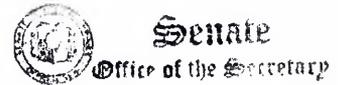


NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



'22 AUG -8 A10 :32

SENATE
S. No. 1073

RECEIVED BY:

Introduced by Senator Grace Poe

**AN ACT
CREATING THE PHILIPPINE AIRPORTS AUTHORITY, DEFINING ITS
POWERS, FUNCTIONS AND RESPONSIBILITIES, PROVIDING FUNDS
THEREFOR, AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

Airports are often considered as "gateways to nations"¹, and are considered as key infrastructures in the development of a country's economy. They are direct contributors to a nation's economy by providing services to airlines, moving passengers, and transporting cargo², and serve as catalysts for tourism growth and national and international trade relations.³ Airports and air transport are especially important in the Philippines. In 2018, the air transport sector is said to have supported at least 1.2 million jobs, and contributed at least \$10.4 Billion to the country's GDP.⁴

Currently, the Philippines has more than 80 airports nationwide that hold domestic and/or international flights. And while a number of these are operated by specific entities such as the Manila International Airport Authority (over Ninoy Aquino International Airport), Clark International Airport Corporation (over the Clark International Airport), and the Mactan-Cebu International Airport Authority (over the Mactan-Cebu International Airport), majority of these airports are under the operational and supervisory control of Civil Aviation Authority of the Philippines (CAAP) pursuant to Republic Act No. 9497 (RA 9497).

¹ Attlee, James. (30 January 2016). "Airports are 'Gateways to Nations' But Can They also be Beautiful?". The Independent. Accessed from: <https://www.independent.co.uk/travel/news-and-advice/airports-are-gateways-to-nations-but-can-they-also-be-beautiful-a6840846.html>

² International Finance Corporation. (n.d.) "The Impact of COVID-19 on Airports: An Analysis". Last Updated: May 2020. Accessed from: https://www.ifc.org/wps/wcm/connect/industry_ext_content/ifc_external_corporate_site/infrastructure/resources/the+impact+of+covid-19+on+airports#:~:text=Airports%20are%20essential%20to%20the,governments%2C%20consumers%2C%20and%20industries.

³ Berti, Adele. (7 June 2019). "Can Airports Help Lift Communities Out of Poverty?" Airport Technology. Accessed from: <https://www.airport-technology.com/features/importance-of-airports-to-a-country/>

⁴ International Air Transport Association. (n.d.) "The Importance of Air Transport to the Philippines". Date Accessed: 22 March 2022. Accessed from: <https://www.iata.org/en/iata-repository/publications/economic-reports/philippines--value-of-aviation/>

However, under the said law, CAAP is supposed to juggle different and conflicting roles within the aviation sector. For one, CAAP is required to establish and operate airports⁶, and is likewise tasked to plan, develop, construct and operate new airports in line with relevant government policies such as ensuring the availability of air transport infrastructure in remote areas.⁷ At the same time, it is also responsible for the regulation of the same, including the power to issue appropriate certifications for airports⁸, as well the power to inspect the said facilities⁹ and to investigate any violations of the rules and regulations pertaining thereto.¹⁰ Evidently, CAAP regulates what it operates, which lessens its effectivity both as a regulatory agency and as an operator.¹¹

To untangle these conflicting functions of CAAP, as well as to fulfill the need to upgrade existing international and domestic airports and air navigation facilities in the country in compliance with international standards of airport accommodation and services and to meet the present and future air traffic and aviation services demands in the country, there is a need to create a separate entity that would focus solely on the planning, construction and operation of airports. Under this Bill, this entity shall be the Philippine Airports Authority, with its *raison d'être* to establish, construct, develop, and effectively manage and operate airports in the country up to par with international standards for air transportation and aviation safety.

In view of the foregoing, the early passage of this bill is earnestly sought.



GRACE POE

⁶ Section 35(l), RA 9497.

⁷ Section 78, RA 9497.

⁸ Section 68(b), RA 9497.

⁹ Section 33(d), RA 9497.

¹⁰ Section 35(i), RA 9497.

¹¹ Joint Foreign Chambers of the Philippines. (09 October 2018). *Letter to Rep. Jesus Sacdalan*. Accessed from: https://www.jccipi.com.ph/wp-content/uploads/2019/02/20181009_JFC-Letter-to-Rep.-Jesus-Sacdalan-on-Philippine-Airport-Development-Corporation-bill.pdf

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



Senate
Office of the Secretary

'22 AUG -8 AIO :32

SENATE
S. No. 1073

RECEIVED BY: _____

Introduced by Senator Grace Poe

**AN ACT
CREATING THE PHILIPPINE AIRPORTS AUTHORITY, DEFINING ITS
POWERS, FUNCTIONS AND RESPONSIBILITIES, PROVIDING FUNDS
THEREFOR, AND FOR OTHER PURPOSES**

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

1 Section 1. *Title.* - This Act shall be known as the "Philippine Airports Authority
2 Act".

3 Sec. 2. *Definition of Terms.* - As used in this Act:

- 4 a) *Authority* shall refer to the Philippine Airports Authority;
- 5 b) *Aircraft* refers to any machine that can derive support in the atmosphere from
6 the reactions of the air other than the reactions of the air against the earth's
7 surface. The term, as used in this Act, shall refer to a civil aircraft only and
8 will not include State or public aircraft;
- 9 c) *Airport* shall refer to a defined area on land or water, including any building,
10 installation, facilities and equipment, intended to be used either wholly or in
11 part for the arrival, departure and surface movement of an aircraft. The term
12 shall include all domestic and international airports in the country, except
13 those operated, managed or controlled by other independent airport
14 authorities as provided by law, executive orders, or other issuances;
- 15 d) *Board* shall refer to the Board of Directors of the Authority.

16 Sec. 3. *Creation of the Philippine Airports Authority.* - There is hereby
17 established a body corporate to be known as the Philippine Airports Authority which
18 shall be attached to the Department of Transportation (DOTr) and shall be headed
19 by a General Manager as Chief Executive Officer of the Authority. The Authority may

1 establish such offices, branches, agencies or subsidiaries as it may deem proper and
2 necessary to administer and operate all domestic and international airports in the
3 country: Provided, That the establishment of a subsidiary shall have the prior
4 approval of the President of the Philippines: Provided, Further, That this shall not
5 diminish the jurisdiction, powers and authority of other independent airport
6 authorities as may be created by law.

7 *Sec. 4. Purposes and Objectives.* – The Authority shall have the following
8 purposes and objectives:

- 9 a) To help encourage and promote domestic and international air traffic in the
10 Philippines as a means of accelerating the development of aviation and air
11 transportation in the country, as well as making the Philippines a center of
12 international trade and tourism;
- 13 b) To formulate, adopt and implement in all domestic and international airports
14 within its jurisdiction internationally acceptable standards of airport
15 accommodation and service; and
- 16 c) To modernize and upgrade all airport facilities in order to provide safe,
17 efficient, and reliable services for domestic and international air travel.

18 *Sec. 5. Functions, Powers and Duties of the Authority.* – The Authority shall
19 have the following functions, powers and duties:

- 20 a) To formulate, in coordination with the Civil Aviation Authority of the
21 Philippines (CAAP) and other appropriate government agencies, a
22 comprehensive and integrated policy and program for all domestic and
23 international airport terminals within its jurisdiction, and to implement, review
24 and update such policy and program periodically;
- 25 b) To plan, design, acquire, establish, construct, operate, improve, control,
26 supervise, construct, maintain, and repair airports and such other facilities
27 and services as shall be necessary for the safe and efficient functioning of the
28 same;
- 29 c) To control and/or supervise, as may be necessary, the construction of any
30 structure or the rendition of any service in all domestic and international
31 airport within its jurisdiction;
- 32 d) To sue and be sued in its corporate name;

- 1 e) To adopt and use a corporate seal;
- 2 f) To succeed by its corporate name;
- 3 g) To adopt its by-laws, and to amend or repeal the same from time to time;
- 4 h) To execute or enter into contracts of any kind or nature;
- 5 i) To acquire, purchase, own, administer, lease, mortgage, sell or otherwise
- 6 dispose of any land, building, airport facility, or property of whatever kind and
- 7 nature, whether movable or immovable, or any interest therein;
- 8 j) To exercise the power of eminent domain in the pursuit of its purposes and
- 9 objectives;
- 10 k) To levy, and collect dues, charges, fees or assessments for the use of the
- 11 airport premises, works, appliances, facilities or concessions or for any service
- 12 provided by the Authority, subject to the approval of the Secretary of
- 13 Transportation in consultation with the Secretary of Finance;
- 14 l) To invest its idle funds, as it may deem proper, in government securities and
- 15 other evidences of indebtedness of the government;
- 16 m) To provide services, whether on its own or otherwise, within the airports and
- 17 the approaches thereof, which shall include but not be limited to, the
- 18 following:
- 19 1. Aircraft movement and allocation of parking areas of aircraft on the
- 20 ground;
- 21 2. Loading or unloading of aircraft;
- 22 3. Passenger handling and other services directed towards the care,
- 23 convenience and security of passengers, visitors and other airport
- 24 users; and
- 25 4. Sorting, weighing, measuring, warehousing or handling of baggage
- 26 and goods.
- 27 n) To perform such other acts and transact such other business, directly or
- 28 indirectly as may be necessary, incidental or conducive to the attainment of
- 29 the purposes and objectives of the Authority, including the adoption of
- 30 necessary measures to remedy congestion in the airports; and
- 31 o) To exercise all the powers of a corporation under the Corporation Law, insofar
- 32 as these powers are not inconsistent with the provisions of this Act.

1 *Sec. 6. Police Authority.* – The Authority shall have the power to exercise such
2 police authority, as may be necessary within its premises, to carry out its functions
3 and attain its purposes and objectives. The grant of such powers shall be without
4 prejudice to the exercise of functions within the same premises by other concerned
5 government agencies as provided for by law: Provided, That the Authority may
6 request the assistance of law enforcement agencies, including request for
7 deputization as may be required. Such police authority shall be exercised in
8 connection with the following, among others:

- 9 a) Maintenance of security to passengers, cargoes, aircraft, airport equipment,
10 structures, facilities, personnel, funds and documents;
- 11 b) Regulating the entry to, exit from and movement within the airports;
- 12 c) Maintenance of peace and order, within the premises of the airports in
13 coordination with local police authorities and other authorized peace-keeping
14 entities within the airports;
- 15 d) Regulation and supervision of private security agencies operating within the
16 airports; and
- 17 e) Enforcement of rules and regulations promulgated by the Authority pursuant
18 to law.

19 *Sec. 7. Board of Directors.* – The corporate powers of the Authority shall be
20 exercised by and vested in a Board of Directors. It shall be composed of seven (7)
21 members, as follows:

- 22 1) Secretary of the DOTr or his representative as Chairperson;
- 23 2) General Manager of the Authority as Vice-Chairperson;
- 24 3) Secretary of the Department of Finance or his representative;
- 25 4) Four (4) representatives from the private sector to be appointed by the
26 President of the Philippines for a term of three (3) years renewable for
27 another term.

28 The Board shall meet at least once a month or more as may be required by
29 the exigencies of the circumstances. The presence of at least four (4) members shall
30 constitute a quorum, and the majority vote of three (3) members in a meeting
31 where quorum is present shall be necessary for the adoption of any rule, regulation,
32 resolution, decision or any other act of the Board.

1 The members of the Board shall receive per diems, for every meeting actually
2 attended: Provided, that such per diem shall conform to existing guidelines of the
3 Commission on Audit and other pertinent laws. Members of the Board shall be
4 reimbursed by the Authority for actual expenses, including travelling and subsistence
5 expenses, incurred by them in the performance of their duties.

6 No member of the Board shall have financial or pecuniary interest, directly or
7 indirectly, in any business contract or transaction entered into by the Authority or in
8 any privilege granted by it. Neither shall a member have any interest, financial or
9 otherwise, in any undertaking or business with an inherent conflict of interest with
10 the Authority.

11 *Sec. 8. Functions, Powers, and Duties of the Board.* – The Board shall have
12 the following functions, powers and duties:

- 13 a) To define and approve the programs, plans, policies, rules and regulations,
14 procedures and guidelines of the Authority for the development and operation
15 of the airports within the context of the overall Government objectives, and to
16 control the management, operation and administration of the Authority;
- 17 b) To recommend to the President of the Philippines, for appointment, a General
18 Manager of the Authority who shall be the Chief Executive Officer of the
19 Authority;
- 20 c) To approve the Authority's organizational and administrative structure,
21 staffing pattern, operating and capital expenditures, and financial budgets,
22 prepared in accordance with the corporate plan of the Authority, upon
23 recommendation of the General Manager, subject to existing laws, rules and
24 regulations; and
- 25 d) To exercise all functions and powers necessary or incidental to attain the
26 purposes and objectives of this Act.

27 *Sec. 9. Development of New Airports.* – The Board shall be responsible for the
28 planning, development, construction, operation, maintenance or the expansion of
29 airports. In planning and developing new airports, the Board shall consider:

- 30 a) The suitability of a proposed site in terms of terrain and proximity to
31 population centers;
- 32 b) The projected size of the market to be served by a proposed airport;

- 1 c) The ability of a proposed airport to generate sufficient revenue to cover costs
2 of operation and maintenance;
- 3 d) The availability of funding from both local and foreign sources for the
4 construction of a new airport or expansion of an existing one;
- 5 e) The proximity of other airports to a proposed new airport and the capability of
6 such other airport to handle traffic projected to be handled by the new
7 proposed airport;
- 8 f) The government's public service obligations such as the government's duty to
9 ensure the availability of air transport infrastructure for remote areas far from
10 major population centers and that are not otherwise easily accessible by
11 transportation by land or sea. In such cases, the Board shall take reasonable
12 steps to ensure that funding will be available for the operation and
13 maintenance of such airports;
- 14 g) International Civil Aviation Organization best practices and recommendations
15 concerning the development of airports; and
- 16 h) Such other considerations as the Board, in the exercise of its reasonable
17 discretion, may consider relevant or important.

18 *Sec. 10. Functions, Powers and Duties of the General Manager.* – The General
19 Manager shall be directly responsible to the Board, and shall have the following
20 functions, powers and duties;

- 21 a) To direct and supervise the management, operation and administration of the
22 Authority, and its integral units including its buildings, runways, facilities and
23 equipment, so as to provide international standards of service to airport
24 users, and to ensure its financial stability in accordance with the programs,
25 plans, policies, procedures and guidelines of the Board;
- 26 b) To provide general supervision and overall coordination of all government
27 agencies operating in the airports with respect to the allocation and use of
28 building space and airport premises;
- 29 c) To undertake researches, studies, investigations, and other activities related
30 to the present operations and future development requirements of airports,
31 on his own initiative or upon instructions of the Board, and to submit

1 comprehensive reports, and appropriate recommendations to the Board for its
2 information and action;

3 d) To appoint, transfer, suspend, remove or otherwise discipline any subordinate
4 officer or employee of the Authority, subject to the approval of the Board and
5 to engage, either on contractual basis or other suitable arrangements, the
6 services of highly qualified professionals, experts, technical advisers or
7 consulting firms and to determine their compensation or fees including other
8 terms and conditions of employment as may be authorized by the Board;

9 e) To enter into a memorandum of agreement/understanding, contracts or such
10 other arrangements as may be feasible with such government agencies or
11 private entities operating or providing services to the Authority to ensure
12 proper coordination and integration of all activities in the Authority, subject to
13 the approval of the Board or such laws, rules and regulations as are
14 applicable in the exercise of such authority;

15 f) To establish and maintain a system, in coordination with the appropriate
16 government offices and agencies, for the regular and prompt dissemination of
17 financial, statistical and other relevant data within the Authority and to the
18 Board;

19 g) Within the limits of the authority delegated to him by the Board, to execute
20 contracts, incur obligations, acquire and dispose of assets, and deliver
21 documents, on behalf of the Authority;

22 h) To implement and enforce decisions, orders, rules and regulations issued,
23 prescribed or adopted by the Board; and

24 i) To perform such other duties as the Board may delegate or assign, and such
25 acts as may be necessary and proper to implement this Act.

26 Sec. 11. *Capital.* – The Authority shall have a capital of Fifty Billion Pesos (Php
27 50,000,000,000.00) which shall be contributed by the National Government. This
28 shall consist of:

29 a) The value of fixed assets (including airport facilities, runways and equipment)
30 and such other properties, movable and immovable, which may be
31 contributed by the National Government or transferred by it from any of its
32 agencies, the valuation of which shall be determined jointly with the

1 Department of Budget and Management (DBM) and the Commission on Audit
2 (COA) on the date of such contribution or transfer after making due
3 allowances for depreciation and other deductions taking into account the
4 loans and other liabilities of the Authority at the time of the takeover of the
5 assets and other properties;

6 b) The unexpended balances of appropriations in the current General
7 Appropriations Act, and other laws in force upon approval hereof, pertaining
8 to, held or used by, or available to CAAP for the operation of airports and for
9 others powers, duties and responsibilities that have been transferred to the
10 Authority under this Act;

11 c) Any surplus income that may be derived from or shall accrue to the Authority
12 upon its organization and its assumption of relevant assets and liabilities, or
13 upon transfer to it of the relevant powers, duties and responsibilities pursuant
14 to Section 23 of this Act, and from other concerned government agencies;
15 and

16 d) Such amount as may be appropriated from time to time from the funds of the
17 National Treasury not otherwise appropriated including any outlay from the
18 infrastructure program of the National Government and as may be provided in
19 the annual General Appropriations Act.

20 *Sec. 12. Contribution to the General Fund for the Maintenance and Operation*
21 *of Airports.* – Within thirty (30) days after the close of each quarter, twenty per
22 centum (20%) of the gross operating income, excluding payments for utilities of
23 tenants and concessionaires and terminal fee collections, shall be remitted to the
24 General Fund in the National Treasury to be used for the maintenance and operation
25 of international and domestic airports in the country. Adjustments in the amount
26 paid by the Authority to the National Treasury under this Section shall be made at
27 the end of each year based on the audited financial statements of the Authority.

28 *Sec. 13. Auditor.* – The Chairman of the Commission on Audit (COA) shall be
29 the ex-officio Auditor of the Authority. For this purpose, he may appoint a
30 representative who shall be the auditor of the Authority, together with the necessary
31 personnel to assist said representative in the performance of his duties. The number
32 and salaries of the auditor and said personnel shall be determined by the Chairman

1 of COA subject to the rules and regulations of COA. Said salaries and all other
2 expenses of maintaining the Auditor's Office shall be paid by the Authority.

3 The Auditor shall, as soon as practicable, but not later than three (3) months
4 after the accounts have been submitted for audit, send an annual report to the
5 Board. The Auditor may also submit such periodic or special reports as the Board
6 may deem necessary.

7 Sec. 14. *Legal Counsel.* – The Government Corporate Counsel shall be the
8 Legal Counsel of the Authority: Provided, That the Authority may establish its own
9 legal department to handle the day-to-day legal matters affecting the affairs of the
10 Authority.

11 Sec. 15. *Annual Report.* – The Board shall submit to the President of the
12 Philippines through DOTr, together with the audit report on the relevant accounts,
13 an annual report generally dealing with the activities and operations of the Authority.

14 Sec. 16. *Applicability of Civil Service Laws.* – The Authority and its officials
15 and employees shall be subject to the Civil Service Law and its rules and regulations.

16 Sec. 17. *Borrowing Power.* – The Authority may, in accordance with Section
17 21, Article XII of the 1987 Constitution and other existing laws, rules and
18 regulations, and after consultation with the Secretary of Finance and with the
19 approval of the President of the Philippines, as recommended by the Secretary of
20 DOTr, raise funds, either from local or international sources, by way of loans, credits
21 or securities, and other borrowing instruments, with the power to create pledges,
22 mortgages and other voluntary liens or encumbrances on any of its assets or
23 properties.

24 All loans contracted by the Authority under this Section, together with all
25 interests and other sums payable in respect thereof, shall constitute a charge upon
26 all the revenues and assets of the Authority and shall rank equally with one another,
27 but shall have priority over any other claim or charge on the revenue and assets of
28 the Authority: Provided, That this provision shall not be construed as a prohibition or
29 restriction on the power of the Authority to create pledges, mortgages and other
30 voluntary liens or encumbrances on any asset or property of the Authority. Except as
31 expressly authorized by the President of the Philippines, the total outstanding

1 indebtedness of the Authority in the principal amount, in local and foreign currency,
2 shall not, at any given time, exceed the net worth of the Authority.

3 The President or his duly authorized representative, after consultation with
4 the Secretary of Finance, may guarantee, in the name and on behalf of the Republic
5 of the Philippines, the payment of the loans or other indebtedness of the Authority
6 up to the amount herein authorized.

7 *Sec. 18. Increase or Decrease of Rates.* – The Authority may increase or
8 decrease the rates of the dues, charges, fees or assessments collectible by the
9 Authority to protect the interest of the Government and provide a satisfactory return
10 on the Authority's assets based on the principle of cost recovery at an aggregate
11 level. The Authority may adjust the schedule of such rates so as to reflect the cost of
12 facilities or services provided or rendered. The Authority may periodically review all
13 dues, charges, fees, or assessments collectible by the Authority, and shall make such
14 adjustments to the schedule of rates as shall adequately reflect any increase in price
15 levels and (in the case of concession rentals) volume of traffic through the airports,
16 subject to applicable laws, rules and regulations.

17 *Sec. 19. Remedies for Non-Payment.* – If the owner or agent of any aircraft
18 refuses or neglects to pay on demand any rate or charges made in pursuance of
19 Section 18 hereof, the Authority may, after complying with due process
20 requirements and other formalities provided by law, impose lien on such aircraft
21 equipment or furniture belonging to the owner or agent of said aircraft, until the
22 amounts due have been paid.

23 *Sec. 20. Fines and Penalties.* – The Authority shall have the power to exact
24 reasonable administrative fines in such specific amounts and for such specific
25 violations arising out of the use of the airports, as shall be prescribed in the rules
26 and regulations which the Authority is hereby authorized to issue for such purpose.
27 The amount of fine shall not be less than One Thousand Pesos (Php 1,000.00) nor
28 more than Twenty Thousand Pesos (Php20,000.00), and shall be subject to review
29 and increase yearly as the Board may deem appropriate.

30 *Sec. 21. Tax Exemptions.* – The Authority shall be exempt from realty taxes
31 imposed by the National Government or any of its political subdivisions, agencies

1 and instrumentalities; Provided, That no tax exemption herein granted shall extend
2 to any subsidiary which may be organized by the Authority.

3 *Sec. 22. Transfer of Power and Assets.* – All powers, duties and rights vested
4 by law and exercised by CAAP relating to the planning, development, control,
5 supervision, construction, maintenance, operation, provision of services and facilities
6 and the efficient functioning of all domestic and international airports in the country
7 pursuant to Republic Act No. 9497, are hereby transferred to the Authority.

8 All assets, real and personal properties, contracts, records and documents,
9 funds and revenues owned by or vested in CAAP in relation to the powers, duties
10 and rights are herein transferred shall also be transferred to the Authority.

11 *Sec. 23. Projects in Progress.* – All on-going projects relating to the
12 construction of airport facilities and supply of equipment shall be administered and
13 undertaken by the Authority.

14 *Sec. 24. Transfer of Liabilities and Debts.* – Upon the transfer to and
15 acceptance by the Authority of the existing physical facilities, intangible assets and
16 completed projects referred to in the preceding sections, all debts, liabilities, and
17 obligations of the of the entities concerned and other government agencies in
18 respect of such physical facilities, tangible assets and completed projects within the
19 airports, shall likewise be assumed by the Authority.

20 *Sec. 25. Repealing Clause.* – All laws, decrees, executive orders, letters of
21 instructions, rules and regulations, or provisions thereof, which are contrary to, or
22 inconsistent with the provisions of this Act are hereby repealed, amended or
23 modified accordingly.

24 *Sec. 26. Separability Clause.* – If any clause, sentence, section or portion of
25 this Act shall be held invalid or unconstitutional by a court of competent jurisdiction,
26 such judgment shall not affect, impair or invalidate the other provisions, which shall
27 remain in full force and effect.

28 *Sec. 27. Effectivity Clause* – This Act shall take effect within fifteen (15) after
29 its complete publication in the Official Gazette or in at least two (2) national
30 newspapers of general circulation.

Approved,