



HOUSE OF REPRESENTATIVES

H. No. 5666

BY REPRESENTATIVES DEL MAR, GULLAS, GARCIA (P.J.), GARCIA (P.),
SYJUCO, FABIAN, MERCADO (R.) AND SARMIENTO (M.), PER
COMMITTEE REPORT NO. 1654

AN ACT STRENGTHENING THE CEBU PORT AUTHORITY,
AMENDING THEREOF CERTAIN PROVISIONS OF REPUBLIC
ACT NO. 7621, OTHERWISE KNOWN AS THE "CHARTER OF
THE CEBU PORT AUTHORITY", AND FOR OTHER PURPOSES

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

1 SECTION 1. Section 7 of Republic Act No. 7621 is hereby amended to
2 read as follows:

3 "SEC. 7. *Powers.* – The Authority shall have the power
4 and responsibility to:

5 "(a) Have perpetual succession under its corporate name
6 until otherwise provided by law;

7 "(b) Prescribe its bylaws and such rules and regulations
8 as may be found necessary to promote or enhance the business of
9 the Authority, WHICH SHALL INCLUDE, BUT NOT LIMITED TO,
10 THOSE PERTAINING TO PILOTAGE, CARGO-HANDLING,
11 SECURITY AND OTHERS;

1 “(c) Adopt and use a seal;

2 “(d) Sue and be sued in any court;

3 “(e) Enter into contracts, transactions, and undertakings
4 of whatever nature, which are necessary or incidental to its
5 functions and objectives, with any natural or juridical persons or
6 with any government institutions, domestic or foreign;

7 “(f) Acquire, own, hire, use, operate and dispose of
8 personal property and to acquire, own, use, lease, operate and
9 dispose of real property and interests thereon and to make
10 improvements on such real property, including the reclamation,
11 for port purposes, of foreshore and submerged lands within its
12 territorial jurisdiction; which reclaimed land shall *ipso facto* be
13 deemed transferred in ownership to the Authority; and to enter
14 into contracts with any public or private entity for such
15 reclamation under such terms and conditions as it may deem to
16 be for the public interest: **PROVIDED, FURTHER, THAT EXISTING**
17 **OR FUTURE FORESHORE LEASE AGREEMENTS (FLA) OR**
18 **SIMILAR PERMITS DEVOTED TO PORT DEVELOPMENT OR PORT**
19 **OPERATION SHALL BE TRANSFERRED TO AND OWNED BY THE**
20 **AUTHORITY UPON THE EXPIRATION OF THE FORESHORE LEASE**
21 **OR PERMIT;**

22 “(g) Purchase, hold, alienate, mortgage, pledge or
23 otherwise dispose of the shares of the capital stock of, or any
24 bond, security or other evidences of indebtedness created by any
25 other corporation or copartnership of this or any other country,
26 and while the owner of said stock, to exercise all the rights of
27 ownership, including the right to vote thereon;

28 “(h) Exercise the right of eminent domain;

1 “(i) Exercise all other powers not contrary to law which
2 *may be necessary or incidental* to the effectuation of its
3 authorized purposes or to the exercise of any of the foregoing
4 powers, except the power to levy taxes or assessments and, in
5 general to exercise in connection with property within its control
6 all powers which may be exercised by a natural or juridical
7 *person over its property and affairs;*

8 “(j) Levy dues and impose rates and charges for the use
9 of the premises, works, appliances, facilities, or for services
10 provided by or belonging to the Authority, or any other
11 organization concerned with port operations;

12 “(k) Make expenditures in foreign countries to pay
13 commissions and hire or contract experts and consultants, both
14 foreign and local;

15 “(l) Make expenditures for promotion of the business
16 affairs of the Authority[, and];

17 “(m) [Exercise all the powers of a corporation under the
18 Corporation Law insofar as they are not inconsistent with the
19 provisions of this Act.] **EXERCISE POLICE AUTHORITY WITHIN**
20 **THE PORTS ADMINISTERED BY THE AUTHORITY AS MAY BE**
21 **NECESSARY TO CARRY OUT ITS POWERS AND FUNCTIONS AND**
22 **ATTAIN ITS PURPOSES AND OBJECTIVES WITHOUT PREJUDICE**
23 **TO THE EXERCISE OF THE FUNCTIONS OF THE BUREAU OF**
24 **CUSTOMS AND OTHER LAW ENFORCEMENT BODIES WITHIN**
25 **THE AREA. SUCH POLICE AUTHORITY SHALL INCLUDE THE**
26 **FOLLOWING:**

27 “(1) **TO PROVIDE SECURITY TO CARGOES, PORT**
28 **EQUIPMENT, STRUCTURE, FACILITIES, PERSONNEL AND**

1 DOCUMENTS: *PROVIDED, HOWEVER*, THAT IN THE PORTS OF
2 ENTRY, PHYSICAL SECURITY TO IMPORT AND EXPORT
3 CARGOES SHALL BE THE SOLE AUTHORITY OF THE BUREAU OF
4 CUSTOMS;

5 “(2) TO REGULATE THE ENTRY TO, EXIT FROM, AND
6 MOVEMENT WITHIN THE PORT OF PERSONS AND VEHICLES AS
7 WELL AS THE MOVEMENT WITHIN THE PORT OF WATERCRAFT;

8 “(3) TO MAINTAIN PEACE AND ORDER INSIDE THE
9 PORT, IN COORDINATION WITH THE LOCAL POLICE
10 AUTHORITIES;

11 “(4) TO SUPERVISE PRIVATE SECURITY AGENCIES
12 OPERATING WITHIN THE PORT AREA;

13 “(5) TO DEPUTIZE OTHER LAW ENFORCEMENT
14 AGENCIES TO ASSIST THE AUTHORITY IN THE ENFORCEMENT
15 OF ITS ORDERS, DIRECTIVES, POLICIES AND RULES AND
16 REGULATIONS; AND

17 “(6) TO ENFORCE RULES AND REGULATIONS
18 PROMULGATED BY THE AUTHORITY PURSUANT TO LAW.

19 “(N) CONTROL, REGULATE AND SUPERVISE PILOTAGE
20 AND THE CONDUCT OF PILOTS IN THE PORTS WITHIN ITS
21 TERRITORIAL JURISDICTION; AND

22 “(O) EXERCISE ALL THE POWERS OF A CORPORATION
23 UNDER THE CORPORATION LAW INSOFAR AS THEY ARE NOT
24 INCONSISTENT WITH THE PROVISIONS OF THIS ACT.”

25 SEC. 2. Section 8 of Republic Act No. 7621 is hereby amended to read
26 as follows:

27 “SEC. 8. *Governing Body*. – The powers and functions
28 of the Authority shall be vested in and exercised by a Cebu Port
29 Commission composed of a Chairman, a Vice-Chairman and

1 ~~[five (5)] SEVEN (7)~~ other Commissioners. The Chairman shall
 2 be the Secretary of the Department of Transportation and
 3 Communications or his duly designated undersecretary. ~~[The~~
 4 Vice-Chairman, who shall be designated as the Cebu Port
 5 General Manager, shall be elected by the Commissioners from
 6 among themselves.] **THE GENERAL MANAGER SHALL BE THE**
 7 **EX OFFICIO VICE-CHAIRMAN OF THE COMMISSION.**

8 **“THE GOVERNOR OF THE PROVINCE OF CEBU AND THE**
 9 **LOCAL CHIEF EXECUTIVE OF THE HIGHLY URBANIZED CITY OR**
 10 **INDEPENDENT COMPONENT CITY WHERE THE MAJORITY OF**
 11 **THE PORT FACILITIES WITHIN THE JURISDICTION OF THE**
 12 **COMMISSION ARE LOCATED SHALL BE EX OFFICIO MEMBERS.**

13 “The ~~FIVE (5)~~ Commissioners shall be appointed by the
 14 President of the Philippines, **UPON THE RECOMMENDATION OF**
 15 **THE GOVERNANCE COMMISSION FOR GOVERNMENT-OWNED**
 16 **OR -CONTROLLED CORPORATIONS (GCG),** and shall represent
 17 the following sectors:

18 “(a) ~~TWO (2)~~ REPRESENTATIVES FROM THE
 19 **[S]**shipowners and shipping operators;

20 “(b) ~~TWO (2)~~ REPRESENTATIVES FROM THE
 21 **[C]** Cargo-handling labor sector; and

22 “(c) ~~ONE (1)~~ REPRESENTATIVE FROM THE **[B]**business
 23 sector.”

24 SEC. 3. Section 9 of Republic Act No. 7621 is hereby amended to read
 25 as follows:

1 “SEC. 9. *Powers and Functions of the Commission.* –

2 The powers and functions of the Cebu Port Commission shall be
3 as follows:

4 “(a) To manage, administer, operate, maintain, improve
5 and develop, coordinate and otherwise govern the activities of all
6 the ports within its territorial jurisdiction;

7 “(b) To investigate, prepare, adopt, implement and
8 execute a comprehensive and orderly plan for the overall
9 development of all ports within its territorial jurisdiction, and to
10 update such plans, as may be warranted from time to time;

11 “(c) To raise revenues for the Authority through fees,
12 tolls, charges, rentals and the like for the use of any property,
13 equipment or facility owned or controlled by it;

14 “(d) To raise and administer, together with such revenues
15 as may by law accrue to the Authority, capital outlays by means
16 of loans from any local or foreign financial institution to finance
17 its projects;

18 “(e) To determine by survey and establish by engineering
19 design the exact location, system and character of any and all
20 port facilities which it may own, construct, establish, effectuate,
21 operate or control;

22 “(f) To provide and maintain port facilities including
23 accessory buildings and installations within its territorial
24 jurisdiction on its own or through the private sector;

25 “(g) To prescribe and enforce rules and regulations on
26 the use of wharves, piers and anchorages by ships and other
27 watercraft;

1 “(h) To determine the organization of the Authority,
2 **REORGANIZE OR ABOLISH OFFICES** and create such functional
3 units therein as it may deem necessary in the proper and efficient
4 implementation of the functions and purposes of the Authority,
5 including the appointment of officials and employees[, it being
6 understood that the security of tenure of these workers shall be
7 respected consistent with existing laws]; **PROVIDED, THAT ANY**
8 **OFFICIAL OR EMPLOYEE WHOSE POSITION MAY BE ABOLISHED**
9 **BY REASON OF THE REORGANIZATION OF OFFICE SHALL BE**
10 **ALLOWED TO RETIRE UNDER EXISTING RETIREMENT LAWS TO**
11 **WHICH THEY ARE QUALIFIED: PROVIDED, FURTHER, THAT**
12 **THOSE WHO ARE NOT QUALIFIED UNDER ANY EXISTING**
13 **RETIREMENT LAW SHALL BE PAID SEPARATION BENEFITS IN**
14 **ACCORDANCE WITH EXISTING LAWS, RULES AND**
15 **REGULATIONS;**

16 “(i) To define the duties and fix the compensation and
17 benefits of the general manager, deputy general manager, port
18 managers, and other officers of the Authority, in accordance with
19 the rules and regulations of the Civil Service Commission and
20 the Department of Budget and Management;

21 “(j) To **REVIEW AND** approve the annual [budget]
22 **ESTIMATES OF INCOME AND EXPENDITURES AND ESTIMATES**
23 **OF CAPITAL EXPENDITURE** of the Authority and/or such
24 supplemental budgets thereof as may be submitted by the general
25 manager from time to time; [and]

26 “(k) [To perform such other duties as may be necessary
27 and convenient for the attainment of the objectives of the

1 Authority.] TO DEREGULATE THE CARGO-HANDLING SERVICES
2 TO ENHANCE GLOBAL COMPETITIVENESS;

3 “(L) TO ISSUE CEASE AND DESIST ORDERS AGAINST ANY
4 PERSON OR ENTITY THAT OPERATES A PORT OR ENGAGES IN
5 PORT OPERATIONS AND OTHER PORT-RELATED ACTIVITIES
6 WITHOUT HAVING FIRST SECURED A PERMIT AND/OR
7 ACCREDITATION FROM THE AUTHORITY OR IN VIOLATION OF
8 THE RULES AND REGULATIONS OF THE AUTHORITY; AND

9 “(M) TO PERFORM SUCH OTHER DUTIES AS MAY BE
10 NECESSARY AND CONVENIENT FOR THE ATTAINMENT OF THE
11 OBJECTIVES OF THE AUTHORITY.”

12 SEC. 4. Section 10 of Republic Act No. 7621 is hereby amended to
13 read as follows:

14 “SEC. 10. *Term of Office.* – The members of the Cebu
15 Port Commission shall be appointed for a term of [three (3)
16 years] ONE (1) YEAR, UNLESS SOONER REMOVED FOR CAUSE:
17 *PROVIDED, HOWEVER, THAT THE APPOINTIVE DIRECTOR*
18 *SHALL CONTINUE TO HOLD OFFICE UNTIL THE SUCCESSOR IS*
19 *APPOINTED: Provided, FURTHER,* That any person appointed to
20 fill a vacancy shall hold office only for the unexpired term of the
21 Commissioner whom he succeeds. THOSE SERVING IN AN *EX*
22 *OFFICIO* CAPACITY SHALL SERVE AS MEMBERS OF THE
23 COMMISSION THROUGHOUT THE DURATION OF THEIR TERM
24 OF OFFICE.”

25 SEC. 5. Section 12 of Republic Act No. 7621 is hereby amended to
26 read as follows:

1 “SEC. 12. *General Manager.* – The management of the
2 day-to-day business and operations of the Authority shall be
3 under the direction and control of the general manager WHO
4 **SHALL BE APPOINTED BY THE PRESIDENT OF THE REPUBLIC**
5 **OF THE PHILIPPINES FROM A SHORT LIST OF RECOMMENDEES**
6 **BY THE GCG. [He]THE GENERAL MANAGER** shall have the
7 following powers and duties:

8 “(a) To manage, direct and supervise the operations and
9 internal administration of the Authority, subject to the control
10 and supervision of the Commission;

11 “(b) To prepare all memoranda pertaining to each and
12 every item in the agenda for the meetings of the Commission and
13 to submit for the consideration thereof such proposals or
14 recommendations which he believes to be necessary to carry out
15 effectively and beneficially the business of the Authority;

16 “(c) To implement the policies and administer the
17 measures approved by the Commission;

18 “(d) To devise the executive organization pattern of the
19 Authority, submit from time to time to the Commission the
20 corresponding organizational and functional charts, and enforce
21 the executive elements thereof;

22 “(e) To appoint and employ the services of subordinate
23 officials and employees, subject to the confirmation of the
24 Commission;

25 “(f) To prepare and submit to the Commission budget
26 proposals of all kinds; and

1 “(g) To perform such other duties and exercise such
2 other powers as may be directed or authorized specifically by the
3 Commission.”

4 SEC. 6. Section 15 of Republic Act No. 7621 is hereby amended to
5 read as follows:

6 “SEC. 15. *Supplies and Services Other Than Personal.* --
7 All purchases or contracts for services, except for personal
8 services, entered into by the Authority shall be done only after
9 public bidding therefor is held: *Provided*, That such bidding
10 may NOT be required when an emergency, as explained and
11 certified to by the general manager, requires immediate delivery
12 of the supplies or performance of the services and the unit costs
13 or prices of such emergency procurement do not exceed the
14 latest costs or prices paid by the Authority for the same or similar
15 goods or services: *Provided, further*, That the general manager
16 shall report under oath to the Commission the details of any such
17 emergency procurement within two (2) weeks after its
18 consummation, including a statement of assurance that the
19 transaction constitutes the best arrangement possible under the
20 circumstances.”

21 SEC. 7. Section 19 of Republic Act No. 7621 is hereby amended to
22 read as follows:

23 “SEC. 19. *Bond Limits.* -- The bonds that may be issued
24 by the Authority shall in no case exceed the total [amount of One
25 billion pesos (P1,000,000,000)] **VALUE OF ALL ITS EXISTING**
26 **ASSETS**: *Provided*, That no single issue shall be made if at least
27 seventy percent (70%) of the immediately preceding issue is not
28 yet sold.

1 “The bonds shall be issued only in such amounts as will
2 be needed at only one (1) integral operation not exceeding one
3 (1) year duration, taking into account the state at which said
4 bonds may be absorbed by the buying public and the fund
5 requirements of the project ready for execution, and considering
6 further a proper balance between productive and nonproductive
7 projects so that inflation shall be held to a minimum.”

8 SEC. 8. Insert new Sections 27, 28, 29, 30, 31 and 32 after Section 26
9 of Republic Act No. 7621 and redesignate Sections 27, 28 and 29 to Sections
10 33, 34 and 35. Sections 27, 28, 29, 30, 31 and 32 shall read as follows:

11 “**SEC. 27. MODE OF GRANTING CONTRACTS OR**
12 **PERMITS. – TO PROMOTE TRANSPARENCY, ALL CONTRACTS**
13 **OR PERMITS FOR THE OPERATION AND MANAGEMENT OF**
14 **CARGO-HANDLING SERVICES SHALL BE GRANTED BY THE**
15 **AUTHORITY THROUGH PUBLIC BIDDING IN ACCORDANCE WITH**
16 **REPUBLIC ACT NO. 9184, OTHERWISE KNOWN AS THE**
17 **“GOVERNMENT PROCUREMENT REFORM ACT”: PROVIDED,**
18 **THAT THE AUTHORITY MAY GRANT PROVISIONAL**
19 **CARGO-HANDLING PERMITS WITH A TERM NOT TO EXCEED**
20 **ONE (1) YEAR IN CASE OF EMERGENCIES OR WHEN DEEMED TO**
21 **BE FOR PUBLIC INTEREST OR BENEFIT, SUBJECT TO THE**
22 **GUIDELINES ISSUED BY THE AUTHORITY.”**

23 “**SEC. 28. WITHDRAWAL OF EXEMPTION FROM DUES,**
24 **FEES AND CHARGES. – NOTWITHSTANDING ANY PROVISION**
25 **OF LAW TO THE CONTRARY, EXEMPTION FROM DUES, FEES,**
26 **CHARGES AND OTHER SUMS GRANTED TO OR PRESENTLY**
27 **ENJOYED BY ANY PERSON, WHETHER NATURAL OR JURIDICAL,**
28 **IS HEREBY WITHDRAWN UPON THE EFFECTIVITY OF THIS**
29 **ACT.”**

1 **“SEC. 29. EXEMPTION/REDUCTION OF DUES, RATES OR**
2 **CHARGES. – THE CEBU PORT COMMISSION MAY WAIVE OR**
3 **REDUCE DUES, RATES OR CHARGES BEING IMPOSED, UNDER**
4 **SUCH TERMS AND CONDITIONS AS IT MAY DEEM NECESSARY.”**

5 **“SEC. 30. PENALTY. – ANY PERSON WHO VIOLATES**
6 **ANY PROVISION OF THIS ACT SHALL BE PUNISHED BY A FINE OF**
7 **NOT LESS THAN FIVE THOUSAND PESOS (P5,000.00) BUT NOT**
8 **MORE THAN TWO HUNDRED THOUSAND PESOS**
9 **(P200,000.00) OR SUFFER IMPRISONMENT OF NOT LESS THAN**
10 **ONE (1) MONTH BUT NOT MORE THAN SIX (6) MONTHS, OR**
11 **BOTH, AT THE DISCRETION OF THE COURT. IN CASE THE**
12 **VIOLATION IS COMMITTED BY A CORPORATION, COMPANY OR**
13 **ENTITY, ITS DIRECTORS, OWNERS AND/OR MANAGERS SHALL**
14 **LIKewise BE LIABLE FOR SUCH VIOLATION.”**

15 **“SEC. 31. PROHIBITION TO RESTRAINING ORDER/**
16 **INJUNCTION. – NO OFFICE OR COURT, EXCEPT THE SUPREME**
17 **COURT, MAY ISSUE A TEMPORARY RESTRAINING ORDER OR**
18 **WRIT OF PRELIMINARY INJUNCTION OR ANY INJUNCTIVE WRIT**
19 **AGAINST THE AUTHORITY IN CONNECTION WITH ITS**
20 **OPERATION AS A PUBLIC UTILITY, INCLUDING ARRASTRE AND**
21 **STEVEDORING, AND AS REGARDS ANY OF ITS INFRASTRUCTURE**
22 **PROJECTS.”**

23 **“SEC. 32. TRANSITORY PROVISION. – THE EX OFFICIO**
24 **MEMBERS SHALL ASSUME OFFICE IMMEDIATELY UPON THE**
25 **EFFECTIVITY OF THIS ACT. THE INCUMBENT COMMISSIONERS**
26 **SHALL CONTINUE TO SERVE AS SUCH UNTIL REPLACED OR**

1 **REAPPOINTED BY THE PRESIDENT OF THE PHILIPPINES FROM**
2 **A SHORT LIST PREPARED BY THE GCG.”**

3 SEC. 9. *Separability Clause.* -- If any provision of this Act or the
4 application of such provision to any person or circumstance is declared
5 unconstitutional, the remainder of this Act or the application of such provision
6 to other persons or circumstances shall not be affected by such declaration.

7 SEC. 10. *Repealing Clause.* -- All laws, executive orders, letters of
8 instruction, rules and regulations or provisions thereof which are inconsistent
9 with the provisions of this Act are hereby repealed, amended or modified
10 accordingly.

11 SEC. 11. *Effectivity Clause.* -- This Act shall take effect fifteen (15)
12 days after its publication in the *Official Gazette* or in at least two (2) national
13 newspapers of general circulation.

Approved,

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