



HOUSE OF REPRESENTATIVES

Introduced by Representative Rufus B. Rodriguez

5219

House Bill No. _____

EXPLANATORY NOTE

The West Philippine Sea, crossed by some of the world's busiest sea-lanes, has rich fishing grounds and is believed to have vast energy reserves. It is home to a myriad of competing territorial claims including those involving the Spratly Islands and the Scarborough Shoal.

These islands are being claimed by the Philippines, China, Vietnam, Brunei, Malaysia and Taiwan as these islands, reefs and coral outcrops are believed to be rich in oil and gas and these overlapping claims have long been feared as Asia's next source of tension which could lead to armed conflict.

As early as April, 2012, a Philippine Navy surveillance plane spotted eight Chinese fishing vessels anchored in a lagoon at Scarborough which prompted the military to deploy its largest warship, the BRP Gregorio del Pilar, which was recently acquired from the United States; and upon boarding the Chinese fishing vessels for an inspection, Filipino sailors discovered large amounts of illegally collected coral, giant clams and live sharks inside the first boat which only shows that the Chinese fishermen had been engaged in illegal fishing and harvesting of endangered marine species.

This incident brought about the current stand-off between the Philippines and China in the Scarborough Shoal which is causing increased tension between the two countries involved.

The Philippines relation with China is starting to plunge with both sides pressing their conflicting claims not only to the Panatag (Scarborough) Shoal but also the Spratly Islands group. And aside from China, we should also be cautious and be prepared to defend our territory against the claims of other countries over the islands and areas in the West Philippine Sea.

Last 2013, the Philippines files an arbitration case against China at the United Nations-backed Permanent Court of Arbitration (PCA) to settle the maritime dispute. Then in 2016, the PCA announced that an arbitral tribunal has ruled in favor of the Philippines in its historic case against China. Said Ruling basically provided that the rocky outcrops claimed by China - some of which are exposed only at low tide - cannot be used as the basis of territorial claims; some of the waters in question are "within the exclusive economic zone of the Philippines; and that China had violated the Philippines' sovereign rights in those waters by interfering with its fishing and petroleum exploration and by constructing artificial islands.

The PCA held that the UNCLOS "comprehensively" governs the parties' respective rights to maritime areas in the South China Sea and that China's nine-dash line as a claim of "historic rights" to the waters of the South China Sea is invalid.

Also, it ruled that none of the features in the Spratly Islands generates an EEZ, nor can the Spratly Islands generate an EEZ collectively as a unit. As such, the Tribunal declared certain areas are within the Philippines' EEZ and not overlapped by any possible Chinese entitlement. The Philippines also sought a declaration that China violated UNCLOS by interfering with the Philippines' rights and freedoms within its EEZs which the tribunal agreed with stating that China violated the Philippines' sovereign rights in its EEZ by interfering with Philippine fishing and hydrocarbon exploration; constructing artificial islands; and failing to prevent Chinese fishermen from fishing in the Philippines' EEZ. China also interfered with Philippine fishermen's traditional fishing rights near Scarborough Shoal and

its construction of artificial islands at seven features in the Spratly Islands, as well as illegal fishing and harvesting by Chinese nationals, violate UNCLOS obligations to protect the marine environment.

The PCA also ruled that China has aggravated and extended the disputes through its dredging, artificial island-building, and construction activities.

It is therefore imperative that a government office be created which shall have primary jurisdiction over the development, management, conservation, protection, and utilization of all resources within the West Philippine Sea Exclusive Economic Zone of the Philippines. Through such Authority, our country would be able to develop and harness the revenue-generating potential of the area arising from the capture of fish and fishery products, processing and marketing of all fisheries and aquatic products, marine energy exploration and development, as well as coastal and marine tourism to the West Philippine Sea. It will focus on studying our claims and propose measures on how to defend and prosecute such claims. It will also propose measures on how we can develop the area and all the natural resources there for the benefit of our country.

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



RUFUS B. RODRIGUEZ

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AN ACT
CREATING THE WEST PHILIPPINE SEA AUTHORITY, PRESCRIBING ITS POWERS
AND FUNCTIONS, AND APPROPRIATING FUNDS THEREFOR

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

SECTION 1. Title – This Act shall be known as the “West Philippine Sea Development Authority Act”.

SECTION 2. Declaration of Policy – It is hereby declared a national policy to protect the nation's maritime wealth within its Exclusive Economic Zone, and reserve its use and enjoyment exclusively to Filipino citizens, particularly within the West Philippine Sea.

SECTION 3. Creation - In pursuance of said policy, there is hereby created a body corporate to be known as the West Philippine Sea Development Authority which shall be attached to the Office of the President.

The Authority shall be governed by the provisions of Republic Act No. 10149, otherwise known as the “GOCC Governance Act of 2011”, and be subject to the regulatory jurisdiction of the Governance Commission for GOCCs (GCG).

SECTION 4. Jurisdiction – The Authority shall have primary jurisdiction over the development, management, conservation, protection, and utilization of all resources within the West Philippine Sea Exclusive Economic Zone of the Philippines, as defined by Administrative Order No. 29, s. 2012, and as enunciated in the United Nations Permanent Court of Arbitration Ruling in PCA Case No. 2013-19 In the Matter of The South China Sea Arbitration between The Republic of Philippines and The People's Republic of China dated 12 July 2016, except for municipal waters, which shall remain under the jurisdiction of Local Government Units (LGU).

For purposes of this Act, the Philippines' Exclusive Economic Zone in the West Philippine Sea pertains to the maritime areas within 200 nautical miles from the baselines on the western side of the Philippine archipelago, including the Luzon Sea as well as the waters around, within and adjacent to the Kalayaan Island Group and Bajo De Masinloc, also known as Scarborough Shoal.

The Authority shall exercise revenue-generating functions arising from, but not limited to, capture of fish and fishery products, processing and marketing of all fisheries and aquatic products, marine energy exploration and development, coastal and marine tourism within its jurisdiction.

The Authority shall supervise and regulate the production and capture of fish and fishery products within its jurisdiction, as well as the processing and marketing of all fisheries and aquatic products within its jurisdiction.

The Authority shall partake in rationalizing all ocean sector initiatives within its jurisdiction which impact fish and marine resources or their habitat, including, but not limited to marine energy exploration and development, coastal and marine tourism, designation of shipping lanes and protected areas.

SECTION 5. Capitalization and Funding. — The Authority shall have an authorized capital stock of Two Billion Pesos (Php 2,000,000,000.00) divided into two billion (2,000,000,000) shares having a par value of One Peso (Php 1.00) each, to be fully subscribed and paid by the National Government.

SECTION 6. Powers and functions of the Authority - The Authority shall have the following powers and functions:

- a) To act as central administrative and coordinating body, particularly of other national government agencies and local government units that are responsible for fisheries, ecological protection, marine life and species, energy and other environmental issues within its jurisdiction;
- b) To administer, manage and develop the area covered by its jurisdiction;
- c) To enhance economic development opportunities that will provide sustainable financial improvements benefiting the local environment and the economic quality of life for Local Government Units (LGUs) bordering the area;
- d) To accept any local or foreign investment, business or enterprises and to raise revenues from among, but not limited to the following:
 - 1) fees, tolls, charges, rentals and the like for the use of the waters for all beneficial purposes, including but not limited to, fishery, recreation, industrial, agricultural navigation and irrigation, as well as for the use of Authority properties, facilities and equipment;
 - 2) fees, tolls, charges, rentals and the like arising from marine energy exploration and development, coastal and marine tourism;
 - 3) periodic license fees and/or applications;
 - 4) proceeds from administrative fines and penalties which may be imposed pursuant to rules and regulations to be promulgated by the Board;
 - 5) donations, grants, assistance and contributions of all kinds from the National Government, LGUs, and foreign governments and privately-owned entities and utilize the same;
- e) To adopt and implement measure and standards for environmental pollution control of all areas with its territory and to enforce the same;
- f) To protect marine life and species, improve water quality in the area by:
 - 1) Permanently protecting marine life that are dependent on the area's ecosystem;
 - 2) Restoring the long-term stable aquatic and shoreline habitat for marine life that depend on the area;
 - 3) Protecting water quality by minimizing pollutants and other sources of water quality problems; and
 - 4) Making, altering or modifying orders requiring the discontinuance of pollution, specifying the conditions and the time within which such discontinuance must be accomplished.
- g) To undertake and regulate the establishment, operation and maintenance of utilities, other services and infrastructure in the area;
- h) To exercise exclusive jurisdiction to issue permits for the use of all surface water for any projects or activities in or affecting the said area including navigation, construction, and operation of fishpens, fish enclosures, fish corrals and the like;

- i) To exercise exclusive jurisdiction to issue permits and licenses for use in marine energy exploration and development, as well as coastal and marine tourism;
- j) To issue licenses for the operation of commercial fishing vessels and permits for the conduct of fishery activities subject to the specific carrying capacities of the resource as determined by studies or other reliable evidence, with preference being given to the local communities living within bordering municipalities;
- k) To adopt, prescribe, and promulgate rules and regulations governing the procedures of the Authority with the respect to the issuance of permits, procedures and guidelines concerning the classification, establishment, construction, maintenance and operation of all fishing ports and the operation of businesses therein, except those which are owned and operated by LGUs;
- l) To issue, renew, or deny permits, under such conditions as it may determine to be reasonable for the prevention and abatement of pollution;
- m) To collect fees, tolls, charges, rentals and the like for the use of the waters for all beneficial purposes, including but not limited to, fishery, recreation, industrial, agricultural navigation and irrigation, as well as for the use of Authority properties, facilities and equipment. Provided, that the rates of the fees to be collected, and the sharing with other government agencies and LGUs bordering the area;
- n) To adopt, alter and use a corporate seal; make contracts, leases, own, or otherwise dispose of personal or real property; sue and be sued; to form, establish, organize and maintain a subsidiary corporation; and, otherwise, carry out its functions and duties as provided for in this Act; and
- o) To exercise such other powers and functions as may necessary and proper for the effective implementation of this Act.

SECTION 7. Power to Issue Bonds

- a) The Authority may be authorized to issue bonds and other securities and enter into any form of indebtedness to finance its projects and programs: Provided, That only so much of such bonds and securities as the annual project implementation would require shall be issued and sold: Provided, further, That no bonds and securities shall be issued unless eighty percent (80%) of those already issued have been sold: Provided, furthermore, That the total amount of the bonds or securities and long-term debts issued shall in no case exceed twenty (20) times the paid-up capital and surplus of the Authority: Provided, finally, That in no instance shall the sovereign guarantee of the Republic of the Philippines be required or allowed.
- b) The Authority, in consultation with the Secretary of Finance and the Monetary Board, shall prescribe the form, the rate of interest and denomination, maturities, negotiabilities, call or redemption features and all other terms and conditions for the bonds and securities to be issued.
- c) The bonds and securities issued under this Act, including the income thereof shall be exempted from all kinds of local taxes and from attachment, execution and seizure which facts shall be stated on the face thereof.

SECTION 8. Board of Directors

- a) The Authority shall be governed and its activities be directed, controlled and managed by a Board of Directors composed of seven (7) full-time Members, headed by a Chairman, who shall be appointed by the President of the Philippines from a

- shortlist submitted by the GCG and in accordance with the Fit and Proper Rule as determined by the GCG in accordance with the provisions of Republic Act No. 10149.
- b) The Chairman shall have a term of five (5) years but may be renewed for a non-extendible period of one (1) year; Provided, that the term of the initial appointees shall be staggered such that the Chairman shall hold office for a term of five (5) years; the next three (3) members for three (3) years and the other three (3) members for two (2) years.
 - c) Upon the expiration of their respective terms, they shall continue to serve until their successor shall have been appointed and qualified. In case a member fails to complete his term, his successor shall only serve the unexpired portion of the term of his predecessor.
 - d) A member may be removed from office by the President for cause in accordance with the Civil Service rules and regulations.
 - e) The members of the board may receive per diems, allowances, and incentives in accordance with the guidelines promulgated by the GCG.
 - f) The Board shall meet regularly at least once a month, but special meetings may be called either by the Chairperson or by four (4) members of the Board, when necessary. Four (4) members of the Board shall constitute a quorum and any approval of business shall require the concurrence of at least four (4) members.

SECTION 9. Powers, Functions and Duties of the Board of Directors. – The Board shall have the following powers, functions and duties:

- a) To direct the management, operations, and administration of the Authority;
- b) To approve the organizational structure of the Authority, define the duties and responsibilities of all officials and employees and approve a compensation and benefit scheme;
- c) To formulate, revise or adjust periodically all policies, and to promulgate the necessary rules and regulations and manuals of procedures for the effective implementation of this Act;
- d) To approve the annual and/or supplemental budgets of the Authority and authorize such expenditures by the Authority as are in the interest of its effective administration and operations;
- e) To submit an annual report of the operation of the Authority to the President of the Philippines, President of the Senate and Speaker of the House of Representatives; and
- f) To exercise such other powers as may be necessary and proper for the effective enforcement of this Act and to accomplish the purposes for which the Authority was organized; and to do and to perform any and all acts and incidental to the attainment of all the purposes of the Authority.

SECTION 10. The Executive Director –

- a) The Authority shall have an Executive Director who shall be appointed by the Chairman.
- b) No person shall be appointed Executive Director unless he is at least thirty five (35) years of age at the time of his appointment, and who has at least ten (10) years experience in the field of administration, management, and area development prior to the date of his appointment. He must not have been a candidate for any elective position in the elections immediately preceding his appointment.

SECTION 11. Powers, Functions and Duties of the Executive Director - The Executive Director shall have the following powers, duties and responsibilities:

- a) To submit to the Board for consideration policies, plans and programs which, in his judgment, are necessary to carry out the purposes and provisions of this Act;
- b) To prepare the budget of the Authority for approval of the Board;

- c) To execute, administer and implement the policies and measures approved by the Board;
- d) To direct and supervise the operations and internal administration of the Authority. He may delegate certain administrative responsibilities to other officers of the Authority subject to the rules and regulations of the Board;
- e) To appoint all employees of the Authority except the heads of the departments and divisions whose appointments shall be made by the Board of Directors upon his recommendation;
- f) Recommend the number and salaries of, appoint the subordinate officers and personnel of the Authority, and remove or otherwise discipline for cause any officer or employee: Provided, That in all cases the Authority shall be covered by Republic Act No. 6758, as amended by Joint Resolution Nos. 1, series of 1994, and 4, series of 2009, the Compensation and Position Classification System for GOCCs under Republic Act No. 10149, as approved by the President of the Philippines: Provided, further, That prior approval from the GCG shall be obtained therefor;
- g) To represent the Authority in all dealings with other offices, agencies and instrumentalities of the Government and with all persons and entities, public or private; and
- h) To exercise such other powers as may be vested in him by the Board.

SECTION 12. Organizational Structure of the Authority

- a) The Executive Director shall prepare the organizational structure of the Authority that would best carry out its powers and functions, and attain the objectives of this Act and shall present the same to the Board for its approval.
- b) Subject to approval of the Board, the Executive Director shall likewise determine the rates of allowances, honoraria and other additional compensation, which the Authority is hereby authorized to grant its officers, technical staff, consultants and personnel detailed to it.

SECTION 13. Applicability of the Corporation Law. — The provisions of the Corporation Law, as amended, insofar as they are not inconsistent with this Act shall be applicable to the operations of the Authority.

SECTION 14. By Laws and Rules and Regulations. — The Board of Directors shall adopt its By-Laws promulgate the rules and regulations to implement the provisions of this Act which shall take effect upon approval by the President of the Philippines.

SECTION 15. Separability Clause. — If, for any reason, any provisions of this Act is declared invalid or unconstitutional, the other part or parts thereof which are not affected thereby shall continue to be in full force and effect.

SECTION 16. Repealing Clause. — All laws, decrees, executive orders, issuances, or rules and regulations, or portions thereof, that are inconsistent with this Act or any provision or provisions, thereof, are repealed or modified accordingly.

SECTION 17. Effectivity. — This Act shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation.

Approved,