

SENATE

Senate Bill No. 440



INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

The Local Government Code (R.A. No. 7160) included in its definition of "municipal waters" inland waters and marine waters up to fifteen (15) kilometers from the coastline (Section 131 (r)) and gave municipalities/cities exclusive authority to grant fishery privileges in municipal waters. Preferential rights to fishery privileges were also given to duly registered organizations and cooperatives of marginal fisherfolk (Section 149).

The Philippine Fisheries Code (R.A. No. 8550) strengthened the jurisdiction of municipalities/cities over municipal waters (Section 16) and the preferential rights of marginal fisherfolk (Section 17). However, the actual delineation of municipal waters, specially those with offshore islands, could not be completed mainly because of the different interpretations of the phrase "including offshore islands" added in the definition of municipal waters in the Philippine Fisheries Code (Section 4(58)). The issue revolves around how to measure the 15 kilometers - whether to measure from the mainland or offshore islands.

This bill seeks to amend Section 4(58) of R.A. No. 8550 to rectify the ambiguity of the current definition by adopting the archipelagic principle in the definition of municipal waters. The archipelagic principle is enshrined in Article 1 of the 1987 Constitution and has been one of the fundamental pillars of the Philippine concept of national territory. Since the 1950s, the state has pushed this principle, which eventually led to the so-called "Archipelagic Doctrine" in international law and has become the legal and political basis for considering our 7,107 islands as one political unit. This doctrine is one of our most important contributions to the international legal system for without it, international waters will separate the widely scattered islands of our archipelago, and the Filipino nation will be deprived of the large tracts of marine resources between the islands that it has claimed since its inception.

The country's foreign policy and legal positions before the international community cannot be inconsistent with our national law and policy. If we do not apply the archipelagic principle to the component units of our country, the local government units, we would undermine the most fundamental pillar of our concept of national territory. Moreover, we would deprive municipalities/cities of the full exercise of their jurisdiction over municipal waters and the marginal fisherfolks' preferential rights over fishery resources.

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



JINGGOY EJERCITO ESTRADA
Senator

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AN ACT
AMENDING SECTION 4 (PARAGRAPH 58) OF R.A. 8550, ENTITLED: "AN
ACT PROVIDING FOR THE DEVELOPMENT, MANAGEMENT AND
CONSERVATION OF THE FISHERIES AND AQUATIC RESOURCES,
INTEGRATING ALL LAWS PERTINENT THERETO, AND FOR OTHER
PURPOSES"

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

SECTION 1. Paragraph fifty-eight (58), Section 4 of the R.A. No. 8550 is hereby amended, to read as follows:

"SEC. 4 (58). Municipal Waters - include not only streams, lakes, inland bodies of water and tidal waters within the municipality which are not included within the protected areas as defined under RA 7586 (The NIPAS Law), public forest, timber lands, forest reserves or fishery reserves, but also marine waters included between two (2) lines drawn perpendicular to the general coastline from points where the boundary lines of the municipality touch the sea at low tide and a third line parallel with the general coastline including offshore islands and fifteen (15) kilometers from such coastline.

WHERE THE TERRITORY OF A MUNICIPALITY INCLUDE SEVERAL ISLANDS, THE OUTER MOST POINTS OF SUCH ISLANDS SHALL BE USED AS BASE POINTS AND CONNECTED BY ARCHIPELAGIC BASELINES, IRRESPECTIVE OF THE LENGTHS OF SUCH BASELINES FROM THE MAIN COASTLINES.

Where two (2) municipalities are situated on opposite shores that there is less than thirty (30) kilometers of marine waters between them, the third line shall be equally distant from opposite shore of the respective municipalities."

SEC. 2. Repealing Clause. - All laws, decrees, orders, rules and regulations or parts thereof inconsistent with the Act are hereby repealed or modified accordingly.

SEC. 3. Separability Clause. - If any portion or provision of this Code is declared unconstitutional or invalid, the portions or provisions hereof, which are not affected thereby, shall continue in full force and in effect.

SEC. 4. Effectivity. -This Act shall take effect fifteen (15) days following its complete publications in at least two (2) newspapers of general circulations.

Approved,