

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

5 JUN -8 ATO:21

RECEIVED BY:

SENATE
S.B. No. **2039**

Introduced by Sen. Magsaysay, Jr.

EXPLANATORY NOTE

This bill seeks to attach the Philippine Coast Guard to the Department of Transportation and Communications in order to achieve the following purposes: (1) to formalize its separation from the defense establishment while maintaining its status as a uniformed sea-going armed service; (2) to rationalize its maritime safety, maritime security and marine environmental protection functions by conferring it with the mandates of maritime safety, maritime security and marine environmental protection; and (3) to unleash the potential and capability of the PCG as a major partner in the maintenance of national security and economic development of the country as guardian of its marine wealth.

The Philippine Coast Guard was originally created as the Bureau of Coast Guard under the Department of Commerce by the Philippine Commission in 1902. Its primary task was to administer shipping and promote safety in the maritime industry. Congress intended the PCG as a civilian agency.

However, due to policy considerations, the PCG was made into a unit of the Philippine Navy to enable it to utilize the PN's personnel, facilities and installations for maximum utilization of scarce resources. While the PCG acquired a degree of development under the Philippine Navy, its direction was focused more on defense related matters owing to the raging insurgency problem. Consequently, the development of the capability of the PCG to its full potential was shunted or even totally neglected. Hence, its maritime safety functions was transferred to another agency tasked with the maritime industry development resulting to a delegation of the same functions to the PCG.


This bill, is a consolidated version of the PCG Transfer Bill and the Magna Carta Bill. The PCG Transfer Bill has passed 2nd reading of the 11th and 12th Congress but was overtaken by events due to lack of material time as a consequence of the happening of unavoidable historical circumstances.

The enactment of this bill into law will finally solve the lingering problem of fragmented maritime administration in the country and vest to a sole government agency, the Philippine Coast Guard, the responsibility of promoting safety of life and property at sea, ensuring safe and comfortable sea transport, protecting the marine wealth, safeguarding the marine environment and promoting and developing the ecotourism in the country.

Lastly, the passage of this bill, which will not entail additional budget on the part of the government, will formalize the recognition of the Philippine Coast

Guard as an important component in the maintenance of national security and economic development.

It is upon these premises that this bill's passage is most earnestly sought.


RAMON B. MAGSAYSAY, JR.

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AN ACT
ESTABLISHING THE PHILIPPINE COAST GUARD AS AN ATTACHED AGENCY TO
THE DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS, FURTHER
AMENDING REPUBLIC ACT 5173 AND PD 601, AND FOR OTHER PURPOSES.

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

CHAPTER I
GENERAL PROVISIONS

SECTION 1. Title. – This Act shall be known and cited as the “Philippine Coast Guard Law of 2005.”

SECTION 2. Declaration of Policies. The State recognizes its obligation to protect the marine wealth in its archipelagic waters, territorial seas, and exclusive economic zone, and therefore reserves the use and enjoyment of the same to Filipino citizens.

The Philippines needs a balanced and healthful marine ecology, which shall (a) assure a sustainable growth and development of its bountiful marine wealth and other resources; (b) encourage the growth and development of sea transportation as a primary and vital link of the various islands of the archipelago; and (c) promote ecotourism by projecting internationally the pristine beauty of its natural sceneries such as white beaches, and other tourist spots.

To attain these objectives, the State reaffirms its obligation to protect the maritime environment and commits itself to the following: (a) promoting maritime safety in order to obviate if not minimize marine accidents; (b) enhancing maritime security; (c) safeguarding the marine environment; and (d) maintaining and ensuring peace and order in the archipelagic waters, territorial seas and exclusive economic zone.

CHAPTER II
PHILIPPINE COAST GUARD AS ATTACHED AGENCY

SECTION 3. Establishment. – The Philippine Coast Guard is hereby established as a distinct, armed, uniformed, and seagoing service attached to the Department of Transportation and Communications.

SECTION 4. Powers and Functions. – The PCG shall have the following functions:

- a) To enforce and assist laws, promulgate and administer regulations for the promotion of safety of life and property within the maritime jurisdiction of the Philippines;
- b) To enforce laws, promulgate and administer rules and regulations for the protection and preservation of our marine environment within the maritime jurisdiction of the Philippines;
- c) To render aid to distress persons and vessels and conduct search and rescue in case of marine accident or casualty within the maritime jurisdiction of the Philippines including the high seas; in compliance with international maritime conventions;
- d) To enforce and assist in enforcement of fisheries law, immigration law, tariff and customs law, forestry law, firearms and explosives law, law on trafficking of women and children and all other applicable laws within the territorial waters of the Philippines;
- e) To enforce or assist in the maintenance of maritime security, prevent or suppress terrorism at sea and perform police function within the maritime jurisdiction of the Philippines;

Section 5. Organization. The PCG shall remain a sea-going, distinct, armed, and uniformed commissioned service primarily responsible in enforcing this Act. Provided: That the PCG shall have the authority, whenever appropriate, to utilize by agreement, the personnel, services and facilities of other departments, agencies and instrumentalities.

Section 6. Composition. (a) The PCG shall consist of the following categories of officers and employees:

- (1) PCG officers
- (2) PCG enlisted personnel
- (3) PCG non- uniformed personnel
- (4) Probationary Ensign ;and
- (5) Midshipmen/women
- (6) Draftees/trainees

(b) There shall be a PCG Technical Service to be composed of medical doctors, dentist, nurses, lawyers, chaplains, including personnel whose pre-entry required course are closely related/allied to the aforementioned professional group. Appointment of all PCG Officers shall be in the initial rank of COAST GUARD ENSIGN except for the following Field of Occupational Specialties (FOS): Dentists and Veterinarians whose initial appointment rank shall be COAST GUARD LIEUTENANT JUNIOR GRADE; Lawyers, Medical Doctors and Chaplains whose initial appointment rank shall be COAST GUARD LIEUTENANT SENIOR GRADE.

Section 7. Source of Uniformed Personnel. The PCG shall procure its uniformed personnel from the maritime schools, other colleges and universities to

answer the peculiar needs of the organization until such time that the PCG Academy is established.

Section 8. PCG Trust Receipt. The PCG shall continue to collect fees, charges and fines relevant to the exercise of its various regulatory functions to include lighthouse dues. All income derived from collection of fees and charges and such other sources shall be retained and constituted as a Trust Receipt which shall be deposited in any authorized government depository bank, for the use of the PCG in the maintenance and repair of its assets such as but not limited to, vessels, aircrafts, navigational aids and lighthouses; PROVIDED, That at least 30% will be used in the procurement and acquisition of communication and rescue equipments, armaments, ammunitions, and as contingency fund for POL requirement during emergencies; PROVIDED, FURTHER, That no amount of the said Trust Receipt shall be used for the payment of salaries and other allowances; PROVIDED, FURTHERMORE, That, the PCG and the Department of Budget and Management shall jointly issue guidelines for the implementation of this Section and the Trust Receipt shall be subject to accounting and auditing rules and regulations.

CHAPTER III

A . ORGANIZATIONAL, OPERATIONAL and COMMAND STRUCTURE

SECTION 9. Organizational, Operational and Command Structure. –

- a) 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: *Provided That*, In times of war as declared by Congress, the PCG or parts thereof shall be attached to the Department of National Defense as a support agency of the Armed Forces of the Philippines.
- b) The PCG shall be headed by a Commandant who shall carry the rank of Admiral. *Provided*, that the Commandant shall be appointed by the President from among the Flag Officers in the Coast Guard active service. The Commandant shall have a maximum term of three (3) years. A Commandant who has served for three (3) years prior to his compulsory retirement shall be considered as retired entitled to all the benefits available to a coast guard officer as if he compulsorily retired. *Provided*, further, that in times of war or other national emergency declared by Congress, the President may extend his term of office.
- c) The PCG Commandant shall have the following functions:
 - 1) Advise the President or the Secretary of the DOTC on the promulgations of executive orders, rules and regulations, proclamations and other issuances relative to matters under the jurisdiction of the PCG.
 - 2) Establish policies and standards for the efficient and effective management and operation of the PCG.
 - 3) Promulgate rules and regulations necessary to carry out the objectives, policies, plans, programs and projects of the PCG; and
 - 4) Enter into contracts for the acquisition of floating air and sub-surface assets, real estate, communications equipment and other necessities relative to the performance of its powers and functions subject to the limitations of existing laws, rules and regulations.

- 5) Receive grants and other forms of assistance from other countries in support of PCG continued development and modernization projects subject to existing laws; and
- 6) Perform such other functions as may be provided by law or appropriately assigned by the President or the Secretary of the DOTC.

Section 10. Major Units of the PCG. The PCG shall maintain its present organization, composed of a Headquarters and its Support Units, Coast Guard Districts, Coast Guard Stations, Detachments and Clearing Outposts, as well as the Coast Guard Operating Forces, Marine Environmental Protection Command, Coast Guard Education and Training Command, and Aids to Navigation Command. *Provided:* That it shall have the authority to reorganize as it deems necessary to be responsive to the needs of the country and be able to carry out its mandate effectively and efficiently.

B. PERSONNEL ADMINISTRATION PROFESSIONALISM, WELFARE AND BENEFITS

SECTION 11. Appointment. - a) Appointment of all PCG officers shall be approved by the President of the Republic of the Philippines through the Secretary, DOTC. No person shall be appointed as a PCG officer unless he/she is a holder of a baccalaureate degree, preferably a licensed professional, and/or a graduate of Service Academies.

b) Appointments and promotions of all PCG enlisted 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, rules and regulations.

Section 12. Promotion of PCG Officers. - (a) The Commandant, PCG shall recommend to the President, through the DOTC Secretary the promotion of PCG Officers who are best qualified for appointment to be submitted by the PCG Officers Selection and Promotion Board. *Provided:* That he/she must have completed the required schooling and training relevant to said grades/ rank " in position", and must have complied with the prescribed minimum time in grade based on approved PCG rules and regulation and other relevant law. *Provided, furthermore:* That pendency of any administrative or criminal case before any court, body or tribunal shall be a bar for promotion. *Provided, finally:* That special or meritorious promotion shall be extended to any PCG Officer for acts of inconspicuous courage and gallantry involving risk of his life above and beyond the call of duty.

(b) **Promotion of PCG Enlisted Personnel and Non-Uniformed Employees.** The Commandant shall promote PCG enlisted personnel to the next higher rank based on the recommendation of the PCG Selection and Promotion Board for Enlisted Personnel. The promotion of non-uniformed employees shall be governed by Civil Service Law, rules and regulations. *Provided,* that no PCG Enlisted Personnel shall be eligible for promotion to the next higher rank position unless he had successfully passed a corresponding promotional examination. He must have completed the required schooling and training relevant to said position, and must have complied with the required minimum time in grade based on approved PCG rules and regulations and other relevant law. *Provided,* that the pendency of any administrative or criminal or civil case before any court, body or tribunal shall be a bar for promotion or assignment. *Provided, finally,* that special or meritorious promotion shall be extended only to any PCG Enlisted Personnel for acts of inconspicuous courage and gallantry involving the

risk of his life above and beyond the call of duty and/or outstanding achievement in the Coast Guard service as determined by the PCG Selection and Promotion Board.

SECTION 13. Retirement. - Officers and enlisted personnel, who have attained the age of fifty-six (56) or has thirty (30) years of accumulated government service, whichever is later, shall be retired compulsorily from the service. *Provided:* That officers and enlisted personnel who has served at least twenty (20) years of satisfactory active service, shall be allowed to retire optionally, at his own request and with the approval of the President of the Philippines, and the Commandant, PCG, respectively, and shall be entitled to receive benefits provided 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 and develop health and welfare programs for its personnel.

SECTION 14. Separation. - Officers and enlisted personnel who voluntarily resigns or otherwise failed to comply with the standards of competence and proficiency, shall be separated from the service under existing laws, rules and regulations. *Provided:* That PCG personnel who has served continuously for at least five (5) years and who is separated through no fault of his own or voluntarily resigns shall be entitled to a separation pay equivalent to one (1) month salary for every year of service in addition to the commutation of all the accumulated leaves to his credit.

SECTION 15. Retirement Benefits. - Monthly retirement pay shall be sixty five percent (65%) of the base pay and longevity in case the retiree has rendered at least twenty (20) years of continuous active Coast Guard service increasing by two and one-half percent (2 1/2) for every year of actual Coast Guard service pay rendered beyond the initial twenty (20) of ninety percent (90%) for thirty six (36) years of active Coast Guard service and over. *Provided,* that the retiree shall have the option to receive in advance the lump sum of his retirement equivalent to the first five (5) years of his retirement pay as it accrues: *Provided,* further, that the payment of the lump sum shall be made within six months from the effectivity date of his retirement. *Provided,* finally, that the retirement pay of all uniformed members shall be subject to the prevailing scale of base pay of members still in the active service.

SECTION 16. Career Development (Education and Training). - Commissioned Officers appointed to the COAST GUARD Service shall undergo the required career and professional courses to ensure that they are professionally competent and be qualified for the assignment following a certain career pattern.

SECTION 17. Assignment. - Immediately after they are commissioned to the service, they shall be assigned in a position appropriate for the initial entrants. *Provided:* That individuals who have met the standards of the organization and accepted on a probationary basis, shall be primarily assigned with an office, unit or position needing his professional training and experience. *Provided further:* That a skills inventory shall be undertaken in order to match the qualification, training and expertise of commissioned officer with their assignment, and to be made as a basis for the procurement of additional officers.

C. DISCIPLINE AND ORDER

SECTION 18. Disciplinary Actions. - In dispensing discipline and order among PCG officers and enlisted personnel, the PCG shall continue to adopt the Military Justice System in accordance with the provisions of C.A. 408, as amended, with Commandant, PCG as the convening authority, until such time that the PCG has adopted an appropriate justice system that shall govern the organization.

CHAPTER VIII

PAY AND ALLOWANCES FOR UNIFORMED PERSONNEL

Section 19. Duty Hours. PCG personnel shall be on call 24 hours a day but are required to render minimum service of 8 hours a day except on scheduled duty or during red alert or national emergencies.

Section 20. Salary Scale. The PCG shall have a salary scale separate and distinct from other agencies of the government to attract the best and the competent in the Coast Guard Service. The salary scale shall be reviewed every THREE (3) years or depending on economic fluctuations necessitating progressive adjustments thereof. Provided: That, All PCG uniformed personnel shall receive the same base pay, and other benefits as are now, or hereafter may be authorized corresponding to the salary scales of the personnel of the Department of Education or at par with other government agencies performing law enforcement functions, whichever is higher.

Section 21. Criteria for Salaries. PCG personnel's salaries shall correspond to the following criteria:

a. Salary shall ensure that the lowest in rank and position receives an amount which will enable him and his family to afford a reasonable and decent standard of living; and

b. Basic monthly salary shall exclude the subsistence allowance, cost of living allowance, quarters allowance, clothing allowance, hazard pay, amelioration pay, health care pay and all other allowances as may be provided by existing laws.

Section 22. Cost of Living Allowance. PCG personnel's salaries shall keep pace with the rise in the cost of living which shall automatically follow changes in cost-of-living index as determined by competent government agencies.

Section 23. Peculiar Allowances. In areas wherein PCG personnel are exposed to hardship or other hazards usual to the performance of its mandated functions and established to be peculiar to any given area or place of assignment, as determined by the PCG, he shall be compensated with sea duty, flying pay, instructor's duty pay, hazardous pay and/or special hardship allowance.

Section 24. Other allowances. In addition to the basic monthly salary, PCG uniformed personnel shall be entitled to subsistence allowance, quarters allowance, clothing allowance, additional compensation allowance, personnel emergency relief allowance, health care allowance, hazard pay, laundry allowance and other allowances as may be provided for by law.

a. **Longevity Pay.** PCG personnel shall be entitled to a longevity pay of ten percent (10%) of their basic month pay for every five (5) years of service in the government, which shall be computed from the date of the member's first appointment in the government service: Provided, that the maximum longevity pay shall not exceed fifty percent (50%) of the basic monthly pay.

b. **Sea Duty Pay.** PCG personnel performing actual duties on board PCG vessels shall be entitled to a sea duty pay of fifty percent (50%) of their basic month pay.

c. **Instructor's Duty Pay.** PCG personnel performing duties as an instructor shall be entitled to instructor duty pay of thirty-five percent (35%) of their basic month pay.

d. **Special Counsel Pay.** PCG personnel performing duties that are within the definition of the term "Practice of Law" shall be entitled to Special Counsel pay of Fifty (25%) of their basic month pay.

e. **Aviation Duty Pay.** PCG personnel performing actual duties with the Coast Guard Aviation Group shall be entitled to an Aviation Duty Pay of fifty (50%) of their basic month pay.

f. **High Risk Duty Pay.** PCG personnel performing actual duties which may be classified as high risk by his respective unit commanding officer and affirmed by the CPCG shall be entitled to a High Risk Duty Pay of fifty (50%) of their basic month pay.

g. **Hazardous Duty Pay.** PCG personnel performing duties which may be classified as hazardous by his respective unit commanding officer and affirmed by the CPCG shall be entitled to a Hazardous Duty Pay of fifty (50%) of their basic month pay.

Section 25. Medical and Dental Health Care Program. There shall be a medical and dental health care program for PCG personnel, non-uniformed personnel and their direct dependents, including parents and parents-in-law. The medical and dental health care program may be government-operated or a combination of government and private health management organization. Pending establishment thereof all expenses incurred shall be reimbursed by the PCG subject to the conditions established by law. **PROVIDED,** That, the PCG shall regularly program a budget on hospitalization of its personnel.

Section 26. Educational Benefits. The PCG shall formulate plans to improve the educational qualifications of PCG personnel and their dependents in accordance with existing laws, rules and regulations and/or in the absence of said laws, rules and regulations shall recommend to legislative bodies the enactment thereof.

Section 27. Housing Assistance Program. The PCG, in coordination with appropriate government agencies shall establish a special housing assistance program for PCG personnel with the objective of ensuring that every personnel has a dwelling that is structurally sound, environmentally safe, affordable and located in a wholesome community. The PCG shall likewise be part of and be covered by any housing program of the National Housing Authority.

Section 28. Compensation for Physical and Mental Disability Sustained In the Course of Duty. PCG personnel shall be protected against the consequences of employment injuries. Physical and psychological stresses on the member's health are recognized as compensable occupational diseases, in accordance with existing laws.

Section 29. Permanent Physical Disability. A uniformed member who incurs a total permanent disability in line of duty and has rendered a total of twenty (20) years of continuous active duty in the Coast Guard service shall be compulsorily retired: Provided, that upon his compulsory retirement, he shall be entitled to a retirement pay pursuant to Section 29 of this Act.

Section 30. Disability Benefits. Any member and his dependents shall be entitled to all benefits relative to the member's permanent incapacity, as may be provided for under this Act or existing laws.

Section 31. Leaves. In addition to leave privileges enjoyed under existing laws, PCG personnel shall also be entitled to the following:

a. Study leave, with pay not exceeding two (2) years. Provided, That no grantee shall be allowed to accumulate more than two (2) years of study leave except when he needs an extra semester to complete and defend his thesis for a graduate study in degree relevant to his being a member of the Coast Guard service.

b. An indefinite leave of sick absence which shall be granted to an ailing member whose medical treatment requires more than one (1) year of continued treatment.

Leave with pay shall be chargeable against his leave credits. Leave without pay shall not be granted whenever the personnel has leave with pay to his credit.

Leave shall be cumulative and any part thereof which may not be taken within the calendar year earned may be carried over the succeeding years. Whenever a uniformed personnel retires, voluntarily resigns or is allowed to resign or is separated from the service through no fault of his own, he shall be entitled to the commutation of all the accumulated leaves to his credit.

Section 32. Exemption from Attachment and Taxes. All benefits granted by this act, including benefits received from any government insurance agencies/corporations, shall not be subject to attachment, levy, execution or any tax of whatever nature.

CHAPTER IX

TRANSITORY PROVISIONS

SECTION 33. PCG Reserve Force. – There is hereby created a PCG Reserve Force in support of active component of the PCG to augment the same upon mobilization in times of war and national emergencies arising from calamities, disasters including relief and rescue operations and other activities requiring civil assistance. Recall authority is vested to the President of the Philippines.

SECTION 34. Organization of 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 at sea, the preservation of the marine environment and its resources, the conduct of maritime search and rescue, and the maintenance of aids to navigation and such other activities that enhance maritime community relations which include civic action, youth development and related activities.

CHAPTER X

FINAL PROVISIONS

Section 35. Appropriations. The existing budget of the PCG provided for in the Annual General Appropriations Act shall remain as is without any additional amount. Provided: That the Philippine Coast Guard shall prepare its own budget as

Key Budgetary Unit (KBU) being an attached agency of the Department of Transportation and Communications.

SECTION 36. - Implementing Rules and Regulations. – Within ninety (90) days from the effectivity of this Act, the Secretary shall promulgate rules and regulations necessary to ensure the effective implementation of this Act.

SECTION 37. Separability Clause. – If any portion or provision of this Act is declared unconstitutional, the same shall not affect the validity and effectivity of the other provisions not affected thereby.

SECTION 38. Repealing Clause. – All laws, decrees, executive orders, rules and regulations, and other issuances or parts thereof which are inconsistent with this Act are hereby repealed, amended, or modified accordingly.

SECTION 39. Effectivity. – This Act shall take effect fifteen (15) days following its publication in two (2) national newspapers of general circulation.

Approved.