

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

04 AUG 31 P5:59

SENATE

S. No. 1744

RECEIVED BY: _____ C

INTRODUCED BY THE HONORABLE MAR ROXAS

EXPLANATORY NOTE

This measure seeks to establish a special economic zone and free port in General Santos City and create a General Santos Economic Zone and Freeport Authority to manage and operate the zone and port once it is established.

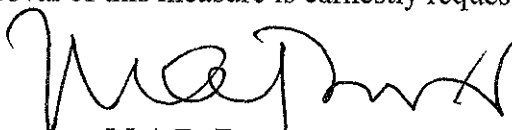
General Santos is one of the fastest growing cities in the country today and is an important political and economic hub in Southern Philippines. The city has been identified as one of the Industrial Centers in the region. Because of its proximity to some of the richest fishing grounds in the world, it boasts of a thriving fishing industry. The tuna fishing fleet, for instance, consists of over 2,500 large *bancas* (pumpboats), employing over 3,000 fishermen, and producing over 30,000 metric tons of high-value tuna annually.

The city and the region have been identified as one of the growth areas in agricultural production. The city has grown to be a major producer of livestock, particularly cattle and hog, and breeding farms can be found across its countryside. The city has abundant mineral deposits such as limestone, magnetite iron sand, sulfur, copper nitrate lunate, rutile and guano, which remain untapped due to the lack of large scale investment in mining. Sand and gravel can likewise be found in large quantities in the city.

The city also boasts of excellent infrastructure. It has three government ports and four private ports. The world-class fish port accords fishing vessels a 750-meter quay, a 300-meter wharf for 2,000 GT reffer carriers, and refrigeration facilities consisting of a 1,500 cold storage capacity, a 60 tons/day ice plant, brine, air blast and contact freezers. The international airport which sits on a 600-hectare site provides businessmen convenient access to their home offices and markets abroad. The 3,200 m. runway, which is capable of handling wide-bodied jets, places the region's fresh produce within 3 to 4 hours flying time to almost all the key cities of Asia.

The establishment of a special economic zone and freeport in General Santos City will build on General Santos City's strengths and further promote development in Southern Philippines. With the incentives and employment that the establishment of an ecozone and Freeport is projected to bring, the city will be further developed as a self-sustaining industrial, commercial, financial and investment center. It is envisioned that General Santos City, one of the most promising places in the country, will become a magnet for foreign direct investment. Finally, the establishment as an ecozone will lay the groundwork for the city's emergence as the one of the hubs of the envisioned growth area in the Eastern ASEAN region.

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


MAR Roxas

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S. No. 1744

INTRODUCED BY THE HONORABLE MAR ROXAS

AN ACT
TO ESTABLISH THE GENERAL SANTOS CITY SPECIAL ECONOMIC ZONE
AND FREE PORT IN THE PROVINCE OF SOUTH COTABATO, CREATING FOR
THIS PURPOSE THE GENERAL SANTOS CITY SPECIAL ECONOMIC ZONE AND
FREE PORT AUTHORITY, APPROPRIATING FUNDS THEREFOR
AND FOR OTHER PURPOSES

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

SECTION 1. *Short Title.* – This Act shall be known as the “General Santos City Special Economic Zone Act of 2004.”

SEC. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to actively encourage, promote, induce and accelerate a sound and balanced industrial, economic and social development of the country in order to provide jobs to the people especially those in the rural areas, increase productivity and individual and family income, and thereby improve the level and quality of living condition through the establishment, among others, of special economic zones in suitable and strategic locations in the country and through measures that will attract legitimate and productive foreign investments.

SEC. 3. *Creation of the General Santos City Special Economic Zone and Free Port.* – In pursuit of the foregoing declared policy and subject to the concurrence of the concerned local government unit of General Santos City affected by the zone, there is hereby established a special economic zone and free port in General Santos City, Province of South Cotabato to be known as the General Santos City Special Economic Zone and Free Port, hereinafter referred to as the GenSan ECOZONE. The GenSan ECOZONE shall cover portions of the following barangays: San Jose, Fatima, Tambler, Bawing, Calumpang, Sinawal and Apopong in the City of General Santos. The specific metes bounds of the GenSan ECOZONE shall be more particularly defined in a presidential proclamation that shall be issued for this purpose.

SEC. 4. *Governing Principles.* – The GenSan ECOZONE shall be managed and operated by the General Santos City Special Economic Zone Authority, herein referred to as GSEZA, to be created under Section 6 of this Act, under the following principles:

(a) Within the framework and limitations of the Constitution and applicable provisions of the Local Government Code, the GenSan ECOZONE shall be developed into and operated as a decentralized, self-reliant and self-sustaining industrial, commercial/trading, agro-industrial, tourist, banking, financial and investment center with suitable residential areas.

(b) The GenSan ECOZONE shall be provided with transportation, telecommunications and other facilities needed to attract legitimate and productive investments, generate linkage industries and employment opportunities for the people of the Province of South Cotabato and its neighboring towns and cities.

(c) The GenSan ECOZONE may establish mutually beneficial economic relations with other entities or enterprises within the country or, subject to the administrative guidance of the Department of Foreign Affairs (DFA), the Philippine Economic Zone Authority (PEZA) and/or the Department of Trade and Industry (DTI), with foreign entities or enterprises.

(d) Foreign citizens and companies owned by non-Filipinos in whatever proportion may set up enterprises in the GenSan ECOZONE, either by themselves or in joint venture with Filipinos in any sector of industry, international trade and commerce within the GenSan ECOZONE.

(e) The GenSan ECOZONE shall be managed and operated as a separate customs territory ensuring free flow or movement of goods and capital within, into and exported out of the GenSan ECOZONE, as well as provide incentives such as tax and duty-free importations of raw materials, capital and equipment. However, exportation or removal of goods from the territory of the GenSan ECOZONE to the other parts of the Philippine territory shall be subject to customs duties and taxes under the Tariff and Customs Code of the Philippines, as amended, and the National Internal Revenue Code of 1997, as amended.

(f) The areas comprising the GenSan ECOZONE may be expanded or reduced when necessary. For this purpose, the GSEZA, in consultation with the local government units, shall have the power to acquire either by purchase, negotiation or condemnation proceedings, any private lands within or adjacent to the GenSan ECOZONE for the following purposes: (1) consolidation of lands for GenSan ECOZONE development; (2) acquisition of right of way to the GenSan ECOZONE; and (3) the protection of watershed areas and natural assets valuable to the prosperity of the GenSan ECOZONE.

(g) Goods manufactured by a GenSan ECOZONE enterprise shall be made available for immediate retail sale in the domestic market, subject to the payment of corresponding taxes on raw materials and other regulations that may be formulated by the GSEZA, together with the PEZA, the Bureau of Customs and the DTI. However, in order to protect the domestic industry, there shall be a negative list of industries that will be drawn up and regularly updated by PEZA. Enterprises engaged in industries included in such negative list shall not be allowed to sell their products locally.

(h) The defense of the GenSan ECOZONE and the security of its perimeter fence shall be the responsibility of the national government in coordination with the GenSan ECOZONE and the local government units.

SEC. 5. *Incentives.* – Investors and business enterprises within the GenSan ECOZONE shall be entitled to the following incentives:

(a) Resident Status and Visa. Any foreign investor who establishes a business enterprise within the GenSan ECOZONE and who maintains capital investment of not less than One hundred fifty thousand United States dollars (US\$150,000.00) shall be granted, along with his or her spouse, dependents and unmarried children below twenty-one (21) years of age, permanent resident status within the GenSan ECOZONE and freedom of ingress and egress to and from the GenSan ECOZONE without any need of any special authorization from the Bureau of Immigration. Working visas renewable every two (2) years shall be issued to foreign executives and foreign technicians with highly specialized skills, which no Filipino possesses, as certified by the Department of Labor and Employment.

The foregoing is without prejudice to a foreigner acquiring permanent resident status in the Philippines in accordance with applicable immigration, retirement and other related laws.

(b) Fiscal Incentives. Business establishments within the GenSan ECOZONE shall be entitled to the existing fiscal incentives as provided for under Republic Act No. 7916, otherwise known as the “Special Economic Zone Act of 1995,” as amended by Republic Act. No. 8748.

(c) Taxation. Except for real property taxes on land owned by developers, no taxes, local and national, shall be imposed on business establishments operating within the GenSan ECOZONE. In lieu thereof, five percent (5%) of the gross income earned by all business enterprises within the GenSan ECOZONE shall be paid and remitted as follows:

(i) Three percent (3%) to the national government;

(ii) Two percent (2%) which shall be directly remitted by the business establishments to the treasurer’s office of the municipality or city where the enterprise is located.

All persons and service establishments in the GenSan ECOZONE shall be subject to national and local taxes under the National Internal Revenue Code, as amended by Republic Act No. 8424, and the Local Government Code.

(d) Banking Rules and Regulations. Existing banking laws and rules/regulations of the Bangko Sentral ng Pilipinas (BSP) shall apply to banks and financial institutions to be established in the GenSan ECOZONE. Among other pertinent regulations, these include those governing foreign exchange and other current account transactions (trade and non-trade), local and foreign borrowings, foreign investments, establishment and operation of local and foreign banks, foreign currency deposit units, offshore banking units and other financial institutions under the supervision of the BSP.

(e) Profit Remittance. Without prior BSP approval, after tax profits and other earnings of foreign investments in enterprises in the GenSan ECOZONE may be remitted outward in the equivalent foreign exchange through any of the banks licensed by the BSP in the GenSan

ECOZONE: *Provided, however,* That such foreign investments in said enterprises have been previously registered with the BSP.

SEC. 6. *Creation of the General Santos City Special Economic Zone and Free Port Authority.* – There is hereby created a body corporate to be known as the General Santos City Special Economic Zone and Free Port Authority, herein referred to as the GSEZA which shall manage and operate the GenSan ECOZONE, in accordance with the provisions of this Act. This corporate franchise shall expire in fifty (50) years counted from the first year after the effectivity of this Act, unless otherwise extended by Congress. It shall be organized within one hundred eighty (180) days after the effectivity of this Act.

SEC. 7. *Principal Office.* – The GSEZA shall maintain its principal office in General Santos City but it may establish branches within the Philippines and abroad as may be necessary for the proper conduct of its business.

SEC. 8. *Powers and Functions of the GSEZA.* – The GSEZA shall have the following functions:

- (a) To operate, administer, manage and develop the GenSan ECOZONE according to the principles and provisions set forth in this Act;
- (b) To recommend to the President the issuance of a proclamation to fix and delimit the site of the GenSan ECOZONE;
- (c) To register, regulate and supervise the enterprises in the GenSan ECOZONE in an efficient and decentralized manner, subject to existing laws;
- (d) To coordinate with local government units and exercise general supervision over the development plans, activities and operations of the GenSan ECOZONE;
- (e) To regulate and undertake the establishment, operation and maintenance of utilities, other services and infrastructure in the GenSan ECOZONE such as but not limited to heat, light and power, water supply, telecommunications, transport, toll roads and bridges, port services, etc. and to fix just, reasonable and competitive rates, fares, charges and prices thereof;
- (f) To construct, acquire, own, lease, operate and maintain on its own or through contracts, franchises, licenses, bulk purchase from the private sector or permits under any of the schemes allowed in Republic Act No. 6957 (the Build-Operate-Transfer Law, as amended by Republic Act No. 7718), or joint venture, adequate facilities and infrastructure required or needed for the operation and development of the GenSan ECOZONE, in coordination with appropriate national and local government authorities and in conformity with applicable laws thereon;
- (g) To operate on its own, either directly or through a license to other tourism-related activities, including games, amusements, recreational and sports facilities;
- (h) Subject to the approval of the President and the Monetary Board of the Bangko Sentral ng Pilipinas upon the recommendation of the Department of Finance, to raise or borrow adequate and necessary funds from local or foreign sources to finance its projects and programs under this Act, and for that purpose, to issue bonds, promissory notes, and other forms of securities, and to

secure the same by a guarantee, pledge, mortgage, deed of trust, or an assignment of all or part of its property or assets;

(i) To provide security for the GenSan ECOZONE in coordination with the national and local governments. Military forces sent by the national government for the purpose of defense shall not interfere in the internal affairs of the GenSan ECOZONE and expenditures for these military forces shall be borne by the national government. For this purpose, the GSEZA may establish and maintain its security forces and firefighting capability or hire others to provide the same;

(j) To protect, preserve, maintain and develop the virgin forests, beaches, coral and coral reefs, and maintain ecological balance within the GenSan ECOZONE;

(k) To create, operate and/or contract to operate such functional units or offices of the GSEZA as it may deem necessary;

(l) To adopt, alter and use a corporate seal; make contracts, leases, own, or otherwise dispose of personal or real property; sue and be sued; and otherwise carry out its functions and duties as provided for in this Act;

(m) To issue certificates of origin for products manufactured or processed in the GenSan ECOZONE in accordance with prevailing rules of origin, and the pertinent regulations of the PEZA, DTI and/or the Department of Finance (DoF);

(n) To issue working visas renewable every two (2) years to foreign executives and foreign technicians with highly specialized skills which no Filipino possesses, as certified by the Department of Labor and Employment;

(o) To report to the Bureau of Immigration the names of the foreigners who have been granted permanent resident status and working visas within thirty (30) days after issuance of such grant;

(p) To exercise such powers as may be essential, necessary or incidental to the powers granted to it hereunder as well as those that shall enable it to carry out, implement and accomplish the purposes, objectives and policies of this Act; and

(q) To issue rules and regulations consistent with the provisions of this Act as may be necessary to accomplish and implement the purposes, objectives and policies provided herein.

SEC. 9. *Exemptions from Taxes, Duties and Other Fees.* – The GSEZA is hereby declared exempt from the payment of all taxes, duties, fees, imposts, charges, costs and service fees in any court or administrative proceedings in which it may be a party.

The foregoing exemptions may, however, be entirely or partially lifted by the President of the Philippines upon the recommendation of the Secretary of Finance, not earlier than five (5) years from the effectivity of this Act, if the President shall find the GSEZA to be self-sustaining and financially capable by then to pay such taxes, customs duties, fees and other charges after providing for debt service requirements of the GSEZA and of its projected capital and operating expenditures.

SEC. 10. *Board of Directors of the GSEZA.* – The powers of the GSEZA shall be vested in and exercised by a Board of Directors, hereinafter referred to as the Board, which shall be composed of the following:

- (a) The chairman who shall, at the same time be the administrator of the GSEZA;
- (b) A vice chairman who shall come from among the members of the Board;
- (c) Members consisting of:

(1) The Congressional Representative of the district covering the site of the GenSan ECOZONE;

- (2) The mayor of the City of General Santos;
- (3) One (1) representative from the domestic investors;
- (4) One (1) representative from the foreign investors; and
- (5) Two (2) representatives from the workers working in GenSan ECOZONE.

The Congressional representative and the mayor of the City of General Santos shall serve as *ex officio* members of the Board, whose term in the Board corresponds to their terms as elected officials.

The Chairman and the members of the Board, except the *ex officio* members, shall be appointed by the President of the Philippines to serve for a term of six (6) years, unless sooner removed for cause or dies or resigns voluntarily. In case of death, resignation or removal for cause, the replacement shall serve only the unused portion of the term.

Except for the representatives of the business and labor sectors, no person shall be appointed by the President of the Philippines as a member of the Board unless he is a Filipino citizen, of good moral character, of proven probity and integrity, and a degree-holder in any of the following fields: economics, business, public administration, law, management or their equivalent, and with at least ten (10) years relevant working experience preferably in the field of management or public administration.

The members of the Board shall each receive *per diem* at rates to be determined by the Department of Budget and Management in accordance with existing rules and regulations: *Provided, however, That the total per diem collected each month shall not exceed the equivalent per diem for four (4) meetings.* Unless and until the President of the Philippines has fixed a higher *per diem* for the members of the board, such *per diem* shall not be more than Ten thousand pesos (P10,000.00) for every board meeting.

SEC. 11. *Powers and Duties of the Chairman-Administrator.* – The chairman-administrator shall have the following powers and duties:

- (a) To direct and manage the affairs of the GSEZA in accordance with the policies of the Board;
- (b) To establish the internal organization of the GSEZA under the conditions that the Board may prescribe;
- (c) To submit an annual budget and necessary supplemental budget to the Board for its approval;

(d) To submit within thirty (30) days after the close of each fiscal year an annual report to the Board and such other reports as may be required;

(e) To submit to the Board for its approval policies, systems, procedures, rules and regulations that are essential to the operation of the GenSan ECOZONE;

(f) To create a mechanism in coordination with relevant agencies for the promotion of industrial peace, the protection of the environment, and the advancement of the quality of life in the GenSan ECOZONE; and

(g) To perform such other duties as may be assigned to him by the Board or which are necessary or incidental to his office.

SEC. 12. *Personnel.* – The Board of Directors of the GSEZA shall provide for an organization and staff of its officers and employees. Upon recommendation of the chairman-administrator and with the approval of the Secretary of the Department of Trade and Industry, the Board shall appoint and fix the remuneration and other emoluments of its officers and employees in accordance with existing laws on compensation and position classification: *Provided*, That the Board shall have exclusive and final authority to promote, transfer, assign or reassign officers of the GSEZA, any provision of existing law to the contrary notwithstanding: *Provided, further*, That the chairman-administrator may carry out removal of such officers and employees.

The officers and employees of the GSEZA, including all members of the Board, shall not engage directly or indirectly in partisan activities, nor take part in any election, except to vote.

No officer or employee of the GSEZA, subject to Civil Service laws and regulations, shall be removed or suspended except for cause, as provided by law.

SEC. 13. *Applicability Clause.* – The provisions of Sections 30-42 of Republic Act No. 7916, as amended, shall apply to the GenSan ECOZONE.

SEC. 14. *Capitalization.* – The GSEZA shall have an authorized capital stock of two billion (2,000,000,000) no par-shares with a minimum issue of Ten pesos (P10.00) each, the majority shares of which shall be subscribed and paid for by the national government and the local government units (LGUs) embracing the GenSan ECOZONE. The Board of Directors of the GSEZA with the written concurrence of the Secretary of Finance may sell shares, representing not more than forty *per centum* (40%) of the capital stock of the GSEZA to the general public under such policy as the Board and the Secretary of Finance may determine. The national government and the LGUs shall in no case own less than sixty *per centum* (60%) of the total issued and outstanding capital of the GSEZA.

The amount necessary to subscribe and pay for the shares of the national government to the capital stock of the GSEZA shall be included in the annual General Appropriations Act. For LGUs, the funds shall be taken from their internal revenue allotment and other local funds.

SEC. 15. *Supervision and Coordination of Development Plans.* – For purposes of policy direction and coordination, the GenSan ECOZONE shall be under the direct control and supervision of the Office of the President.

SEC. 16. *Relationship with the Regional Development Council.* – The GSEZA shall determine the development goals for the GenSan ECOZONE within the framework of national development plans, policies and goals. The Administrator shall, upon approval by the Board, submit the GenSan ECOZONE plans, programs and projects to the Regional Development Council for inclusion and inputs to the overall regional development plan.

SEC. 17. *Relationship with Local Government Units.* – Except as herein provided, the LGUs comprising the GenSan ECOZONE shall retain their basic autonomy and identity. The City of General Santos shall operate and function in accordance with the Local Government Code of 1991. In case of any conflict between the GSEZA and the City of General Santos on matters affecting the GenSan ECOZONE other than defense and security matters, the decision of the GSEZA shall prevail.

SEC. 18. *Interpretation/Construction.* – The powers, authorities and functions that are vested in the GSEZA are intended to establish decentralization of governmental functions and authority and promote an efficient and effective working relationship between the GenSan ECOZONE, the central government and the LGUs.

SEC. 19. *Auditing.* – The Commission on Audit shall appoint a representative who shall be a full time auditor of the GSEZA and assign such number of personnel as may be necessary to assist said representative in the performance of his/her duties. The salaries and emoluments of the assigned auditor and personnel shall be in accordance with pertinent laws, rules and regulations.

SEC. 20. *Separability Clause.* – If any provisions of this Act shall be held unconstitutional or invalid, the other provisions not otherwise affected shall remain in full force and effect.

SEC. 21. *Repealing Clause.* – All laws, executive orders or issuances, or any parts thereof, which are inconsistent herewith are hereby repealed or amended accordingly.

SEC. 22. *Effectivity Clause.* – This Act shall take effect upon its publication in at least one (1) newspaper of general circulation.

Approved, _____