



SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

'17 MAR 27 A10 :07

SENATE

RECEIVED BY: 

Senate Bill No. 1411

Introduced by Senator Antonio "Sonny" F. Trillanes IV

AN ACT
CREATING THE BENHAM RISE DEVELOPMENT COMMISSION (BRDC),
DEFINING ITS POWERS AND FUNCTIONS, PROVIDING FUNDS THEREFOR
AND FOR OTHER PURPOSES

EXPLANATORY NOTE

In 2009, the Philippines submitted before the United Nations Commission on the Limits of the Continental Shelf its claim to the Benham Rise region. Said claim was based on the 1982 United Nations Convention on the Laws of the Sea (UNCLOS) and the 2008 Archipelagic Baseline Law (Republic Act No. 9522) which puts Benham Rise within the maritime boundary of the country. In 2012, the United Nations (UN) Commission on the Limits of the Continental Shelf adopted said submission, giving Philippines exclusive sovereign rights to explore and utilize the natural resources within the exclusive economic zone (EEZ) and the continental shelf of the said area.¹

Previous studies conducted by the Department of Environment and Natural Resources (DENR) on the Benham Rise area indicated large deposits of methane (in solid form) and manganese modules.² Additionally, the National Mapping and Resource Information Authority (NAMRIA) speculates the presence of gas deposits in the area. However, despite this foreseen economic potential and with more than four years since the decision of the UN, no exploration has been conducted in Benham Rise area.

Therefore, there is an urgent need to look into this matter and initiate strategies to maximize the economic potentials of the region at the country's advantage. There is also a need to strengthen the role of government agencies such as the DENR and the Department of Energy (DOE) in conducting more extensive researches on the pool of natural resources available in the region. This urgency is also in light of the alleged plying of Chinese survey ships in the area.

¹ Panaligan, R. (2017, March 14). *PH has sovereign rights over Benham Rise: Carpio*. Retrieved from <http://news.mb.com.ph/2017/03/14/ph-has-sovereign-rights-over-benham-rise-carpio/>

² Alave, K. (2012, April 28). *UN approves PH territorial claim to Benham Rise*. Retrieved from <http://newsinfo.inquirer.net/183779/un-approves-ph-territorial-claim-to-benham-rise>

If enacted into law, this bill seeks to create a Benham Rise Development Commission (BRDC), which will be tasked to spearhead the exploration and development, and to secure and galvanize the rights of the country to the Benham Rise region.

In view of the forgoing, the passage of this measure is earnestly sought.


ANTONIO "SONNY" F. TRILLANES IV
Senator



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

1 **SECTION 1. *Short Title.*** - This Act shall be known as the "*Benham Rise Development*
2 *Commission*" or "*BRDC*".
3

4 **SECTION 2. *Declaration of Policy.*** - It is the policy of the State to tap and accelerate
5 the sound and sustainable development of Benham Rise, particularly on its potential to be a
6 rich source of alternative energy, minerals, marine resources, and as a possible tourism
7 destination.
8

9 Towards this end, an effective institutional mechanism shall be established to address
10 the need for a coordinated and integrated approach in the formulation and implementation of
11 various development plans, programs, and projects that will optimize the full potential of
12 Benham Rise.
13

14 **SECTION 3. *Creation of the Benham Rise Development Commission.*** - There is
15 hereby created a body to be known as the Benham Rise Development Commission, hereinafter
16 referred to as the Commission.
17

18 The Commission shall be the sole policy-making body of the government which shall
19 be tasked to promote, coordinate, monitor, facilitate, and evaluate the programs and action
20 plans of the government relating to the Benham Rise pursuant to the provisions of this Act.
21 The Commission shall encourage the active and extensive participation of all sectors to effect
22 the exploration, and shall secure the rights of the State over the Benham Rise.
23

24 The Commission shall be organized within one hundred eighty (180) days after
25 approval of this Act. It shall be an attached agency to the Office of the President. It shall
26 establish its principal office in Tuguegarao, Cagayan, and may put up such branches as may be
27 necessary to achieve the objective of this Act.

1
2 **SECTION 4. Coverage.** - The Commission shall cover all natural resources located at
3 the Benham Rise, encompassing more or less the 13-million hectare underwater plateau within
4 coordinates 119°30'E to 132°00'E and 12°10'N to 20°30'N latitude, as provided in the decision
5 of the United Nations Convention on the Law of the Sea (UNCLOS) which provides that the
6 aforementioned landmass is part of the Philippines' continental shelf and territory.
7

8 **SECTION 5. Composition of the Commission.** - The Commission shall be composed
9 of the following:
10

- 11 a) One (1) Commissioner to be appointed by the President which shall act as the
12 Chairperson of the Board;
13
14 b) One (1) Commissioner which shall be responsible for the National Panel of Technical
15 Experts. This panel will be responsible for research and development; and
16
17 c) One (1) Commissioner which shall be responsible for the Advisory Panel. This panel
18 will be responsible for regulations and policy making.
19

20 **SECTION 6. Qualifications, Tenure, and Compensation of the Commissioners.** - The
21 Commissioner shall serve a term of six (6) years from the date of his/her appointment unless
22 sooner separated from service due to mental/physical incapacity, death, voluntary resignation
23 or removal for cause: *Provided*, That no person shall be appointed as Commissioner unless
24 he/she is a holder of a degree in law or a master's degree in any of the following fields:
25 economics, business, public administration, law, management or their equivalent, and have at
26 least ten (10) years relevant experience in said fields: *Provided*, further, That he/she shall be a
27 resident of the Philippines for at least five (5) years before the appointment.
28

29 The Commissioners shall work full-time. They shall receive regular salary and
30 compensation appropriate to their level and rank, and in accordance with the Salary
31 Standardization Law and with existing rules and regulations.
32

33 **SECTION 7. Powers and Functions of the Commission.** - The Commission shall have
34 the following powers and functions:
35

- 36 a) Formulate an integrated development framework for Benham Rise that is consistent to
37 the development initiatives of the national government, as far as practicable;
38
39 b) Integrate, prioritize, plan and implement, whenever allowed and authorized by
40 applicable laws, programs, activities and projects at the Benham Rise, including
41 Official Development Assistance (ODA) projects, subject to such limitations prescribed
42 by existing laws, rules and regulations;
43

- c) Recommend to and, whenever necessary, call upon the proper agencies on the technical support, physical assistance and, generally, the level of priority to be accorded to environmental, agricultural, fisheries, energy, industrial, commercial, infrastructure, tourism, technological and scientific programs and projects soliciting or requiring direct or indirect help from or through the national government or any of its agencies or instrumentalities;
- d) Advocate national policies that will foster the integrated, balanced and sustainable development of Benham Rise;
- e) Promote and facilitate public and private investments in any field that would enhance the economic development of Benham Rise in close coordination with agencies primarily mandated to undertake such functions;
- f) Explore other sources of financing, if applicable or necessary, for priority Benham Rise related programs, projects and activities;
- g) Coordinate and facilitate the extension of necessary planning, management and technical assistance to prospective and existing investors, complementary and in support of agencies primarily mandated to execute such functions;
- h) Establish a comprehensive and integrated database on Benham Rise needed for planning and decision making;
- i) Monitor, evaluate and formulate recommendations in the implementation of development programs, activities and projects involving Benham Rise;
- j) Provide strategic direction for the sustainable and long-term development of Benham Rise;
- k) Establish appropriate mechanisms to ensure the timely implementation of Benham Rise projects, whenever necessary, as far as practicable, including, but not limited to, public-private partnership;
- l) Review and recommend for approval by the Office of the President such Benham Rise programs, projects, and plans by the national government and donor agencies subject to existing laws, rules and regulations;
- m) Act as the official and permanent lead agency of the government in coordinating the formulation and implementation of policies and programs;
- n) Receive and administer donations, contributions, grants, bequests or gifts, in cash or in kind, from foreign governments, international agencies, private entities and other

1 sources, including ODA, to be used in the development of Benham Rise, subject to
2 existing laws, rules and regulations;

3
4 o) To sue and be sued, enter into contracts, acquire, purchase, hold, lease, transfer, dispose
5 of property of any kind or nature to carry out the purpose to this Act; and

6
7 p) Discharge other functions that may be deemed necessary or as may be provided by law.
8

9 The Chairperson of the Commission shall submit to the President and both Houses of
10 Congress annual reports on its accomplishments and activities.
11

12 **SECTION 8. *Power and Duties of the Chairperson of the Commission.*** – The
13 Chairperson of the Commission shall have the following powers and duties:
14

15 a) To direct and manage the affairs of the Commission in accordance with its policies,
16 programs and rules and regulations;
17

18 b) Call and preside meetings of the Commissioners and see to it that the policies, programs
19 and rules and regulations are implemented properly;
20

21 c) Call on outstanding and credible individuals in the formulation and implementation of
22 a comprehensive and integrated development plan for Benham Rise, the preparation of
23 investment programming priorities, annual reports and other pertinent documents
24 approved by the Commission;
25

26 d) Identify solutions to key issues and concerns, taking into account related risks, affected
27 parties and impact, in coordination with the Board and key stakeholders;
28

29 e) Advocate the Commission's work among the various concerned sectors and
30 stakeholders;
31

32 f) Call on any agency, group, individual member of the Commission, local government
33 unit, and host community to address issues and concerns relating to implementation of
34 major programs, projects and activities;
35

36 g) Supervise the monitoring and timely implementation of Benham Rise related programs,
37 projects and activities;
38

39 h) Endorse to the Commission all policy recommendations, plans and programs for
40 approval;
41

42 i) Accept, on behalf of the Commission, donations, contributions, grants and bequests or
43 gifts, in cash or in kind, from members, foreign governments, international agencies,

1 private entities or any individual for purpose that will realize the functions of the
2 Commission;

3
4 j) Supervise administrative operations including disbursement of any fund of the
5 Commission, subject to the usual accounting and auditing procedures, and submit
6 reports thereon;

7
8 k) Execute and administer the policies and measures approved by the Commission;

9
10 l) Appoint all employees of the Commission, and remove, dismiss or otherwise discipline
11 for cause, such employees in accordance with the standard guidelines for recruitment,
12 employment, and discipline in the Civil Service Code;

13
14 m) Represent the Commission in all dealings with other offices, agencies, and
15 instrumentalities of the government and with all persons and entities, public or private;

16
17 n) Sign agreements and/or contracts on behalf of the Commission, including those for
18 expert and consultant services and other reports of accountabilities emanating from the
19 Commission; and

20
21 o) Perform such other functions that the Commission may direct to carry out the provisions
22 of this Act or which are necessary or incidental to his/her office.

23
24 **SECTION 9. *Advisory Panel.*** - The Commission shall have an Advisory Panel
25 composed of the following:

26
27 a) Department of Environment and Natural Resources (DENR) Secretary or the duly
28 authorized representative with a minimum rank of an assistant secretary;

29
30 b) Department of Energy (DOE) Secretary or the duly authorized representative with a
31 minimum rank of an assistant secretary;

32
33 c) Department of Agriculture (DA) Secretary or the duly authorized representative with a
34 minimum rank of an assistant secretary;

35
36 d) Department of Science and Technology (DOST) Secretary or the duly authorized
37 representative with a minimum rank of an assistant secretary;

38
39 e) Department of Finance (DOF) Secretary or the duly authorized representative with a
40 minimum rank of an assistant secretary;

41
42 f) Department of Tourism (DOT) Secretary or the duly authorized representative with a
43 minimum rank of an assistant secretary;

- g) Department of Transportation and Communication (DOTC) Secretary or the duly authorized representative with a minimum rank of an assistant secretary;
- h) Department of Foreign Affairs (DFA) Secretary or the duly authorized representative with a minimum rank of an assistant secretary;
- i) Department of National Defense (DND) Secretary or the duly authorized representative with a minimum rank of an assistant secretary; and
- j) National Economic Development Authority (NEDA) Director-General or the duly authorized representative with a minimum rank of Director.

The members of the Advisory Panel shall be appointed by the President from a list of nominees submitted by their respective offices. They shall serve for a term of six (6) years without reappointment. Appointment to any vacancy shall be only for the unexpired term of the predecessor.

SECTION 10. *Panel of Technical Experts.* - The Commission shall constitute a national panel of technical experts consisting of practitioners in disciplines that are related to oil and gas extraction and processing, hydrography, marine ecology, surveying, hydrology, including, but not limited to, oceanography.

The Panel shall perform research and development and provide technical advice to the Commission in maritime science, technologies, and best practices for the extraction and development of oil and gas fields.

The Commission shall set the qualifications and compensation for the technical experts. It shall provide resources for the operations and activities of the Panel.

SECTION 11. *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 Chairperson of the Commission upon the recommendation or concurrence of the other two Commissioners: *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 12. *Organizational Structure.* - The Chairperson, with the concurrence of the Commissioners, shall determine the organizational structure, staffing pattern and pay scales of the Commission subject to existing civil service and compensation laws. The Chairperson

1 and the Commissioners may reorganize the Commission and may create or abolish divisions,
2 units or branches therein as the exigencies of the affairs of the Commission may require.
3

4 **SECTION 13. *Merit System.*** - All officials and employees of the Commission shall be
5 selected and appointed on the basis of merit and fitness in accordance with civil service law,
6 rules and regulations. The recruitment, transfer, promotion, and dismissal of all its personnel
7 including temporary workers shall be governed by a merit system that will be established by
8 the Board in compliance with existing laws, rules and regulations.
9

10 **SECTION 14. *Appropriations.*** - Such amounts necessary to finance the initial
11 implementation of this Act shall be sourced from the unprogrammed funds in the current
12 General Appropriations Act (GAA). Thereafter, such amounts necessary for its continued
13 implementation shall be included in the annual GAA: *Provided*, That such amounts necessary
14 for energy resource development and exploitation programs and projects in Benham Rise shall
15 be sourced from the proceeds of the Malampaya Fund, subject to existing laws, rules and
16 regulations.
17

18 **SECTION 15. *Implementing Rules and Regulations.*** - The Commission, in
19 coordination and consultation with the Advisory Panel, shall, within sixty (60) days from the
20 date of effectivity of this Act, promulgate and publish the rules and regulations for the effective
21 and faithful implementation of this Act: *Provided*, That the failure of the promulgation of the
22 said rules and regulations shall not prevent the implementation of this Act upon its effectivity.
23

24 **SECTION 16. *Separability Clause.*** - If any portion or provision of this Act is
25 subsequently declared invalid or unconstitutional, other provisions hereof which are not
26 affected thereby shall remain in full force and effect.
27

28 **SECTION 17. *Repealing Clause.*** - All other laws, acts, presidential decrees, executive
29 orders, presidential proclamations, issuances, rules and regulations or parts thereof which are
30 contrary to or inconsistent with any of the provisions of this Act are hereby repealed, amended
31 or modified accordingly.
32

33 **SECTION 18. *Effectivity.*** - This Act shall take effect fifteen (15) days after its
34 publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,