the power and authority in the control, management and operation of municipal ports, including the power or revenue collection, from the Philippine Ports Authority to local government units. Such devolution of authority is in consonance with the declared policy of the State, as embodied in the Local

Government Code, that local government units shall enjoy genuine and meaningful local autonomy to enable them to attain their fullest development as self-reliant communities and make them effective partners in the attainment of national goals.


In view of the foregoing, early approval of this proposed measure is earnestly solicited.


JINGGOY EJERCITO ESTRADA
Senator

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AN ACT
PROVIDING FOR THE DEVOLUTION OF THE CONTROL, MANAGEMENT
AND OPERATION OF MUNICIPAL OR TERTIARY PORTS FROM THE
PHILIPPINE PORTS AUTHORITY TO LOCAL GOVERNMENT UNITS, AND
FOR OTHER PURPOSES

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

SECTION 1. *Title.* - This Act shall be known as the "***Municipal Ports Act of 2004.***"

SEC. 2. *Declaration of Policy.* - The State recognizes the right of local government units to exercise such powers and discharge such functions as are necessary, appropriate, or incidental to efficient and effective provision of basic services and facilities to its constituents. In order that these political subdivisions of the State may enjoy genuine and meaningful local autonomy, it is imperative that certain functions and responsibilities presently discharged by National Government agencies and entities be devolved to these local units to enable them to attain their fullest development as self reliant communities and make them more effective partners in the realization of national goals.

SEC. 3. *Transfer of Jurisdiction Over Municipal Ports.* - The control, management and operation of municipal ports, including revenue collection and all other activities relevant, thereto, is hereby transferred from the Philippine Ports Authority created under P.D. No. 504, as amended by P.D. No. 857, to local government units in accordance with the guidelines and conditions provided in this Act.

SEC. 4. *Criteria for Identifying Municipal Ports to be Transferred.* - The Department of Interior and Local Governments (DILG), in consultation with the Department of Transportation and Communications (DOTC), Department of Public Works and Highways (DPWH), and the League of Governors and Mayors shall determine

the criteria to be used in identifying which municipal ports shall be devolved to the jurisdiction of local government units, taking into consideration such factors as the volume of traffic of cargo and passengers in such ports.

SEC. 5. *Delineation of Responsibilities.* - The responsibilities in the administration of municipal ports among the agencies concerned and local government units shall be delineated as follows:

- a) The DOTC shall be responsible for the coordination of programming and implementation of future ports projects, including technical assistance and provision of engineering design standards;
- b) Actual construction, operation and maintenance of municipal ports shall devolve upon the local government units;
- c) The DPWH shall continue to implement all on-going port projects until completed and turned-over to the local government concerned.

SEC. 6. *Period within which Devolution will be Effected.* - The devolution of functions and responsibilities provided under Section 3 hereof shall be effected by the Philippine Ports Authority within *six (6)* months from the effectivity of this Act.

SEC. 7. *National Government Assistance.* - The National Government shall provide financial assistance to local government units, particularly for the construction, development and rehabilitation of port facilities in those municipalities where the same are needed.

SEC. 8. *Technical Assistance.* - The Philippine Ports Authority, the DOTC, DPWH, DILG, and other relevant agencies shall provide such technical assistance as may be requested by local government units during the initial period of implementation of this Act.

SEC. 9. *Authority to Levy Dues and Charges.* - Local government units to whom the control and operation of municipal ports have been devolved pursuant to this Act shall have the power to levy dues, rates or charges for the use of the premises, works, appliances, facilities, or services owned and provided by them.

SEC. 10. *Transfer of Existing and Completed Physical Facilities.* - The Philippine Ports Authority shall transfer to local government units the ownership over all existing

and completed public port facilities, quays, wharfs, docks, buildings and other property belonging to PPA in those municipal ports that are devolved to said local government units. Correspondingly, all debts, liabilities and obligations of PPA in respect of such facilities and property that were transferred to and accepted by the local government units concerned shall be assumed or deemed incurred by them.

SEC. 11. *Implementing Rules and Regulations.* - The Department of Interior and Local Government, in consultation with the DOTC, DPWH, the Philippine Ports Authority and the League of Governors and Mayors, shall promulgate the rules and regulations to implement this Act within sixty (60) days from the date of its effectivity.

SEC. 12. *Separability Clause.* - If any provision of this Act or the application of such provision to any person or circumstances is declared invalid, the remainder of the application of such provision in other persons or circumstances shall not be affected by such declaration.

SEC. 13. *Repealing Clause.* - All laws, decrees, executive orders, rules and regulations or parts thereof inconsistent herewith are hereby repealed or modified accordingly.

SEC. 14. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in two (2) newspapers of general circulation.

Approved,