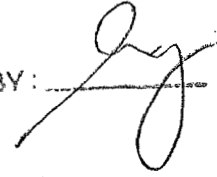


THIRTEENTH CONGRESS OF THE REPUBLIC }
OF THE PHILIPPINES }
First Regular Session }

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SENATE

RECEIVED BY: 

S. No. **1088**

Introduced by Senator Edgardo J. Angara

EXPLANATORY NOTE

This Act provides for the creation of an Authority that will negotiate with interested private investors and be responsible for the construction, operation, management and administration of the Quezon Canal and the Canal Zone from the Municipality of Atimonan to the Municipality of Unisan, both in the Province of Quezon.

The Quezon Canal will provide a by-pass or short cut for ocean vessels coming from the eastern side of Luzon to Manila and the China Sea. It will also provide cheaper and faster transport of products from Luzon's eastern coastal towns to the metropolitan markets.

The Canal will increase the volume of inter-island shipping and trade between the coastal towns of Quezon, Marinduque, Mindoro Batangas and Bicol Region. The untapped regions north of the Province of Quezon and the marine resources of Lamon Bay, Polillo Strait and Tayabas Bay will be open to development.

The Canal Zone is envisioned as a major transshipment center to and from the United States, Japan and the ASEAN countries. Export processing facilities and light industries in the Canal Zone will boost our export potential and increase our industrial productivity. It will contribute immensely to the growth of our country's international trade and commerce. Furthermore, the Canal will stimulate the growth of tourist centers in the region.

The Canal will increase the capability of the Philippine coast Guard to patrol and safeguard our eastern coastline.

Employment opportunities will be generated by the above-mentioned activities. The construction phase alone will require thousands of workers; other spin-off projects such as light industries and other facilities in the industrial area within the Canal Zone will provide long-term employment and economic benefits. In all, the Canal is expected to open an era of prosperity and peace in the region.

Early approval of this bill is earnestly requested.


EDGARDO J. ANGARA

THIRTEENTH CONGRESS OF THE REPUBLIC }
OF THE PHILIPPINES }
First Regular Session

JUN 30 1921

SENATE RECEIVED BY: 

S. No. 1038

Introduced by Senator Edgardo J. Angara

AN ACT
CREATING THE QUEZON CANAL ZONE AUTHORITY, DEFINING ITS
POWERS AND FUNCTION AND FOR OTHER PURPOSES

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

SECTION 1. Creation of the Quezon Canal Zone Authority. - There is hereby created a public corporation to be known as the "Quezon Canal Zone Authority," hereinafter referred to as the Authority. The functions of the Authority are hereby declared to be governmental.

SEC. 2. Territorial Jurisdiction. - The territorial jurisdiction of the Authority shall cover an area approximately five (5) kilometres wide, twenty (20) kilometres long including the rivers and waterways from the Municipality of Atimonan to the Municipality of Unisan, across the narrow isthmus of the Province of Quezon. However, the Congress of the Philippines, upon recommendation of the Authority, may extend, reduce, alter or vary the territorial limits of the Authority if such amendments are necessary or will contribute to the attainment of its objectives.

SEC. 3. Principal Office. - The principal offices of the Authority shall be in the Canal Zone. It may establish branches and agencies within the Philippines as may be necessary for the proper conduct of its business.

SEC. 4. Purposes and Specific Powers. - The purposes and specific powers of the Authority are:

(a) To acquire, own, lease, construct, reconstruct, repair, equip, maintain, administer and operate the canal, wharves, docks, piers, quays, and the approaches to and appurtenances thereof, terminals, warehouses, refrigeration, storage plants, equipment and other structures or facilities necessary or useful in said commerce and in the transportation and storage of goods, wares and merchandise in the Authority, including land reclamation and the improvement, development, deepening and dredging of the harbours, waterways, causeways, and fairways therein, and all approaches thereto;

(b) To grant the use or to rent, lease or let, for a consideration, all such port facilities including stevedoring and port terminal services, or

any concession properly incident thereof or in connection with the receipt, delivery, shipment and transfer in transit, weighing, marking, tagging, ventilating, fumigating, refrigerating, icing, storing and handling of goods, wares and merchandise including embarking and disembarking of passengers and their baggages to any person, association or corporation under such terms and conditions it may deem proper, after public bidding;

(c) To assess and collect harbor, tonnage, wharfage, berthing and storage charges and fees, fix and collect the rentals for the lease, occupancy or use of buildings, structures, warehouses, lands and other properties of the Authority, fix the fees for the issuance of permits and the rendering of other services not enumerated herein: Provided, That until the Authority has fixed otherwise, the rates of harbor, tonnage, wharfage, berthing and storage charges or fees as now provided by law shall be followed and enforced;

(d) When essential to the proper administration of its corporate affairs or when necessary for the proper transportation of its business or for carrying out the purposes of this Act and of said Authority, to contract indebtedness and issue bonds, subject to the conditions set forth in Section 19: Provided, however, That the outstanding indebtedness of the Authority shall not exceed forty percent (40%) of the total assets of the Authority and at all times to be guided by principles of sound management;

(e) Subject to the general jurisdiction of the local government unit concerned, to exercise police authority within the area under its control and jurisdiction as provided in Section 2;

(f) To create and operate, and/or contract to operate such agencies, functional units, offices and departments of the Authority as may be deemed necessary or useful for the furtherance of any of the purposes of this Act;

(g) To appoint and employ such officers and employees as may be necessary to carry out and employees as may be necessary to carry out the purposes of the Authority, to prescribe their duties and fix their compensation.

SEC. 5. General Powers. - The Authority shall have the following general powers:

(a) To adopt, alter and use a corporate seal which shall be judicially noticed; make contracts, lease, own or otherwise dispose of personal and real property; sue and be sued; and otherwise do and perform any and all things that may be necessary or proper to carry out the purposes of the Authority;

(b) To do all such other things and to transact all such business directly or indirectly necessary, incidental or conducive to the attainment of the purposes of the Authority; and

(c) In general, to exercise all the powers of a corporation under the Corporation Code in so far as they are not inconsistent with the provisions of this Act.

SEC. 6. Capitalization. - The authorized capital of the Authority shall consist of:

(a) Fixed assets of the ports presently covered in Section 2;

(b) Ten percent (10%) of the unappropriated surplus of the Portworks Special Fund as of the end of December 31, 1994.

(c) All public lands within the Canal Zone which shall be valued at market costs (values) and transferred to the Authority and such other appropriation that may be approved by the President of the Philippines. The capital and assets of the Authority shall be available for the general debts of the National Government.

(d) The Authority shall accept equity contributions from private landowners in the Canal Zone, up to seventy percent (70%) to eighty percent (80%) of their current market values, which shall be in the form of preferred shares of stock.

SEC. 7. Governing Body, Appointment and Removal. - The corporate powers of the Authority shall be vested in, and exercised by, a Board of Directors, hereinafter referred to as the "Board", composed of fifteen (15) members;

(a) The Secretary of Finance, or his nominee, who shall serve in alternate terms of two (2) years each with the Director-General of the National Development Authority, or his nominee.

After the first term of two (2) years, the Secretary of Finance shall be replaced by the Director-General of the National Development Authority who shall serve in the Board again for two (2) years, and so on.

(b) The Secretary of Public Works, or his nominee, who shall serve in alternate terms of two (2) years each with the Secretary of Transportation and Communications, or his nominee, to follow the same schedule as in (a) above;

(c) The Secretary of Natural Resources, or his nominee who shall serve in alternate terms of two (2) years each with the Secretary of Trade and Industry, or his nominee, to follow the same schedule as in (a) above;

(d) The Secretary of National Defense, or his nominee to come, alternately, from the Philippine Navy and the Coast Guard, who shall serve for a term of three (3) years;

(e) The Chairman of the Regional Development Council, Region IV who shall serve for a term of three (3) years;

(f) The Governor, Province, of Quezon, who shall serve for a term of three (3) years.

(g) The Representatives, Third Congressional District of Quezon, who shall serve for a term of three (3) years;

(i) The Mayor, Municipality of Atimonan, who shall serve for a term of three (3) years;

(j) The Mayor, Municipality of Unisan, who shall serve for a term of three (3) years;

(k) The Administrator of the Authority, who shall act as the Vice-Chairman, and shall serve in a concurrent capacity during his term as Administrator;

(l) The Director for Public Affairs of the Authority, who shall serve as member of the Board during his term as Director for Public Affairs;

(m) An individual from the private sector, to represent the shipping industry, who shall serve for a term of (2) years;

(n) An individual from the private sector, to represent the labor sector, who shall serve a term of two (2) years;

(o) An individual, from the private sector, to represent the environmental concern group, who shall serve for a term of (2) years.

The members of the Board shall be appointed by the President of the Philippines, with their terms of office as designated in their appointments: Provided, That any person chosen to fill a vacancy shall serve only for the unexpired term of the director whom he succeeds. Directors may be suspended or removed for cause of the President of the Philippines.

SEC. 8. Chairman of the Board. - The Directors shall annually elect a Chairman from among themselves.

SEC. 9. Meetings and Quorum. - The shall hold one regular meeting monthly and such special meetings provided for in the by-laws. Eight (8) members of the Board shall constitute a quorum and the vote of eight (8) members shall be necessary for the adoption of any rule, resolution or decision or any other Act of the Board.

SEC. 10. Per Diems and Allowances. - The Chairman and members of the Board shall receive a per diem of Eight Hundred Pesos (P800.00) and Five Hundred Pesos (P500.00), respectively exclusive of traveling expenses, for each day of meeting actually attended by them: Provided, That in no case shall the total per diem exceed Eight Thousand Pesos (P8,000.00) for the Chairman and Five Thousand Pesos (P5,000.00) for each director per month.

SEC. 11. Prohibitions for Directors. - No director shall, at the same time, be employed by the Authority in any capacity whatsoever, except as may be authorized by the President of the Philippines. Whenever any director has a personal or business interest in the discussion or resolution of any matter, or any of his relatives within the third degree or consanguinity or second degree of affinity has such interest, such director shall abstain himself in the discussion or resolution of any matter and must retire from the meeting during the deliberation. The withdrawal of such director shall be noted in the minutes of the meeting.

SEC. 12. Powers and Duties of the Board. - The Board shall have the following powers and duties:

(a) To promulgate policies and to prescribe, amend and repeal the by-laws, rules and regulations governing the manner in which the general business of the Authority may be exercised;

(b) To approve the annual and such supplemental budgets which may be submitted to the President, in the form and manner prescribed by the Department of Budget and Management, including such explanation and data as may be required to justify the appropriation;

(c) To render annual reports to the President and such special reports as may be requested;

(d) To appoint, on recommendation of the Administrator, the department heads as established in the organization of the Authority;

(e) To adopt rules and procedures and fix a time and place for holding meetings.

SEC. 13. Administrator of the Authority. – The Chief Executive Officer of the Authority shall be an Administrator, to be appointed by the President of the Philippines. The Administrator shall serve as Vice-Chairman of the Board of Directors in a concurrent capacity.

The Administrator shall receive an annual salary and representation allowances exclusive of traveling expenses, to be determined by the Board. He shall not receive additional compensation as Vice-Chairman of the Board.

SEC. 14. Powers and Duties of Administrator. – The Administrator shall have the following powers and duties:

(a) To implement, enforce and apply the policies, programs, guidelines, procedures, decisions, rules and regulations promulgated, prescribed, issued or adopted by the Authority;

(b) To direct and manage the affairs and business of the Authority in the spirit and intent of this Act and in pursuance of the policies of the Board;

(c) To submit within ten (10) days after the close of each fiscal year, an annual report to the Board and such other reports as may be required;

(d) To submit an annual budget and necessary supplemental budgets to the Board for its approval;

(e) To appoint, promote, remove, suspend, or otherwise discipline for cause the officers and employees of the Authority, subject to such rules as may be promulgated by the Board;

(f) To establish an internal organization of the Authority under such conditions that the Board may prescribe: Provided, That any major reorganization shall be subject to the approval of the Board;

(g) To delegate his authority, under such conditions as the Board may prescribe;

(h) To sign contracts, to approve expenditures and payments within the budget provisions, and generally to do any and all acts or things for the proper operation of the Authority;

(i) To perform such other duties as may be assigned to him by the Board.

SEC. 15. Management and Staff. – The Administrator shall, subject the approval of the Board, determine the staffing pattern and the number of personnel in the Authority, define their duties and responsibilities and subject to confirmation by the Board, fix their salaries and emoluments that are comparable to those of similar positions in other government-owned or-controlled corporations, the provisions of existing rules and regulations on wage and position classification notwithstanding.

All other officials and employees of the Authority shall be selected and appointed on the basis of merit and fitness based on a comprehensive and progressive merit system to be established by the Authority immediately upon its organization and consistent with Civil Service rules and regulations: Provided, however, That all professional

and technical positions shall be considered policy determining, primarily confidential and highly technical in nature. The recruitment, transfer, promotion and dismissal of all personnel of the Authority, including temporary workers, shall be governed by such merit system.

The Administrator shall, subject to Civil Service laws and wage and position classification and other rules and regulations in relation thereto.

SEC. 16. Exemption from Civil Service Law and Classification Office. - Officers and employees of the Authority shall not be subject to Civil Service laws and wage and position classification and other rules and regulations in relation thereto.

SEC. 17. Internal Audit. - Internal auditing of the Authority's accounts and transactions shall be the sole responsibility of the Authority.

SEC. 18. Audit of Funds. - No funds of the Authority shall be used to pay for the salaries or expenses of the Commission on Audit in excess of one-third of the total accounting costs of the Authority. Any audit by the Commission on Audit shall be conducted on post-audit basis, and the Authority shall be entitled to disburse its funds without prior approval from the Chairman of the Commission on Audit. The results of such audit shall be transmitted to the Board.

SEC. 19. Power to Issue Bonds or Incur Indebtedness. -

(a) Domestic Indebtedness - Whenever the Board deems it advisable and necessary for the Authority to issue bonds to carry out approved capital investment projects, it shall, by resolution, so manifest and declare, stating the purpose for which the loan or issue is to be applied and citing the project study devised for the purpose. In order for such resolution to be valid, it shall be passed by the affirmative vote of at least eight (8) members of the Board and approved by the President upon the recommendation of the Secretary of Finance, after consultation with the Monetary Board.

The Secretary of Finance, in consultation with the Monetary Board, shall prescribe the form, the rate of interest, the denominations, securities, negotiability, convertibility, call and redemption features, and all other terms and conditions of issuance, placement, sale, servicing, redemption and payment of all bonds issued under the authority of this Act.

The bonds issued under the authority of this Section may be made payable both as to the principal and interest, in Philippine currency or on readily convertible foreign currency.

Nothing in this Section shall be interpreted to mean that the Secretary of Finance, in the redemption of securities, is prevented from applying the lottery principle by which bonds drawn by lot, may be redeemed before maturity either at their face value or above. The Republic of the Philippines hereby guarantees the payment by the Authority of both the principal and the interest in case the Authority fails to do so; and there are hereby appropriated, out of the general funds in the Philippine Treasury not otherwise appropriated, the sums necessary to make the payments guaranteed by this subsection: Provided, That the sum so paid by the Republic of the Philippines shall be refunded by the Authority.

(b) Foreign Loans - The Authority is being authorized to contract loans, credits, and indebtedness from foreign governments, foreign financial institutions, and other international organizations.

agreed, for the accomplishment of its purposes, the total principal amount of which outstanding at any time, exclusive of interest and other charges, shall not exceed forty percent (40%) of its total assets, United States dollars or its equivalent in other foreign currencies at the time the loans, credits and indebtedness are incurred.

The President of the Philippines, by himself or through any representative duly designated by him in writing, is hereby authorized to guarantee, absolutely and unconditionally as primary obligor and not as surety merely, in the name and on behalf of the Republic of the Philippines, the payment of the loans, credits, indebtedness herein authorized, as well as the performance of any or all of the obligations undertaken by the Authority pursuant to any agreement entered into in connection therewith on such terms and conditions as he shall deem proper and reasonable.

In the negotiation and contracting of any loan, credit or indebtedness under this subsection, the President of the Philippines may, when made a condition to the granting of such loans, credits or indebtedness, agree to waive the application of any law granting preferences or imposing restrictions on international competitive bidding, including among others, Act No. 423, Commonwealth Act No. 138, Commonwealth Act No. 541, and Republic Act No. 5183: Provided, however, That in every case where competitive bidding is agreed upon in the purchase of machineries, equipment, materials and supplies financed out of proceeds of such loans, credits and indebtedness, preference may be granted in favor of such machinery, equipment, materials or supplies produced, processed or manufactured in the Philippines, at such rate and in such manner as may be agreed upon from time to time with the institution providing financing for the project.

(c) The bonds issued under subsection (a) as well as loans, credits and indebtedness contracted under subsection (b) of this Section, and the payment of the principal, interest and other charges thereon, as well as the importation of machinery, equipment, materials and supplies by the Authority, paid from the proceeds of any loan, credit or indebtedness incurred under this Act, shall be exempt from all taxes, fees, imposts and other charges and restrictions, by the Republic of the Philippines or any of its agencies and political subdivision. Said bonds shall be receivable as security in any transaction with the Government, its subdivisions, agencies and instrumentalities, in which such security is required.

SEC. 20. Eminent Domain. - For the acquisition of rights of way and property for the construction of the canal, wharves, piers, docks, quays, warehouses and other terminal facilities, structures and approaches thereto, the Authority shall have the right and power to acquire the same by purchase by negotiation, or by condemnation proceedings. Should the Authority elect to exercise the right of eminent domain, condemnation proceedings shall be maintained by and in the name of Authority and it may proceed in the manner provided by law.

SEC. 21. Transfer of Personnel, Records, Functions, Rights, Assets and Liabilities. - All books, records and documents which appertain to the ports administration in the Canal Zone and all personnel assigned to the sub-port within the Canal Zone are hereby transferred to the Authority, subject to the organization that may be effected.

The priority use of all lands and of all facilities owned by the National Government, its agencies and instrumentalities, including those

Provided, however, That the Board shall, as soon as constituted, make an inventory of all such facilities and identify those facilities which were constructed and financed wholly or partly from general funds of the National Government, as distinguished from those financed wholly by the Portworks Special Funds, indicating therein the physical condition and relative book value thereof.

Upon such inventory, all properties and facilities generated, by financing wholly out of the Portworks Special Funds shall be transferred to the Authority without reimbursement to the original agencies having control over them; and for all the properties and facilities that were financed partly or wholly from the general fund or bond fund of the Government, the Authority, by virtue of this Section, may secure transfer of ownership thereof by providing a systematic schedule or repayment of the corresponding share of the general fund or both fund of the Government, the Authority, by virtue of this Section, may secure transfer of ownership thereof by providing a systematic schedule or repayment of the corresponding share of the general fund invested therein, including interests in the case of the latter.

The Authority shall, upon consultation with the department head concerned, reserve and make available within the port district such area or areas necessary for the proper operation of the Bureau of Customs, Quarantine, Immigration or any of the national, city or municipal government agency which, by reason of the nature of its duties and functions, require the establishment and operation of such office.

All appropriations for the Authority and ten percent 26 (10%) of the surplus of the Portworks Special Funds are hereby transferred to the Authority, which shall administer the same effective upon the date of constitution of the Board of Directors. All income or revenue accruing heretofore to the Portworks Special Funds collected by the Authority shall first accrue to the Authority to defray the following expenses; (1) Cost of port administration, operation, maintenance, repair work and dredging; (2) Payment of interest on, and in the redemption of, previous construction loans on properties or facilities transferred to the Authority pursuant to this Section; (3) Purchase of new equipment; and (4) Costs of approved new construction work as detailed in the Authority's annual budget: Provided, That any balance thereof shall be turned over to the Portworks Special Funds.

SEC. 22. Repealing Clause. - All laws, decrees, orders, proclamation, and rules and regulations or parts thereof which are inconsistent with any of the provisions of this Act are hereby repealed or modified accordingly.

SEC. 23. Effectivity. - This Act shall take effect fifteen (15) days from its publication in two (2) newspapers of general circulation.

Approved.