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Introduced by HONORABLE BELLAFLOR J. ANGARA-CASTILLO

EXPLANATORY NOTE

Benham Rise – a 13-million-hectare undersea plateau around 250 kilometers off the coastline of Aurora province - is touted to have vast natural gas deposits and mineral resources, such as manganese. Estimated to be a much larger landmass than Luzon, Benham Rise is also the natural breeding ground and habitat for several marine species - making it a prime fishing spot.

Discovered in 1933, Benham Rise officially became part of the Philippines in 2012 when the UN Commission on the Limits of the Continental Shelf ruled that under the UN Convention on the Law of the Sea (UNCLOS), the undersea landmass was contiguous with the country's continental shelf and hence, fell under its exclusive economic zone. In short, it is undisputedly part of Philippine territory.

In spite of the lapse of 7 years since its award, Benham Rise remains largely unexplored, however. While many champion its immense benefits particularly to the country's energy and food security, the underwater geographic feature needs to be subjected to further scientific scrutiny. Last May 2016, scientists and marine researchers have discovered a vast and pristine coral reef ecosystem in Benham Rise.

There is a pressing need to scale up and sustain the scientific study and exploration of Benham Rise. A proper inventory of the undersea plateau would surely prove crucial in crafting a roadmap on how the country can develop and ultimately benefit from it, including as an alternative potential energy source from the dwindling Malampaya natural gas resource. As such, the extensive participation of several government agencies and other stakeholders will have to be coordinated meaningfully.

Hence, we propose that a Benham Rise Development Authority (BRDA), attached to the National Economic Development Authority (NEDA), as the lead agency in conducting scientific research and exploration in Benham Rise should be created immediately.

Once equipped with such information, the BRDA shall take the lead in formulating and implementing a development roadmap for Benham Rise, ensuring that it is aligned with the country's Philippine Development Plan.

As such, swift passage of the foregoing measure is earnestly sought.


BELLAFLOR J. ANGARA-CASTILLO
Representative
Lone District, Province of Aurora

Introduced by HONORABLE BELLAFLOR J. ANGARA-CASTILLO

AN ACT
CREATING THE BEHNHAM RISE DEVELOPMENT AUTHORITY (BRDA), DEFINING ITS
POWERS AND FUNCTIONS, PROVIDING FUNDS THEREFOR AND FOR OTHER
PURPOSES

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 *"Benham Rise Development Authority."*

SEC. 2. Declaration of Policy. It is hereby declared a policy of the State to tap and accelerate the sound and sustainable development of Benham Rise, particularly on its potential to be a rich source of alternative energy, marine resources and as a possible tourism destination. Towards this end, an effective institutional mechanism shall be established to address the need for a coordinated and integrated approach in the formulation and implementation of various development plans, programs and projects that will optimize the full potential of Benham Rise.

SEC. 3. Creation of the Benham Rise Development Authority. There is hereby created a body corporate to be known as the Benham Rise Development Authority, hereinafter referred to as the Authority, which shall promote, coordinate and facilitate the active and extensive participation of all sectors to effect the exploration, study and development of the Benham Rise. The Authority shall also be the lead agency in conducting scientific research and exploration and shall secure the rights of the State over the area.

The Authority shall be organized within one hundred eighty (180) days after approval of this Act. It shall have a term of fifty (50) years from its organization and may be renewed for another fifty (50) years, unless otherwise provided by law. It shall be an attached agency to the National Economic Development Authority (NEDA). It shall establish its principal office in the Aurora Pacific Economic and Freeport Zone and may put up such branches as may be necessary to achieve the objectives of this Act.

SEC. 4. Coverage. The Authority shall cover all natural resources located at the Benham Rise, encompassing more or less the 13-million hectare underwater plateau within coordinates 119°30'E to 132°00'E and 12°10'N to 20°30'N latitude, as provided in the decision of the United Nations Convention on the Law of the Sea (UNCLOS) which provides that the aforementioned landmass is part of the Philippine's continental shelf and territory.

SEC. 5. Powers and Functions of the Benham Rise Development Authority. In the exercise of its mandate, the Authority shall have the following powers and functions:

- (a) Formulate an integrated development framework for Benham Rise that is consistent to the development initiatives of the national government, as far as practicable;
- (b) Integrate, prioritize, program and implement, whenever allowed and authorized by applicable laws, programs, activities and projects at the Benham Rise, including

- 1 Official Development Assistance (ODA) projects, subject to such limitations
2 prescribed by existing laws, rules and regulations;
- 3 (c) Recommend to and, whenever necessary, call upon the proper agencies on the
4 technical support, physical assistance and, generally, the level of priority to be
5 accorded to environmental, agricultural, fisheries, energy, industrial, commercial,
6 infrastructure, tourism, technological and scientific programs and projects soliciting
7 or requiring direct or indirect help from or through the national government or any of
8 its agencies or instrumentalities;
- 9 (d) Advocate national policies that will foster the integrated, balanced and sustainable
10 development of Benham Rise;
- 11 (e) Promote and facilitate public and private investments in any field that would enhance
12 the economic development of Benham Rise in close coordination with agencies
13 primarily mandated to undertake such functions;
- 14 (f) Explore other sources of financing, if applicable or necessary, for priority Benham
15 Rise related programs, projects and activities;
- 16 (g) Coordinate and facilitate the extension of necessary planning, management and
17 technical assistance to prospective and existing investors, complementary and in
18 support of agencies primarily mandated to execute such functions;
- 19 (h) Establish a comprehensive and integrated database on Benham Rise needed for
20 planning and decision making;
- 21 (i) Monitor, evaluate and formulate recommendations in the implementation of
22 development programs, activities and projects involving Benham Rise;
- 23 (j) Provide strategic direction for the sustainable and long-term development of Benham
24 Rise;
- 25 (k) Establish appropriate mechanisms to ensure the timely implementation of Benham
26 Rise projects, whenever necessary, as far as practicable, including, but not limited
27 to, public-private partnership;
- 28 (l) Review and recommend for approval by the National Economic and Development
29 Authority (NEDA) Board such Benham Rise programs, projects, and plans by the
30 national government and donor agencies subject to existing laws, rules and
31 regulations;
- 32 (m) Act as the official and permanent lead agency of the government in coordinating the
33 formulation and implementation of policies and programs;
- 34 (n) Receive and administer donations, contributions, grants, bequests or gifts, in cash or
35 in kind, from foreign governments, international agencies, private entities and other
36 sources, including ODA, to be used in the development of Benham Rise, subject to
37 existing laws, rules and regulations;
- 38 (o) To sue and be sued, enter into contracts, acquire, purchase, hold, lease, transfer,
39 dispose of property of any kind or nature to carry out the purposes to this Act; and,
- 40 (p) Discharge other functions that may be deemed necessary or as may be provided by
41 law.

42
43 The Authority, through the Administrator, shall submit to the President and both Houses of
44 Congress annual reports on its accomplishments and activities.

45
46 **SEC. 6. Board of Directors.** The power of the Authority shall be vested in and exercised by
47 a Board of Directors, hereinafter referred to as the Board, which shall manage and
48 supervise the overall directions and thrusts. It shall be composed of the following:

- 49
50 (a) The NEDA Director-General, which shall act as the Chairman of the Board;
- 51 (b) The Administrator of the Benham Rise Development Authority, which shall act as the
52 Vice-Chairman of the Board; and
- 53 (c) Nine (9) other members composed of the following:
- 54 i. The Department of Environment and Natural Resources (DENR) Secretary or the
55 duly authorized representative;
- 56 ii. The Department of Energy (DOE) Secretary or the duly authorized
57 representative;
- 58 iii. The Department of Agriculture (DA) Secretary or the duly authorized
59 representative;

- iv. The Department of Science and Technology (DOST) Secretary or the duly authorized representative;
- v. Department of Finance (DOF) Secretary or the duly authorized representative;
- vi. Department of Tourism (DOT) Secretary or the duly authorized representative;
- vii. Three (3) representatives from the private sector to be appointed by the President, upon the recommendation of the of the other members of the Board, comprising of one (1) representative each from the:
 - (1) Business Sector;
 - (2) Academic Sector; and
 - (3) Non-governmental Organization (NGO) Sector.

The term of the three (3) representatives from the private sector shall be six (6) years: *Provided*, That at the initial appointment of such members, the second member to be appointed shall only serve a term of four (4) years and the third member to be appointed shall only serve a term of two (2) years: *Provided, further*, That they shall continue to hold office until their successors shall have been appointed. All vacancies, prior to the expiration of the term, shall be filled for the unexpired term only.

Members of the Board shall receive a *per diem* at a rate to be determined by the Governance Commission for Government-Owned or -Controlled Corporations (GCG), in accordance with existing rules and regulations: *Provided, however*, That the *per diem* collected per month does not exceed the equivalent *per diem* of four (4) meetings: *Provided, further*, That the amount of per diem for every Board meeting may be increased by the President or GCG but such amount shall not be increased within two (2) years from its last increase.

The Board shall have the following functions:

- (a) Provide direction and guidance for the Authority's work and thrusts for the Benham Rise;
- (b) Ensure that the goals and policies of the Authority are consistent with the overall national development goals and objectives;
- (c) Ensure that the programs of the Authority are consistent with regional and local development plans, programs and projects and vice versa for purposes of harmonization;
- (d) Explore sources for financing of priority Benham Rise plans, programs, projects and activities;
- (e) Create committees/task forces as may be deemed necessary in the accomplishment of duties and functions;
- (f) Determine schedules, establish voting procedures, criteria for the constitution of a quorum and other rules and regulations in the conduct of Board meetings; and
- (g) Perform such functions as may be necessary to carry out the purposes of this Act.

SEC. 7. Administrator. The Authority shall be headed by an Administrator which shall be appointed by the President of the Philippines, upon recommendation of the NEDA Director-General. The Administrator shall serve a term of six (6) years from the date of his/her appointment unless sooner separated from service due to death, voluntary resignation or removal for cause: *Provided*, That no person shall be appointed as Administrator unless he/she is a holder of a degree in law or a masters degree in any of the following fields: economics, business, public administration, law, management or their equivalent and have at least ten (10) years relevant experience in said fields: *Provided, further*, That he/she shall be a resident of the Philippines for at least (5) years before the appointment.

SEC. 8. Powers and Duties of the Administrator. The Administrator shall have the following powers and duties:

- (a) To direct and manage the affairs of the Authority in accordance with the policies of the Board;

- (b) Call and preside meetings of the Board and see to it that the policies, programs and rules and regulations are implemented properly;
- (c) Call on outstanding and credible individuals in the formulation and implementation of a comprehensive and integrated development plan for Benham Rise, the preparation of investment programming priorities, annual reports and other pertinent documents approved by the Authority;
- (d) Identify solutions to key issues and concerns, taking into account related risks, affected parties and impact, in coordination with the Board and key stakeholders;
- (e) Advocate the Authority's work among the various concerned sectors and stakeholders;
- (f) Call on any agency, group, individual member of the Board, local government unit, and host community to address issues and concerns relating to implementation of major programs, projects and activities;
- (g) Supervise the monitoring and timely implementation of Benham Rise related programs, projects and activities;
- (h) Endorse to the Board all policy recommendations, plans and programs for approval;
- (i) Accept, on behalf of the Authority, donations, contributions, grants and bequests or gifts, in cash or in kind, from members, foreign governments, international agencies, private entities or any individual for purpose that will realize the functions of the Authority;
- (j) Supervise administrative operations including disbursement of any fund of the Authority, subject to the usual accounting and auditing procedures, and submit reports thereon;
- (k) Execute and administer the policies and measures approved by the Board;
- (l) Appoint all employees of the Authority, and remove, dismiss or otherwise discipline for cause, such employees in accordance with the standard guidelines for recruitment, employment, and discipline in the Civil Service Code;
- (m) Represent the Authority in all dealings with other offices, agencies, and instrumentalities of the government and with all persons and entities, public or private;
- (n) Sign agreements and/or contracts on behalf of the Authority, including those for expert and consultant services and other reports of accountabilities emanating from the Authority; and
- (o) Perform such other functions that the Board may direct to carry out the provisions of this Act or which are necessary or incidental to his/her office.

SEC. 9. Secretariat. A Secretariat is hereby established to serve and assist the Board in the effective implementation of this Act. The Secretariat shall be headed by an Executive Director, appointed by the President of the Philippines upon recommendation by the Administrator: *Provided*, That no person shall be appointed as Executive Director unless he/she is a holder of a degree in any of the following fields: economics, business, public administration, law, management or their equivalent and have at least five (5) years relevant experience in said fields: *Provided, further*, That he/she shall be a resident of the Philippines five (5) years prior to his/her appointment and has the requisite eligibilities for third level career service position pursuant to the career executive rank system.

Section 10. Organizational Structure. The Administrator shall determine the organizational structure, staffing pattern and pay scales of the Authority subject to existing civil service and compensation laws. The Administrator may reorganize the Authority and may create or abolish divisions, units or branches therein as the exigencies of the affairs of the Authority may require.

SEC. 11. Merit System. All officials and employees of the Authority shall be selected and appointed on the basis of merit and fitness in accordance with civil service law, rules and regulations. The recruitment, transfer, promotion, and dismissal of all its personnel including temporary workers shall be governed by a merit system that will be established by the Authority in compliance with existing laws, rules and regulations.

1 **SEC. 12. Appropriations.** Such amounts necessary to finance the initial implementation of
2 this Act shall be sourced from the unprogrammed funds in the current General
3 Appropriations Act (GAA). Thereafter, such amounts necessary for its continued
4 implementation shall be included in the annual GAA: *Provided*, That such amounts
5 necessary for energy resource development and exploitation programs and projects in
6 Benham Rise shall be sourced from the proceeds of the Malampaya Fund, subject to
7 existing laws, rules and regulations.

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9 **SEC. 13. Implementing Rules and Regulations.** The Administrator, in close coordination
10 with the DENR, DOE, DA, DOST, DOF, DOT, and NEDA and in consultation with other
11 stakeholders shall, within sixty (60) days from the date of effectivity of this Act, promulgate
12 and publish the rules and regulations for the effective and faithful implementation of this Act:
13 *Provided*, That the failure of the promulgation of the said rules and regulations shall not
14 prevent the implementation of this Act upon its effectivity.

15
16 **SEC. 14. Separability Clause.** If any portion or provision of this Act is subsequently
17 declared invalid or unconstitutional, other provisions hereof which are not affected thereby
18 shall remain in full force and effect.

19
20 **SEC. 15. Repealing Clause.** All other laws, acts, presidential decrees, executive orders,
21 presidential proclamations, issuances, rules and regulations or parts thereof which are
22 contrary to or inconsistent with any of the provisions of this Act are hereby repealed,
23 amended or modified accordingly.

24
25 **SEC. 16. Effectivity.** This Act shall take effect fifteen (15) days after its publication in
26 the *Official Gazette* or in at least two (2) newspapers of general circulation.

27
28 Approved,