

103^D CONGRESS
2^D SESSION

H. R. 5221

To amend the Panama Canal Act of 1979 to reconstitute the Panama Canal Commission as a United States Government corporation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 6, 1994

Mr. FIELDS of Texas (by request) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

A BILL

To amend the Panama Canal Act of 1979 to reconstitute the Panama Canal Commission as a United States Government corporation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. This Act may be cited as the “Panama
4 Canal Amendments Act of 1994”.

5 SEC. 2. Section 1101 of the Panama Canal Act of
6 1979 (22 U.S.C. 3611) is amended to read as follows:

1 “ESTABLISHMENT, PURPOSES, OFFICES, AND RESIDENCE
2 OF THE COMMISSION

3 “SEC. 1101. (a) For the purposes of managing, oper-
4 ating, and maintaining the Panama Canal and its com-
5 plementary works, installations and equipment, and of
6 conducting operations incident thereto, in accordance with
7 the Panama Canal Treaty of 1977 and related agree-
8 ments, the Panama Canal Commission (hereinafter in this
9 Act referred to as the ‘Commission’) is established as a
10 wholly owned government corporation (as that term is
11 used in chapter 91 of title 31, United States Code) within
12 the executive branch of the Government of the United
13 States. The authority of the President with respect to the
14 Commission shall be exercised through the Secretary of
15 Defense.

16 “(b) The principal office of the Commission shall be
17 located in the Republic of Panama in one of the areas
18 made available for use of the United States under the
19 Panama Canal Treaty of 1977 and related agreements,
20 but the Commission may establish branch offices in such
21 other places as it deems necessary or appropriate for the
22 conduct of its business. Within the meaning of the laws
23 of the United States relating to venue in civil actions, the
24 Commission is an inhabitant and resident of the District

1 of Columbia and the eastern judicial district of Louisi-
2 ana.”.

3 SEC. 3. Section 1102 of the Panama Canal Act of
4 1979 (22 U.S.C. 3612) is amended by striking so much
5 as precedes subsection (b) and inserting the following:

6 “SUPERVISORY BOARD

7 “SEC. 1102.(a) The Commission shall be supervised
8 by a Board composed of nine members, one of whom shall
9 be the Secretary of Defense or an officer of the Depart-
10 ment of Defense designated by the Secretary. Not less
11 than five members of the Board shall be nationals of the
12 United States and the remaining members of the Board
13 shall be nationals of the Republic of Panama. Three mem-
14 bers of the Board who are nationals of the United States
15 shall hold no other office in or be employed by the Govern-
16 ment of the United States, and shall be chosen for the
17 independent perspective they can bring to the Commis-
18 sion’s affairs. Members of the Board who are the nationals
19 of the United States shall cast their votes as directed by
20 the Secretary of Defense or the designee of the Sec-
21 retary.”.

22 SEC. 4. Section 1102 of the Panama Canal Act of
23 1979 (22 U.S.C. 3612) is amended by adding at the end
24 the following:

25 “(d)(1) In order to enhance the prestige of the Com-
26 mission in the world shipping community and allow for

1 the exchange of varied perspectives between the Board and
2 distinguished international guests in the important delib-
3 erations of the Commission, the United States and the Re-
4 public of Panama may each invite to attend meetings of
5 the Board, as a designated international advisor to the
6 Board, one individual chosen for the independent perspec-
7 tive that individual can bring to the Commission's affairs,
8 and who—

9 “(A) is not a national of either the United
10 States or Panama;

11 “(B) does not represent any user or customer
12 of the Panama Canal, or any particular interest
13 group or nation; and

14 “(C) does not have any financial interest which
15 could constitute actual or apparent conflict with re-
16 gard to his relationship with the Board or the Com-
17 mission.

18 “(2) Such designated international advisors may be
19 compensated by the Commission in the same manner and
20 under the same circumstances as apply under subsection
21 (b) with regard to members of the Board. Designated
22 international advisors shall have no vote on matters pend-
23 ing before the Board.”.

1 SEC. 5. The Panama Canal Act of 1979 (22 U.S.C.
2 3601 et seq.) is amended by adding after section 1102
3 the following:

4 “GENERAL POWERS OF THE COMMISSION

5 “SEC. 1102a. (a) The Commission—

6 “(1) may adopt, alter, and use a corporate seal,
7 which shall be judicially noticed;

8 “(2) may by action of the Board of Directors
9 adopt, amend, and repeal bylaws governing the con-
10 duct of its general business and the performance of
11 the powers and duties granted to or imposed upon
12 it by law;

13 “(3) may sue and be sued in its corporate
14 name, except that—

15 “(A) its amenability to suit is limited by
16 Article VIII of the Panama Canal Treaty of
17 1977, section 1401 of this Act, and otherwise
18 by law;

19 “(B) an attachment, garnishment, or simi-
20 lar process may not be issued against salaries
21 or other moneys owed by the Commission to its
22 employees except to the extent specifically au-
23 thorized by the laws of the United States; and

24 “(C) it is exempt from the payment of in-
25 terest on claims and judgments;

1 “(4) may enter into contracts, leases, agree-
2 ments, or other transactions;

3 “(5) may determine the character of, and neces-
4 sity for, its obligations and expenditures and the
5 manner in which they shall be incurred, allowed, and
6 paid, and incur, allow, and pay them, subject to per-
7 tinent provisions of law generally applicable to Gov-
8 ernment corporations; and

9 “(6) may purchase, lease, or otherwise acquire,
10 and hold, own, maintain, work, develop, and, subject
11 to section 1504, sell, lease, exchange, convey, mort-
12 gage, or otherwise dispose of, and deal in, lands,
13 leaseholds, and any interest, estate, or rights in real,
14 personal, or mixed property, and any franchises,
15 concessions, rights, licenses, or privileges necessary
16 or appropriate for any of the purposes expressed in
17 this Act.

18 “(b) The Commission shall have the priority of the
19 United States in the payment of debts out of bankrupt
20 estates.

21 “SPECIFIC POWERS OF COMMISSION

22 “SEC. 1102b. (a) Subject to the Panama Canal Trea-
23 ty of 1977 and related agreements, and to chapter 91 of
24 title 31, United States Code, popularly known as the Gov-
25 ernment Corporation Control Act, the Commission may—

1 “(1) manage, operate, and maintain the Pan-
2 ama Canal;

3 “(2) construct or acquire, establish, maintain,
4 and operate docks, wharves, piers, harbor terminal
5 facilities, shops, yards, marine railways, salvage and
6 towing facilities, fuel-handling facilities, motor-trans-
7 portation facilities, power systems, water systems, a
8 telephone system, construction facilities, living quar-
9 ters and other buildings, guest houses, warehouses,
10 storehouses, a printing plant, and manufacturing,
11 processing or service facilities in connection there-
12 with, recreational facilities, and other business ac-
13 tivities, facilities, and appurtenances necessary and
14 appropriate for the accomplishment of the purposes
15 of this Act;

16 “(3) makes sales, and furnish services, equip-
17 ment, supplies and materials, as contemplated by
18 this Act, to—

19 “(A) vessels;

20 “(B) agencies of the Government of the
21 United States;

22 “(C) employees of the Government of the
23 United States; and

24 “(D) any other governments, agencies, per-
25 sons, corporations, or associations eligible to

1 make such purchases, or receive such services,
2 equipment, supplies, or materials under the
3 laws prevailing at the time and the policies
4 heretofore or hereafter adopted consistently
5 with those laws;

6 “(4) use the United States mails in the same
7 manner and under the same conditions as the execu-
8 tive departments of the Federal Government; and

9 “(5) take such actions as are necessary or ap-
10 propriate to carry out the powers specifically con-
11 ferred upon it.”.

12 SEC. 6. Section 1302 of the Panama Canal Act of
13 1979 (22 U.S.C. 3712) is amended—

14 (1) in subsection (c)(1) by striking “and subject
15 to paragraph (2)”;

16 (2) by striking paragraph (2);

17 (3) by redesignating paragraph (3) as para-
18 graph (2); and

19 (4) by amending subsection (e) to read as
20 follows:

21 “(e) In accordance with section 9104 of title 31,
22 United States Code, the Congress shall review the annual
23 budget of the Commission.”.

24 SEC. 7. Section 1313 of the Panama Canal Act of
25 1979 (22 U.S.C. 3723) is amended—

1 (1) by striking the heading for the section and
2 inserting the following:

3 “AUDITS”;

4 (2) in subsection (a) by striking “Financial
5 transactions” and inserting “Subject to subsection
6 (d), financial transactions”; and

7 (3) in subsection (b) in the first sentence by
8 striking “The Comptroller General” and inserting
9 “Subject to subsection (d), the Comptroller Gen-
10 eral”; and

11 (4) by adding at the end the following:

12 “(d) At the discretion of the Board provided for in
13 section 1102, the Commission may hire independent audi-
14 tors to perform, in lieu of the Comptroller General, the
15 audit and reporting functions prescribed in subsections (a)
16 and (b).

17 “(e) The audited financial statements of the Commis-
18 sion shall include assurances that the Commission will be
19 in a position to meet its financial liabilities on December
20 31, 1999.”.

21 SEC. 8. Section 1601 of the Panama Canal Act of
22 1979 (22 U.S.C. 3791) is amended to read as follows:

1 “PRESCRIPTION OF MEASUREMENT RULES AND RATES OF
2 TOLLS

3 “SEC. 1601. The Commission may, subject to the
4 provisions of this Act, prescribe and from time to time
5 change—

6 “(1) the rules for the measurement of vessels
7 for the Panama Canal; and

8 “(2) the tolls that shall be levied for use of the
9 Panama Canal.”.

10 SEC. 9. Section 1604 of the Panama Canal Act of
11 1979 (22 U.S.C. 3794) is amended—

12 (1) in subsection (a) in the first sentence by
13 striking “1601(a)” and inserting “1601”;

14 (2) by amending subsection (c) to read as fol-
15 lows:

16 “(c) After the proceedings have been conducted pur-
17 suant to subsection (a) and (b) of this section, the Com-
18 mission may change the rules of measurement or rates of
19 tolls, as the case may be. The Commission shall, however,
20 publish notice of such change in the Federal Register not
21 less than 30 days before the effective date of the change.”;

22 and

23 (3) by striking subsections (d) and (e) and re-
24 designating subsection (f) as subsection (d).

1 SEC. 10. The Panama Canal Act of 1979 is amend-
2 ed—

3 (1) in section 1205 (22 U.S.C. 3645) in the last
4 sentence by striking “appropriation” and inserting
5 “fund”.

6 (2) in section 1303 (22 U.S.C. 3713) by strik-
7 ing “The authority of this section may not be used
8 for administrative expenses.”;

9 (3) in section 1321(d) (22 U.S.C. 3721(d)) in
10 the second sentence by striking “appropriations or”;

11 (4) in section 1401(c) (22 U.S.C. 3761(c)) by
12 striking “appropriated for or”;

13 (5) in section 1415 (22 U.S.C. 3775) in the
14 second sentence by striking “appropriated or”; and

15 (6) in section 1416 (22 U.S.C. 3776) in the
16 third sentence by striking “appropriated or”.

17 SEC. 11. Section 9101(3) of title 31, United States
18 Code, is amended by adding at the end the following:

19 “(O) the Panama Canal Commission.”.

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