

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



Senate
Office of the Secretary

'13 JUL -8 11:12

SENATE

S.B. No. **513**

RECEIVED BY: *ji*

Introduced by Senator LOREN LEGARDA

EXPLANATORY NOTE

Being an archipelagic country, the importance of ports in the Philippines cannot be undermined. Ports are instrumental in facilitating long-distance market transactions and inter-island connectivity, especially the main islands of Luzon, Visayas and Mindanao.

The Philippine Ports Authority (PPA) was created by Presidential Decree (PD) No. 857, otherwise known and cited as "*Revised Charter of the Philippine Ports Authority*," to facilitate the implementation of an integrated program for planning, development, financing, operation and maintenance of ports for the entire country. Apart from owning and operating public ports, the Philippine Port Authority was mandated to regulate private ports.

Despite the guidelines set by PD No. 857, the performance of PPA as a supervisory body of all the ports in the country is below par as manifested by insufficient and unresponsive port facilities, inefficient service delivery and declining revenues.

This bill proposes to strengthen the PPA by emphasizing its mandate as the National Port Planning Body as well as endowing the same with additional powers that will beef up its capacity to develop the ports system. It likewise proposes to ensure a more systematic management of the ports system in the Philippines through the formulation and implementation of a National Ports Development Plan, which shall be responsive to the needs of regional trade and economic development, compatible with the national intermodal and multi-modal transport network.

This proposed measure, being cognizant of the issues pertaining to the Philippine Ports Authority, seeks to amend certain provisions of PD 857 to facilitate:

- A competitive environment among port districts in the country;
- Efficiency in port services taking into account the physical composition and/or restriction of ports, vessels and cargo traffic;
- Expanded contribution of the private sector in the development, management and operations of the ports; and

- Port privatization excluding the sale or transfer or ownership of port assets or facilities.

In view of the foregoing considerations, approval of this bill is earnestly sought.



LOREN LEGARDA
Senator

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AN ACT
STRENGTHENING AND STREAMLINING THE PHILIPPINE PORTS
AUTHORITY, AMENDING FOR THE PURPOSE PRESIDENTIAL DECREE NO.
857 AS AMENDED, OTHERWISE KNOWN AS THE REVISED CHARTER OF
THE PHILIPPINE PORTS AUTHORITY

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

SECTION 1. Section 2 Presidential Decree No. 857 is hereby amended by
adding Paragraphs (g) and (h) to read as follows:

"SECTION 2. Declaration of Policies and Objectives.

a) xxx

xxx

xxx

xxx

G.) TO FOSTER VIABLE COMPETITION AMONG PORTS AND
ENSURE EFFICIENT PROVISION OF PORT SERVICES TAKING
INTO CONSIDERATION THE PHYSICAL CONFIGURATION OR
CONSTRAINT OF THE PORTS, VESSEL AND CARGO TRAFFIC
SUCH OTHER RELEVANT FACTOR;

H.) TO ENCOURAGE PRIVATIZATION AND EXPAND THE
PARTICIPATION OF THE PRIVATE SECTOR IN THE
DEVELOPMENT, MANAGEMENT AND OPERATIONS OF THE
PORTS THROUGH THE BUILD, OPERATE THE TRANSFER
SCHEME OR ITS VARIANTS, JOINT VENTURES OR SUCH OTHER
SCHEMES AUTHORIZED BY THIS ACT OR SUCH OTHER LAWS
AND EXISTING POLICIES; PROVIDED, THAT PORT
PRIVATIZATION SHALL NOT INCLUDE THE SALE OR TRANSFER
OR OWNERSHIP OF PORT ASSETS OR FACILITIES."

SECTION 2. Section 3 of the same Decree is hereby amended by adding paragraphs v, w and x to read as follows:

SECTION 3. *Definitions.*- xxx

a) xxx

xxx xxx xxx

V) "PORT SYSTEM" INCLUDES GOVERNMENT PORTS, WHICH, AS DETERMINED BY THE AUTHORITY ON THE BASIS OF CARGO, VESSEL, AND PASSENGER TRAFFIC, STRATEGIC LOCATION AND DEVELOPMENT POTENTIALS, CAN PROVIDE EFFECTIVE AND ECONOMICAL TRANSPORT FOR GOODS AND PASSENGERS;

W) "SUBSIDIARY" REFERS TO A CORPORATION ORGANIZED BY THE AUTHORITY IN ACCORDANCE WITH THE CORPORATION CODE OF THE PHILIPPINES TO DEVELOP, MAINTAIN, MANAGE AND OPERATE PORTS AND PORT SERVICES AS A FINANCIALLY AUTONOMOUS ENTITY;

X) "JOINT VENTURE" REFERS TO THE CORPORATION OR ENTITY ORGANIZED UNDER EXISTING LAWS, WITH THE AUTHORITY AS THE MINORITY STOCKHOLDER AND THE PRIVATE SECTOR AS THE MAJORITY STOCKHOLDER, WHICH SHALL DEVELOP, MAINTAIN, MANAGE AND OPERATE PORT OR PORT SERVICES AS COMMERCIAL ENTERPRISES."

SECTION 3. Section 4 of the same decree is hereby amended by inserting a new paragraph b redesignating paragraph (b) as paragraph (c) to read as follows:

SEC 4. *Creation of Philippine Ports Authority.* - xxx

a) xxx

B) THE AUTHORITY SHALL, IN ADDITION TO ITS POWERS AND JURISDICTION OVER THE DEVELOPMENT, MAINTENANCE, MANAGEMENT, AND OPERATIONS OF PORTS, SERVE AS THE NATIONAL PORT PLANNING BODY. EXCEPT FOR THE MILITARY, OTHER GOVERNMENT AGENCIES SUCH AS THE PHILIPPINE FISHERIES DEVELOPMENT AUTHORITY, DEPARTMENT OF

TRANSPORTATION AND COMMUNICATIONS, DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS, CEBU PORT AUTHORITY, LOCAL GOVERNMENT UNITS, AND OTHER INDUSTRIAL ESTATES OR SPECIAL ECONOMIC ZONES INVOLVED IN THE DEVELOPMENT OR CONSTRUCTION OF PORTS SHALL COORDINATE WITH THE AUTHORITY ON THEIR PORT PLANS AND PROGRAMS."

SECTION 4. Section 5 of the same Decree is hereby amended to read as follows:

SEC 5. *Port [District] System* - [The authority may from time to time submit to the President, through the National Economic and Development Authority, application for the declaration of specific areas as Port Districts. Such applications shall be accompanied by a survey plan indicating the geographical location of the area or areas to be declared as Port Districts with their respective boundaries properly delineated.] **THE AUTHORITY SHALL ESTABLISH AND ADMINISTER A PORT SYSTEM COMPRISING OF VITAL PORTS SYSTEM COMPRISING OF VITAL PORTS CRITICAL FOR THE TRADE AND TRANSPORT NETWORK OF THE COUNTRY.**

THE NATIONAL PORT SYSTEM SHALL COMPRISE ALL PORTS IN THE COUNTRY, WHETHER OWNED BY THE GOVERNMENT OR UNDER PRIVATE OWNERSHIP AND WHETHER OPERATED COMMERCIALY OR FOR A SPECIAL PURPOSE. THE AUTHORITY SHALL HAVE JURISDICTION ON ALL PORTS INTENDED OR USED FOR COMMERCIAL PURPOSE OR THOSE BUILT PRIMARILY FOR RECEIVING VESSELS FOR THE PURPOSE OF LOADING OR DISCHARGING PASSENGERS AND CARGOES. PORTS DEVELOPED OR CONSTRUCTED BY OTHER AGENCIES OF THE GOVERNMENT SHALL FALL UNDER THE JURISDICTION OF THE AUTHORITY UPON THEIR FORMAL TURNOVER TO THE LATTER. A PRIVATE PORT THAT CATERS EXCLUSIVELY FOR THE TRANSPORT NEEDS OF ITS OWNER OR

OPERATOR SHALL LIKEWISE FALL UNDER THE JURISDICTION OF THE AUTHORITY.

SECTION 5. Sub-paragraphs (i), (vii) and (viii) of Section 6 (a) of the same Decree are hereby amended, a new sub-paragraph(ix) is added and sub-paragraphs (ix) and (x) are renumbered as sub-paragraphs (x) and (xi), respectively, to read as follows:

"Sec. 6 Corporate Powers and Duties.

The Corporate powers of the Authority shall be:

(i) To formulate in coordination with the DOTC, National Economic Development Authority (NEDA) and DPWH, a comprehensive [and practicable] **NATIONAL PORTS DEVELOPMENT PLAN (NDPC)** [for the state and to program its implementation, renew and update the same annually in coordination with other national agencies] **RESPONSIVE TO THE NEEDS OF TRADE AND REGIONAL ECONOMIC DEVELOPMENT AND COMPATIBLE WITH THE NATIONAL INTERMODAL AND MULTIMODAL TRANSPORT NETWORK;**

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(vii) **TO CONTROL OR ADMINISTER ANY FORESHORE RIGHTS OR LEASES, INCLUDING THE PORT FACILITIES AND IMPROVEMENTS THEREON WHICH ARE DELINEATED IN COORDINATION [coordinate] with the Bureau of Lands AND DECLARED BY THE PRESIDENT AS PORT ZONE [or any other government agency or corporation in the development of any foreshore area]. EXISTING LEASES ON FORESHORE AREAS DEVOTED TO PORT DEVELOPMENT AND OPERATIONS ARE HEREBY TRANSFERRED FROM THE BUREAU OF LAND MANAGEMENT TO THE AUTHORITY.**

(viii) To control, regulate and supervise pilotage [and the conduct of pilots in any Port District] **SERVICES BY:**

- 1. DETERMINING PILOTAGE SERVICES AND FEES;**
- 2. ACCREDITING QUALIFIED HARBOR PILOTS, AND PILOTAGE ORGANIZATIONS; AND**

3. IDENTIFYING WHAT PORT IN THE COUNTRY SHALL BE UNDER COMPULSORY OR OPTIONAL PILOTAGE.

(ix) TO ENSURE SAFE AND EFFICIENT NAVIGATION, THE AUTHORITY SHALL PROVIDE WITHIN THE PORT LIMITS SUCH NAVIGATIONAL AIDS AND LIGHTHOUSE AND COMMUNICATION SERVICES AND STRUCTURES WHICH SHALL BE ALLOCATED AND GRANTED EXCLUSIVE RADIO FREQUENCY LINE BY THE GOVERNMENT.

~~[(IX)]~~ **(x)** To provide or assist in the provision of training programs and users for the efficient discharge of its functions and duties, and responsibilities.

~~[(x)]~~ **(xi)** To perform such acts or provide such services as may be deemed proper or necessary to carry out and implement the provisions of this decree.

SECTION 6. Sub-paragraph (v), and (x) of Section 6 (b) of the same decree are hereby amended, new sub-paragraphs (xv), (xvi), and (xvii) are added and sub-paragraph (xv) and (xvi) are hereby renumbered as (xviii) and (xix), respectively, to read as follows:

“(v) To create, REORGANIZE OR ABOLISH OFFICES, DETERMINE STAFFING PATTERN AND NUMBER OF PERSONNEL AND STAFF THE ORGANIZATION WITH APPROPRIATE AND QUALIFIED PERSONNEL, [or alter its own organization or any Port Management Unit, and staff such an organization or Port Management Unit with appropriate and qualified personnel] in accordance with what may be deemed [proper or] necessary to achieve the objectives of the Authority.

ANY OFFICIAL OR EMPLOYEE WHO MAYBE REMOVED BY REASON OR REORGANIZATION SHALL, IN ADDITION TO THE BENEFITS UNDER EXISTING RETIREMENT LAWS, BE GRANTED NOT LESS THAN THREE (3) MONTHS BASIC SALARY FOR EVERY YEAR OF SERVICE.

(w) xxx

(x) To [reclaim,] excavate, enclose or raise any part of the lands FOR PORT-RELATED PURPOSES, ON ITS OWN OR THROUGH A PRIVATE DEVELOPER, UNDER SUCH ARRANGEMENT AS THE AUTHORITY MAY DEEM PROPER. THE AREAS THUS RECLAIMED SHALL BE ELIGIBLE FOR TITLING IN THE NAME OF THE AUTHORITY OR THE PRIVATE DEVELOPER [vested in the Authority].

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(xv) TO ISSUE PERMIT FOR THE CONSTRUCTION OF PORT STRUCTURES. IN PARTICULAR, TO ENCOURAGE THE ESTABLISHMENT AND OPERATION OF PRIVATE PORTS; PROVIDED, THAT THE OPERATION AND MAINTENANCE THEREOF SHALL BE DIRECTLY CONNECTED TO AND IS AN INTEGRAL PART OF THE PRINCIPAL BUSINESS OF THE PRIVATE PORT OPERATOR.

(xvi) TO UNDERTAKE CONSTRUCTION OF PORT FACILITIES AND PROVIDE SERVICES. FOR THIS PURPOSE, ANY RESTRAINING ORDER OR INJUNCTION AGAINST THE AUTHORITY SHALL BE ISSUED ONLY BY THE SUPREME COURT, NOT BY LOWER COURTS.

(xvii) TO ENSURE AMPLE PROTECTION TO PORT LABOR FORCE IN CASE OF CHANGE IN THE MANAGEMENT AND OPERATIONS OF CARGO HANDLING AND PORT SERVICES, THE LABOR FORCE OF THE OUTGOING CARGO HANDLING AND PORT SERVICE OPERATOR SHALL, AS FAR AS PRACTICABLE, BE ENTITLED TO THE FOLLOWING:

1. ABSORPTION FOR EMPLOYMENT BY THE INCOMING PORT SERVICE OPERATOR;
2. PURCHASE EQUITY STOCK NOT TO EXCEED TWENTY (20%) PERCENT OF THE AUTHORIZED CAPITAL STOCK OF THE INCOMING PORT SERVICE OPERATOR;
3. PAYMENT BY THE OUTGOING SERVICE OPERATOR OF THE BENEFITS WHICH HAVE ACCRUED TO THE LABOR FORCE UP TO THE TIME OF THE TRANSFER OR

ABSORPTION BY THE NEW OPERATOR, IN ACCORDANCE WITH LABOR AND SOCIAL LEGISLATIONS AND OTHER APPLICABLE LAWS. SAID BENEFITS SHALL CONSTITUTE A LIEN ON THE ASSETS AND EQUIPMENT OF THE OUTGOING CARGO HANDLER AND PORT SERVICE OPERATOR WHICH THE AUTHORITY SHALL TAKE INTO CUSTODY AND PROPERLY DISPOSE OF TO SATISFY THE LIEN.

4. CREATE A PORT WORKER AMELIORATION FUND (PWF) WHICH SHALL BE ADMINISTERED AND MAINTAINED BY THE AUTHORITY TOGETHER WITH REPRESENTATIVES FROM THE CARGO HANDLER'S ORGANIZATION OR PORT OPERATOR AND THE LABOR FORCE.

[(xv)] (xviii) xxx

[(xv)] (xix) xxx

SECTION 7. Sub-paragraph (ix) of Section 7 (a) of the same Decree and Section 7(c) are hereby further amended to read as follows:

"Sec. 7. Board of Directors

a) xxx

xxx xxx xxx

(ix) **THREE (3)** [One (1)] **PRIVATE SECTOR REPRESENTATIVES** [other person] who shall be appointed by the President of the Philippines: [representing the private sector] **ONE (1) FROM THE SECTOR OF SHIOWNERS, ONE (1) FROM THE CHAMBER OF COMMERCE AND ONE (1) FROM INDUSTRY SECTOR,** who by reason of [his] **THEIR** knowledge [or] **AND** experience [is] **ARE COMPETENT TO BE MEMBERS OF THE BOARD OF DIRECTORS,** [in the opinion of the President, fit and proper person to be Director of the Board.]: **PROVIDED,** That, in the absence of the Director appointed in sub-sections (iii) to (viii) the Director concerned shall designate the officer next in rank to him in his department or office to act on his behalf as Director.

xxx xxx xxx

(c) The members of the Board or their respective alternates shall receive a per diem **AND REPRESENTATION ALLOWANCE** as [it] **THE BOARD** may approve for each [board] meeting actually attended by them: Provided, [That, such per diems shall not exceed one thousand pesos during any month for each member. Provided further; That no other allowances or any form of compensation shall be paid them except actual expenses in traveling to or from their residence to attend Board meetings] **THAT THE AMOUNT OF SUCH PER DIEM AND ALLOWANCE SHALL BE COMPARABLE TO THOSE ALLOWED BY OTHER BOARDS OF OTHER GOVERNMENT CORPORATIONS OF THE SAME SIZE AND INCOME AS THAT OF THE AUTHORITY."**

SECTION 8. Section 8 (c) of the same Decree is hereby amended, a new paragraph (d) is added and paragraphs (d),(e) and (f) are hereby designated as(e), (f) and (g), respectively, to read as follows:

"Sec. 8 Management and Staff -

a) xxx

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c.) The general manager shall, subject to the approval of the Board, determine the **ORGANIZATIONAL STRUCTURE AND** staffing pattern [and the number of personnel] of the Authority [.] **AND** define their duties and responsibilities [and] **AS WELL AS** fix their **COMPENSATION** [salaries] and **OTHER** emoluments. [For professional and technical positions, the General Manager shall recommend salaries and emoluments that are comparable to those of similar positions in other government- owned corporations, the provisions of existing rules and regulations on wage and position classification notwithstanding.] **ALL POSITIONS IN THE AUTHORITY SHALL BE GOVERNED BY A SALARY STANDARDIZATION APPROVED BY THE BOARD BASED ON A COMPREHENSIVE JOB ANALYSIS AND AUDIT OF ACTUAL DUTIES AND RESPONSIBILITIES OF THE EMPLOYEES. THE COMPENSATION PLAN SHALL BE COMPARABLE WITH PREVAILING COMPENSATION PLANS IN THE PRIVATE**

SECTOR AND SHALL BE SUBJECT TO REVIEW, WITHOUT PREJUDICE TO YEARLY MERIT INCREASE BASED ON PRODUCTIVITY AND PROFITABILITY. THE AUTHORITY SHALL BE EXEMPTED FROM REPUBLIC ACT NO. 6758, OTHERWISE KNOWN AS "THE COMPENSATION AND POSITION CLASSIFICATION ACT OF 1989" OR ANY FUTURE SALARY STANDARDIZATION LAW OR ATTRITION LAW WHICH MAY HEREINAFTER BE ENACTED.

D) THE PERSONNEL OF THE AUTHORITY WHO ARE AFFECTED BY THE CREATION OF A SUBSIDIARY, JOINT VENTURE OR TRANSFER OF THE MANAGEMENT, DEVELOPMENT, MAINTENANCE AND OPERATION FUNCTIONS OF THE PORTS OR PORT SERVICES TO THE PRIVATE SECTOR SHALL BE ENTITLED TO THE SAME BENEFITS AS THOSE AFFECTED BY THE REORGANIZATION AND SHALL BE ABSORBED BY THE PORT OPERATING FIRMS AND ENTITLED TO OR GUARANTEED WITH SECURITY OF TENURE FOR NOT LESS THAN FIVE (5) YEARS."

SECTION 9. Section 9-A of the same Decree is hereby amended to read as follows:

[d)] E) xxx

[e)] F] xxx

[f)] G] xxx"

SEC. 9-A. [National] Port Advisory Councils - There are [is hereby created as National] **SHALL BE ESTABLISHED** Port Advisory Councils **AT THE PORT DISTRICT OFFICES AND PORT MANAGEMENT OFFICES** to be composed of [the General Manager of the Philippine Ports Authority as Chairman and a representative each from the Department of Labor and Employment, the Bureau of Customs, chambers of commerce and industry, import and export associations, the local shipping companies, the foreign shipping companies, arrastre and stevedoring companies, consumer group, shippers council and such other aggrupation as the Authority may deem expedient as members, which shall act as an advisory body to

assist the Authority in the formulation of its policies.] REPRESENTATIVES FROM PPA AS CHAIRMAN, AND DOTC, LOCAL GOVERNMENT UNITS (LGUS) MARITIME INDUSTRY AUTHORITY (MARINA), PHILIPPINE COAST GUARD (PCG) AND NON-GOVERNMENTAL ORGANIZATIONS CONCERNED WITH PORT AND MARITIME SECTORS, AS MEMBERS, TO ASSIST THE AUTHORITY IN THE FORMULATION OF PORT DEVELOPMENT PLANS AND OPERATIONAL POLICIES AND RESOLUTIONS.”

SECTION 10. Section 13 (a) of the same Decree is hereby amended to read as follows:

“Sec. 13. Borrowing Powers - xxx

a) The Authority may, after consultation with the [central bank] **BANGKO SENTRAL NG PILIPINAS** and the Department of Finance, and with the approval of the President of the Philippines raise funds, either from local or international sources by way of loans, credits or securities, **AS WELL AS THE FLOTATION OF BONDS** and borrowing instruments, including the power to create pledges, mortgages and other voluntary liens or encumbrances on any of its assets or properties.”

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SECTION 11. Section 22 of the same Decree is hereby amended to read as follows:

“Sec.22. Remedies for Non- Payment- If the master, owner, or agent of any vessel refuses or neglects to pay on demand any dues, rates or charges made under this Decree or any part thereof **OR ANY DAMAGE TO PORT FACILITIES**, the Authority may, in addition to any other remedy provided by law, detain or arrest or its own authority such vessel and tackle, apparel or furniture belonging to the vessel, and detain the same until the amount or amounts due have been paid.”

SECTION 12. Section 30 of the same Decree is hereby amended by adding paragraphs(b) and (c) to read as follows:

“Sec. 30. Transfer of Existing and Completed Physical Facilities -

a) In accordance with the transitory provisions of this Decree, there shall be transferred to the Authority all existing and completed public ports facilities, quays, wharves, docks, land buildings and other property, movable or immovable, belonging to those ports declared as Port Districts for purposes of this Decree.

b) THE ADMINISTRATION, REVENUE COLLECTION, MANAGEMENT, OPERATION AND DEVELOPMENT OF GOVERNMENT PORTS WHICH ARE NOT EMBRACED OR INCLUDED IN THE PORT SYSTEMS ESTABLISHED BY THE AUTHORITY MAY, UPON THE CONCURRENCE OF THE AUTHORITY, BE DEVOLVED TO THE LOCAL GOVERNMENT UNITS.

c) PRIOR TO ANY DEVOLUTION, THE AUTHORITY SHALL ENSURE THAT THE LGU SHALL HAVE THE PROPER TRAINING TO OPERATE AND MANAGE THE DEVOLVED PORTS. DOTC AND OTHER AGENCIES WHICH HAVE FINANCED AND CONSTRUCTED PORTS ON THEIR OWN MAY TURN THEM OVER TO THE AUTHORITY FOR OPERATION. THE SAME PORTS MAY ALSO BE DEVOLVED BY THE AUTHORITY TO THE LOCAL GOVERNMENT UNITS.”

SECTION 13. *Implementing Rules and Regulations.* - The Chairman of the Authority shall, within sixty (60) days from the approval of this Act, promulgate the rules and regulations as may be necessary for the effective implementation of this Act.

SECTION 14. *Separability Clause.* - If for any reason, a section or provisions of this Act is declared to be unconditional or invalid, the other sections or provisions of this Act which are not affected thereby shall continue to be in full force and effect.

SECTION 15. *Repealing Clause.* - All laws, decrees, orders, rules and regulations or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

SECTION 16. *Effectivity.* - This shall take effect fifteen (15) days following its publication in at least two (2) national newspapers of general circulation.

Approved,