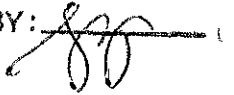


THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

'04 JUL -2 A8:43

SENATE

RECEIVED BY: 

S. No. 1287

Introduced by Senator Biazon

Explanatory Note

The creation in 1967 of the Philippine Coast Guard under the Department of National Defense as the country's premier agency on maritime safety put into place the country's efforts in integrating the diverse functions of maritime safety administration including maritime safety, marine environmental protection, aids to navigation, maritime operations and maritime law enforcement. In particular, it was mandated to formulate, implement and enforce safety, regulatory and other functions, to wit:

1. Seaworthiness of vessels including hull and machinery and life-saving appliances;
2. Crew competence;
3. Provision of adequate aids to navigation equipment and facilities, and;
4. Provision of adequate search and rescue facilities.

In 1998, the President through Executive Order No. 477 attached the PCG to the Department of Transportation and Communications (DOTC).

To date, although it has been operating under the DOTC including its annual appropriations, yet the PCG is still governed by AFP rules and regulations. There are also questions raised on the validity of an EO amending a statute despite the wide recognition on the chief executive's power to continuously re-organize the national government.

This bill will therefore serve not only as a curative measure but also to provide for the legal basis on the other aspects of the transfer such as personnel administration, recruitment, promotion, retirement and morale and welfare. It will rationalize the transfer, give more flesh to its important role in maritime safety, and institutionalize its personnel management policies and capability development in response to the demands of the maritime public.


Rodolfo G. Biazon
Senator

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AN ACT
TRANSFERRING THE PHILIPPINE COAST GUARD TO THE DEPARTMENT
OF TRANSPORTATION AND COMMUNICATIONS AS A SEPARATE AND
DISTINCT SERVICE, FURTHER AMENDING REPUBLIC ACT NO. 5173, AS
AMENDED, AND FOR OTHER PURPOSES

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

SECTION ONE. *Title.* - This Act shall be known as the "Philippine Coast
Guard Law of 2004."

SECTION. 2. *Establishment.* - The Philippine Coast Guard (PCG) is
hereby established as a distinct, armed and uniformed commissioned service
attached to the Department of Transportation and Communications.

The President of the Republic of the Philippines may in times of national
emergency or war declared by Congress, however, attach the PCG under the
Department of National Defense as a support unit.

The PCG shall consist of uniformed and non-uniformed personnel with
defined Coast Guard Table of Organization and Equipment, specialties, ranks,
ratings, and plantilla positions.

SECTION. 3. *The PCG Commandant.* - (a) The PCG shall be headed by
the Commandant who shall carry the rank of Admiral. He shall be appointed by
the President from among the Flag Officers in the Coast Guard active service
upon recommendation made by the PCG Board of flag Officers.

(b) The Commandant shall have a term of office for a maximum period of
three (3) years after which he shall be retired unless he is sooner terminated for
cause or compulsory retired. *Provided,* That in times of war or other national
emergency declared by Congress, the President may extend such term of office.

(c) The Commandant may establish policies and standards for the efficient
and effective management and operation of PCG.

SECTION. 4. *Categories of Personnel.* - The PCG shall consist of the
following categories of officers and employees.

- a) PCG officers;
- b) PCG enlisted personnel;
- c) PCG non-uniformed personnel;
- d) Probationary 2nd Lieutenant/Ensign

- e) *Draftees/trainees; and*
- f) *Midshipmen/women*

The phrase "PCG uniformed personnel" as used in the Act shall refer to both "PCG officers" and "PCG enlisted personnel" unless otherwise indicated.

SECTION. 5. *Technical Service.* There shall be a PCG Technical Service to be composed of lawyers, medical doctors, dentists, nurses and chaplains, including personnel whose pre-entry requires course are closely related/ allied to the aforementioned professional groupings.

SECTION. 6. *Personnel Administration.* a) Commissionship, appointments and promotions of all PCG Commissioned officers shall be approved by the President of the Republic of the Philippines through the Secretary, DOTC. b) Appointments and promotions of all PCG Non-Commissioned personnel shall be made by the Commandant, PCG. c) *Appointments and promotions of all non-uniformed personnel shall be in accordance with the Civil Service Law.*

SECTION. 7. *Disciplinary Actions.* - In the investigation of administrative cases against PCG officers and enlisted personnel, the PCG shall adopt the *military justice system until such time that it has promulgated the provisions of the PCG Code of Discipline, Order and Justice for PCG officers and enlisted personnel.* The applicable rules, regulations and guidelines promulgated by the Civil Service Commission, on the other hand, shall govern the investigation of administrative cases against PCG non-uniformed employees.

SECTION. 8. *Pay and Allowances.* - The President, upon recommendation of the Commandant, PCG as endorsed by the Secretary of the DOTC, shall recommend to Congress a scale of salaries and allowances for officers and enlisted personnel of the PCG which shall be subjected to periodic review by a board created by the Philippine Coast Guard. Pending submission of such salary scale and its approval by Congress, the PCG officers and enlisted personnel shall automatically receive the same base pay, longevity pay, hazard pay, benefits and allowances and all other compensations as are presently or hereafter may be authorized for corresponding ranks or grades in the AFP: *Provided, however, That such longevity pay, hazard pay, benefits, allowances and all other compensations referred to by this Act shall not be subject to attachment, levy or execution or any tax of whatever nature.*

SECTION. 9. *Active Service.* - For purposes of this Act, active service of the PCG officers and enlisted personnel shall refer to services rendered as an *officer/ probationary second lieutenant/ensign and enlisted personnel, cadet/midshipman, trainee or draftee in the PCG or in the AFP prior to the separation of the PCG from the Philippine Navy(PN), and services rendered as a civilian official or employee in the Philippine Government prior to the date of separation or retirement from the PCG: Provided, That services rendered as midshipman/ woman, probationary officer, trainee or draftee in the PCG or as cadet or trainee in the all shall be credited for purposes of longevity pay.*

SECTION. 10. *Retirement and Health Care System.* - The retirement system of PCG uniformed personnel shall be in accordance with P.D. No. 1638 as amended. *Compulsory retirement for officers and enlisted personnel, shall be upon attainment of age fifty-six (56) or thirty (30) years of accumulated government service, whichever is later. Upon accumulation of at least twenty (20) years of satisfactory active service, an officer or enlisted personnel, at his own request and with the approval of the President of the Philippines, and the Commandant, PCG, respectively, shall be optionally retired from the service and*

entitled to receive benefits provided for by law. Their retirement benefits and pensions shall continue to be covered by the AFP Retirement Law until such time that the PCG is able to establish its own retirement system. The medical/dental benefits and privileges shall likewise be accommodated by the AFP and government facilities until such time that the PCG is able to establish its own health care system.

SECTION. 11. *Collection of Revenues.* - The PCG shall collect fees and charges and funds relevant to the exercise of its various regulatory and law enforcement functions to include light dues.

SECTION. 12. *PCG Trust Fund.* - The collections mentioned in the preceding Section shall constitute a Trust Fund which the PCG is authorized to use for its operations subject only to such rules and regulations as may be issued by the Commission on Audit.

SECTION. 13. *Organization of a PCG Auxiliary.* - The PCG may organize and train a civilian volunteer organization known as the PCG Auxiliary, under the direct control and supervision of the Commandant or any officer designated by him for the purpose of assisting in the promotion of safety of life and property at sea, the preservation of the marine environment and its resources, the conduct of maritime search and rescue, and maintaining aids to navigation and such other activities that enhance maritime community relations which include civic actions, youth development, and related activities.

SECTION. 14. *Rules and Regulations.* - The PCG Commandant shall issue such rules and regulations, determine, fix and/or prescribe charges, rates and penalties pertinent, as may be necessary to implement the provisions of this Act as well as provisions of acts, presidential decrees and orders related to the implementation of Coast Guard functions.

SECTION. 15. *Transitory provisions.* - All previous appointments and promotions of PCG uniformed personnel made prior to the effectivity of this Act shall remain valid and subsisting.

SECTION. 16. *Appropriations.* - Such amount as may be necessary to carry out the provisions of this Act, which are appropriated for the PCG at the time of the approval of this Act, shall continue to be carried in subsequent annual General Appropriations Acts. Thereafter, the Philippine Coast Guard shall prepare its own budget as an autonomous Budgeting Maritime Safety Agency under the Department of Transportation and Communications.

SECTION. 17. *Separability Clause.* - If for any reason, any provision of this Act is declared unconstitutional or invalid, such parts not affected thereby shall remain in full force and effect.

SECTION. 18. *Repealing Clause.* - All laws, presidential decrees, executive orders, letters of instructions, and rules and regulations that are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION. 19. *Effectivity.* - This Act shall take effect fifteen (15) days following its complete publication in the official *Gazette* or in at least two (2) newspapers of general circulation.

Approved.