

AN ACT CREATING THE SAN FERNANDO PORT AUTHORITY, DEFINING ITS POWERS AND FUNCTIONS, AND FOR OTHER PURPOSES.

REPUBLIC ACT NO. 4567, June 19, 1965

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

SECTION 1. Declaration of Policy.—The Congress hereby finds, determines, and declares that it is necessary and objective to public interest and the promotion of the general welfare to administer, manage, develop, improve, integrate, coordinate and otherwise mobilize terminal facilities in certain areas thru a self-autonomous public-benefit corporation organized and empowered to produce an efficient, safe, economical and coordinated system of movement of goods and persons thru the port.

SEC. 2. Creation of Port Authority.—There is hereby created a public-benefit corporation to be known as the San Fernando Port Authority, hereinafter referred to as the Authority, which shall be organized by the President of the Philippines within six months after the approval of this Act and governed under the provisions of the same. The Authority shall be under the supervision of the President of the Philippines.

SEC. 3. Definitions of Terms.—For the purposes of this Act and of the by-laws promulgated thereunder, certain terms shall, unless the context indicates otherwise, mean, or be understood to be, as follows:

- "Terminal facility" shall include the seaport and its accessories of wharves, piers, slips, docks, dry docks, bulkheads, basins, warehouses, cold storage, and loading-unloading equipment; bus terminals and accessories; rail terminals and accessories; and air terminals and accessories.
- "Transportation facility" includes rails and rail cars, highways, wheeled vehicles, bridges, tunnels, tramways, subways, passenger or cargo boats, ferry boats, lighters, tags, barges, scows, harbor craft of any kind, aircraft, runways, ramps, taxi-ways, and any other kind of facility now in use or hereafter designated for use of the transportation or carriage of persons or goods.
- "Port District" means territorial jurisdiction of the Authority.
- "Pier head line" means the limiting line beyond which piers may not be extended.
- "Bulkhead line" means the limiting line beyond which no bulkheads or solid fill may be extended.
- "Harbor line" means the limiting line beyond which no piers, wharves, bulkheads or other works shall be extended or any deposits made.
- "Navigable waters" means all navigable portions of the seas, estuaries and inland waterways.
- "Wharf" means a continuous structure built parallel to or along the margin of the sea or alongside river banks, canal or other waterways where vessels may lie alongside to receive and discharge cargo or passengers, or lie at rest.

- "Pier" includes any stage, stair, landing place, landing stage, jetty, floating barge or pontoon and any bridge or other works connected therewith.
- "Dock" includes locks cuts, entrances, graving docks, inclined plances, slipways, quays, and other works and things appertaining to any dock.
- "Dry dock" means a dock from which the water can be temporarily excluded in order to repair hulls and keels of ships.
- "Bulkhead" means structure serving to divide land and water areas.
- "Basin" means a naturally or artificially enclosed or nearly enclosed body of water in free communication with the sea.
- "Warehouse" means building for storage or shed for cargo.
- "Lighter" means a large flat-bottom boat or barge used in unloading or loading vessels not lying alongside piers or wharves.
- "Anchorage" means a place with sufficient depth of water where vessels anchor or may ride at anchor within the harbor.
- "Goods" includes wares and merchandise of every description.
- "Rates" includes any toll, fee, dues, rent, rates or charge.
- "Vehicle" includes any carriage travelling on its own wheels or runners and used or intended to be used for the conveyance or carrying of persons, animals or goods.
- "Vessel" includes any ship or boat or any other description of vessel used in navigation.

SEC. 4. Territorial Jurisdiction.—The Authority shall have jurisdiction to the extent provided in this Act over a Port District composed of the area bounded by the following:

On the north, from a point 3 miles offshore due east on latitude 16° 30' .30" to a point on the west side of the road right-of-way opposite Km. Post 274 of Highway Route 3; thence, due southwest and south along the west side of the right-of-way of Route 3 to the boundary of the Poblacion of San Fernando; thence, along the west and southwest boundary of the poblacion of San Fernando to its junction with the west side of the right-of-way of the San Fernando-Madayegdeg-San Vicente Road to the point opposite Km. Post 267; thence, due west to a point 3 miles offshore; thence to a point 3 miles off-shore west of Poro Point Peninsula; and thence to the point of beginning.

In organizing the Authority as provided in Section one of this Act, the President of the Philippines may designate an initial territory smaller than that defined and bounded in this section, and in such case the expansion of such initial territory later on may be made by resolution of the Commission, approved by the President, but in no case shall such expansion extend beyond the boundaries provided in this section. All lands of the public domain within the territorial limits of the Authority, whether existing at the approval of this Act or to be reclaimed, shall be ceded to the Authority.

SEC. 5. The San Fernando Port Commission.—The duty of carrying out the provisions of this Act, of exercising the corporate powers of the Authority, and of directing its business affairs shall be vested in a port commission to be called the "San Fernando Port Commission", hereinafter referred to as the "Commission", which shall be composed and organized as provided in Section eight of this Act.

SEC. 6. Functions.—The functions and activities of the Commission shall be the following:

- Generally, to manage, administer, operate, maintain, improve and modernize, coordinate and otherwise govern the activities in San Fernando Port and in the related terminal facilities located or established, constructed, or organized under the provisions of this Act within the Port District;
- To investigate, prepare, adopt, implement and execute a comprehensive and orderly plan for the over-all development of the Port District and to up-date such plan as may be warranted from time to time;
- To raise revenue for the Authority thru fees, tolls, charges, rentals, and the like charged for the use of any property, equipment or facility owned or controlled by it; thirty per cent of the income of the Authority shall be allocated to the Special Port Works Funds;
- To produce and administer, together with such government revenues as may by law accrue to the Authority, capital outlays by means of loans from any local or foreign financial institutions to finance its projects;
- To determine by survey and establish by engineering design the exact location, system and character of any and all terminal facilities which it may own, construct, establish, effectuate, operate or control;
- To construct and maintain terminal facilities including accessory buildings and installations within the Port District;
- Subject to the paramount jurisdiction of the Republic of the Philippines, to establish and enforce regulations and specifications for the (1) full conservation and protection of navigable waters within and contiguous to the port; (2) proper designation and use of anchorages, harbor lines, pierhead lines and bulkhead lines; and (3) effective control over construction, excavation, or fill in the waters within, adjoining or proximately leading to the Port;
- To prescribe and enforce rules and regulations on the use of wharves, piers and anchorages by ships and on the movements of ships in the waters of the Port;
- To determine the organization of the Authority and create such functional units therein as it may deem necessary in the proper and efficient carrying out of the functions and purposes of the Authority, including the consideration and benefits of the officials and employees.

SEC. 7. Powers.—The Authority shall have the power and responsibility:

- To have perpetual succession under its corporate name until otherwise provided by law;
- To prescribe its by-laws and institute such amendments thereto as may be found necessary to promote or enhance the business of the Authority;
- To adopt and use a seal;
- To sue and be sued in any court;
- To enter into contracts;
- To acquire, own, hire, use, operate and dispose of personal property and to acquire, own, use, lease, operate and dispose of real property and interests thereon and to make improvements on such real property including the reclamation of submerged lands within the Port District ;
- To purchase, hold, alienate, mortgage, pledge, or otherwise dispose of the shares of the capital stock of, or any bond security, or other evidences of indebtedness created by, any other corporation or co-partnership of this or any other country, and while the owner of said stock, to exercise all the rights of ownership, including the right to

vote thereon;

- To exercise the right of eminent domain;
- To exercise all other powers not contrary to law, which may be necessary or incidental to the effectuation of its authorized purposes or to the exercise of any of the foregoing powers, except the power to levy taxes or assessments, and generally to exercise in connection with property within its control, any and all powers which may be exercised by a natural or juridical person over its property and affairs;
- To charge fees for issuing permits in amounts sufficient to cover administrative costs involved;
- To make expenditures in foreign countries, to pay commissions and hire or contract with experts and consultants both foreign and local;
- To make expenditures for the promotion of the business affairs of the Authority; and
- Generally, to exercise all the powers of a corporation under the Corporation Law insofar as they are not inconsistent with the provisions of this Act.

SEC. 8. Governing Body.—The powers and functions of the Authority shall be vested in and exercised by a Port Commission composed of a Chairman, a Vice-Chairman who shall be the Port Manager, five other directors appointed by the President of the Republic of the Philippines with the consent of the Commission on Appointments, and the Collector of Customs of the Port of San Fernando, who shall be an ex-officio member. The five directors shall each represent the mining industry, manufacturing industry, trading industry, labor, and agriculture in the region.

SEC. 9. Powers and Duties of the Port Commission.—The Commission shall have the following powers:

- To prescribe, amend, modify or repeal by-laws, rules and regulations governing the manner in which the general business of the Authority may be exercised, subject to the approval of the President of the Philippines;
- To define the duties and fix the compensation of the Port Manager, Assistant Port Manager and other officers of the Authority, subject to the approval of the President of the Philippines;
- To approve the annual budget of the Authority and/or such supplemental budgets thereof as may be submitted by the Port Manager from time to time; and
- To perform such other duties related to the welfare of the Port District.

SEC. 10. Port Manager.—The management of the business of the Authority shall be under the direction and control of a Port Manager who shall be appointed by the President with the consent of the Commission on Appointments upon the recommendation of the Secretary of Public Works and Communications from career engineers in the government service.

SEC. 11. Incidental Vacancy.—In case of concurrent vacancy in the positions of Chairman and of Port Manager or in the absence or incapacity of both, the most senior member of the Commission in point of length of service as member thereof shall act as Chairman.

SEC. 12. Terms of Office.—The five directors first appointed to the Commission shall have terms of office in such manner that two shall serve for two years, and three, including the Chairman, for four years. Thereafter, each director appointed shall serve for four years: Provided, That any person appointed to fill a vacancy shall hold office only for the unexpired term of the director whom he succeeds.

SEC. 13. Prohibition.—It shall be unlawful for any member of the Commission to directly or indirectly engage in

partisan political activity, or to be interested in any business which may be affected by or related to the exercise of the Authority's functions and powers.

SEC. 14. Prohibition Against Conflict-of-interest.—No member of the Commission shall be financially interested, directly or indirectly, in any contract entered into by the Authority or in any special privilege granted by it. Violation of this prohibition shall constitute a ground for dismissal.

SEC. 15. Application of Civil Service Laivs and Rules.—All officers and employees of the Authority shall be subject to the Civil Service Laws, rules and regulations, except those whose positions may, upon recommendation of the Port Commission, be declared by the President of the Philippines as policy determining, primarily confidential or highly technical in nature.

SEC. 16. Removal for Cause; Courtesy Resignation.—A member of the Commission may be suspended or removed by the President only for cause. No member of the Commission shall be required to submit a courtesy resignation at any time.

SEC. 17. Quorum; Per Diems and Allowances.—Four members of the Commission shall constitute a quorum for the transaction of business.

Until otherwise fixed by the Commission, the Chairman of the Commission shall receive a per diem of one hundred pesos and the four directors and the Collector of Customs shall each receive a per diem of not to exceed thirty pesos, exclusive of travelling expenses, for each day of meeting actually attended by them: Provided, That the meetings of the Commission shall not exceed four meetings a month.

SEC. 18. Appointments and Promotions.—In the appointment of officers and promotion of employees of the Authority, merit, seniority and efficiency shall serve as basis, and no political test or qualification shall be prescribed and considered for such appointments and promotions.

SEC. 19. Powers and Duties of Port Manager.—The Port Manager shall be the chief executive of the Authority and shall receive a salary of eighteen thousand pesos per annum. He shall have the following powers and duties:

- To manage, direct and supervise the operations and internal administration of the Authority, subject to the control and supervision of the Commission;
- To prepare all memoranda pertaining to each and every item in the agenda for the meetings of the Commission and to submit for the consideration thereof such proposals or recommendations which he believes to be necessary to carry out effectively and beneficially the business of the Authority;
- To execute the policies and administer the measures approved by the Commission;
- To devise the executive organizational pattern of the Authority, submit from time to time to the Commission the corresponding organizational and functional charts, and enforce the executive elements thereof;
- To appoint, and employ the services of, subordinate officials and employees, subject to the confirmation of the Commission;
- To prepare and submit to the Commission budget proposals of all kinds;
- To perform such other duties and exercise such other powers as may be directed or authorized specifically by the Commission.

SEC. 20. Executive Organization.—The activities of the Authority shall be carried out under the direct supervision of the Port Manager with the assistance of the following executive officials:

- An assistant Port Manager who shall head a Department of Engineering;
- An Executive Assistant who shall head a Department of Administration and Programming;
- An Assistant on Facilities who shall head a Department of Maintenance and Operations;
- Such other officials as the Commission may appoint for the efficient conduct of the activities of the Authority, upon recommendation of the Port Manager.

SEC. 21. Supplies and Services Other than Personal.—All purchases or contracts for services, except for personal services, entered, into by the Authority shall be done only after public bidding therefor is held: Provided, That such bidding may not be required when an emergency, as explained and certified to by the Port Manager, requires immediate delivery of the supplies or performance of the services and the unit costs, or prices of such emergency procurement do not exceed the latest costs or prices paid by the Authority for the same, or similar goods or services: Provided, further, That the Port Manager shall report under oath to the Commission the details of any such emergency procurement within two weeks after its consummation, including a statement of assurance that the transaction constitutes the best arrangement possible under the circumstances.

SEC. 22. Auditor and Personnel.—The Auditor General shall appoint a representative who shall be Auditor of the Authority, and the necessary personnel to assist said representative in the performance of his duties. The operating expenses of the auditing office and salaries of officials and employees therein shall be paid by the Authority.

SEC. 23. Power to Issue Bonds.—Whenever the Commission may deem it advisable and necessary for the Authority to incur indebtedness or to issue bonds to carry out approved capital-investment projects, it shall, by resolution, so manifest and declare, stating the purpose for which the loan or issue is to be applied and citing the Project Study devised for the purpose. In order for such resolution to be valid, it shall be passed by the affirmative vote of at least five members of the Commission and approved by the President of the Philippines upon the recommendation of the Secretary of Finance, after consultation with the Monetary Board.

SEC. 24. Bond Limits.—The Bonds that may be issued by the Authority shall in no case exceed the total amount of fifty million pesos: Provided, That no single issue shall exceed ten million pesos and that no further issue shall be made if at least seventy per cent of the immediately preceding issue is not yet sold.

The bonds shall be issued only in such amounts as will be needed at any one integral operation not exceeding one year's duration, taking into account the state at which said bonds may be absorbed by the buying public and the fund requirements of project ready for execution, and considering further a proper balance between productive and non-productive projects so that inflation shall be held to the minimum.

SEC. 25. Form, Rates of Interest, etc. of Bonds.—The Secretary of Finance, in consultation with the Monetary Board, shall prescribe the form, the rates of interest, the denominations, maturities, negotiability, convertibility, call and redemption features, and all other terms and conditions of issuance, placement, sale, servicing, redemption and payment of all bonds issued under the provisions of this Act.

The bonds issued by virtue of this Act shall be made payable both as to principal and interest in Philippine currency and shall be acceptable as security in any transaction with the Government in which such security is required.

SEC. 26. Exemption from Tax.—The Authority shall be exempt from all taxes incidental to its operations: Provided, That its subsidiary corporations shall be subject to all said taxes five years after their establishment under a graduated scale as follows: twenty per centum of all said taxes, during the sixth year, forty per centum of all taxes during the seventh year, sixty per centum of all said taxes during the eighth year; eighty per centum of all

said taxes during the ninth year, and one hundred per centum of all said taxes during the tenth year, after said establishment.

All notes, bonds and debentures and other obligations issued by the Authority shall be exempt from all taxes, both as to principal and interest.

SEC. 27. Sinking Fund.—A sinking fund shall be established in the National Treasury in such manner that the total annual contributions thereto, accrued at such rate of interest as shall be determined by the Secretary of Finance, shall be sufficient to redeem at maturity the bonds issued under this Act. Said fund shall be under the custody of the Central Bank of the Philippines which shall invest the same in such manner as the Monetary Board may approve, charging all expenses of such investments to said sinking fund and crediting the same with the interest on investments and other income belonging to it.

SEC. 28. Guarantee by the Government.—The Republic of the Philippines hereby guarantees the payment of the Authority of both the principal and the interest of the bonds, debentures, collaterals, notes or such other obligations issued by virtue of this Act, and shall pay such principal and interest in case the Authority fails to do so.

SEC. 29. Transfer of Functions, Rights, Assets, Liabilities, Personnel, etc.—All the powers vested in, and the duties heretofore prescribed by law to the various government offices, agencies and instrumentalities which are conferred under this Act to the Authority shall be transferred to the latter. Within thirty days after the organization of the Authority or earlier, the President of the Philippines shall issue an Executive Order comprehending and affecting such transfer under such terms and conditions as he shall prescribe, including the mechanics of shift of financing arrangements pertaining to the facilities affected.

The priority use of all lands and of all facilities owned by the national government, its agencies and instrumentalities, including those owned by semi-government offices or leased to foreign governments within the Port District; which are deemed by the Commission as necessary for the proper management of the Authority or development of the Port District, are hereby transferred to the Authority: Provided, however, That the Commission shall, as soon as constituted, make an inventory of all such facilities and identify those facilities which were constructed and financed wholly or partly from general funds and bonds funds of the national government as distinguished from those financed wholly by the Portworks Special Fund, indicating therein the physical condition and relative book value thereof. Upon such inventory, all properties and facilities generated by financing wholly out of the Port-works Special Funds shall be transferred to the Authority without reimbursement to the original agencies having control over them; and for all the properties and facilities that were financed partly or wholly from the general fund or bond fund of the government, the Authority by virtue of this Section, may secure transfer of ownership thereof by providing a systematic schedule of repayment of the corresponding share of the General Fund or Bond Fund invested therein, including interests in the case of the latter.

The Authority shall, upon consultation with the department head concerned, reserve and make available within the Port District such area or areas necessary for the proper operation of any national, city or municipal government agency which, by reason of the nature of its duties and functions, require the establishment and operation of such office.

All appropriations for the Port of San Fernando and for the San Fernando Airport and all accruals to the Port-works Special Fund derived thru the use of the San Fernando Port are hereby transferred to the Authority which shall administer the same in accordance with the provisions of this Act and for the maintenance and improvement of the San Fernando Port: Provided, however, That all obligations in connection with the development, improvement and maintenance of the Port of San Fernando existing upon the effectivity of this Act,

shall be assumed by the Authority.

All debts and obligations incurred, all contracts entered into, and all matters and things engaged to be done in respect to the Port of San Fernando by, with, or for the National Government or any of its instrumentalities, bureaus or offices, shall be deemed to have been incurred, entered into, or engaged to be done by, with, or for the Authority.

All sums of money due or to become due to the National Government or its instrumentalities, bureaus or offices in respect to property held in behalf, of the National Government in the Port of San Fernando specifically accruing to the Portwork Special Fund shall be deemed to be due or to become due to the Authority constituted under this Act.

All suits or other legal proceedings, civil or criminal, instituted by or against the Bureau of Public Works or any other government or semi-government offices in respect of things done or committed to be done in the Port of San Fernando by said offices may be continued or instituted by or against the Authority constituted under this Act.

Officers and employees of the different government offices whose functions, wholly or partly, had been conferred to the Authority shall be transferred to the latter upon mutual agreement between the Authority and the head of the government office concerned: Provided, however, That the salaries of such officers and employees shall not be diminished.

Within sixty (60) days after approval of this Act and pending the composition of the Port Commission, the President of the Philippines may designate any civil engineer in the employ of the Department of Public Works and Communications to organize the Authority relative to the smooth transition steps, initial organization set-up, and implementation details for the conduct of the affairs of the Authority. The services of a port management consultant may be engaged, upon the recommendation of the Secretary of Public Works and Communications to assist in the accomplishment of such purposes.

All expenses to be incurred for the organization of the Authority shall be chargeable against the Portworks Special Fund.

SEC. 30. Annual Report.—An annual report of the Authority shall be submitted within sixty days after the close of the fiscal year.

The original of said report shall be submitted to the President of the Philippines and the copies to both Houses of Congress. The report shall include a financial statement duly certified by the Auditor of the Authority.

SEC. 31. Separability Clause.—If any provision of this Act or the application of such provision to any person or circumstance is declared unconstitutional, the remainder of the Act or the application of such provision to other persons or circumstances shall not be affected by such declaration.

SEC. 32. Laws Repealed.—All Acts, charters, executive orders, administrative orders, rules and regulations, or parts thereof in conflict with this Act are hereby repealed or modified accordingly.

SEC. 33. Effectivity.—This Act shall take effect upon its approval.

Approved, June 19, 1965.

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