

REPUBLIC OF THE PHILIPPINES  
HOUSE OF REPRESENTATIVES  
Quezon City

SEVENTEENTH CONGRESS  
First Regular Session

House Bill No. 5318



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Introduced by **MAGDALO Party-List Representative**  
**HON. GARY C. ALEJANO**

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**EXPLANATORY NOTES**

In 1933, American surveyors discovered and mapped the eastern continental shelf of the Philippines. They discovered an undersea landform which they named Benham Plateau or Benham Rise. It was named after an American Admiral Andrew Ellicot Kennedy Benham (1832-1905). Benham Rise's connection to the Philippine shelf through the Palanan saddle and the Bicol saddle was validated only recently to justify the country's territorial claim. This 13-million-hectare underwater region (with coordinates 119°30'E to 132°00'E and 12°10'N to 20°30'N) east of Luzon is 35 meters underwater at its shallowest point off the provinces of Aurora and Isabela.

Benham Rise lies within the continental shelf of the Philippines as defined by the 1982 UN Convention on the Law of the Sea (UNCLOS) and is not subject to any maritime boundary disputes and claims. Thus, the Philippines filed a claim to the territory last April 8, 2009, which the UN subsequently approved on April 12, 2012 confirming that the landmass was part of the country's continental shelf. Accordingly, the Congress of the Philippines enacted Republic Act No. 9522, also known as the Archipelagic Baselines Law, which served as the basis of the claim.

Previous studies conducted by the DENR have indicated large deposits of methane in solid form in the area and also manganese nodules. In addition, the NAMRIA also speculates that there are gas deposits in the area. If developed and exploited, Benham Rise could turn the Philippines into a natural gas exporter because of the area's huge methane deposits, thereby reducing the country's dependence on imported petroleum.

It has been four years since the decision of the UN and it seems that no explorations have been conducted in the area to tap into this potential source of energy. There is a need to look into this and determine what the government, particularly the DENR and the DOE, is doing in order to confirm the reports on the huge gas deposits in the area and how said deposits could be utilized by the country. More alarmingly, a Chinese research ship has been spotted recently presumably surveying the area.

In view of the foregoing reasons, the expeditious approval of this bill is earnestly requested.

  
HON. GARY C. ALEJANO

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

*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.”**

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

7       Towards this end, an effective institutional mechanism shall be established to address the  
8       need for a coordinated and integrated approach in the formulation and implementation of various  
9       development plans, programs and projects that will optimize the full potential of Benham Rise.  
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11       **SECTION 3. Creation of the Benham Rise Commission.** There is hereby created a body  
12       to be known as the Benham Rise Development Commission, hereinafter referred to as the  
13       Commission.

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

19       The Commission shall be organized within one hundred eighty (180) days after approval  
20       of this Act. It shall be an attached agency to the Office of the President. It shall establish its  
21       principal office in Tuguegarao, Cagayan and may put up such branches as may be necessary to  
22       achieve the objective of this Act.  
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24       **SECTION 4. Coverage.** The Commission shall cover all natural resources located at the  
25       Benham Rise, encompassing more or less the 13-million-hectare underwater plateau within  
26       coordinates 119°30'E to 132°00'E and 12°10'N to 20°30'N latitude, as provided in the decision  
27       of the United Nations Convention on the Law of the Sea (UNCLOS) which provides that the  
28       aforementioned landmass is part of the Philippine's continental shelf and territory.

**SECTION 5. *Composition of the Commission.*** The Commission shall be composed of the following:

- (a) One Commissioner to be appointed by the President; which shall act as the Chairperson of the Board;
- (b) One Commissioner, which shall be responsible for the National Panel of Technical Experts. This panel will be responsible for research and development
- (c) One Commissioner, which shall be responsible for the Advisory Panel. This panel will be responsible for regulations and policy making.

**SECTION 6. *Qualifications, Tenure, and Compensation of the Commissioners.*** The Commissioner shall serve a term of six (6) years from the date of his/her appointment unless sooner separated from service due to mental/physical incapacity, death, voluntary resignation or removal for cause: *Provided*, That no person shall be appointed as Commissioner 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 five (5) years before the appointment.

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

**SECTION 7. *Powers and Functions of the Commission.*** The Commission 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 Official Development Assistance (ODA) projects, subject to such limitations prescribed by existing laws, rules and regulations;
- (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 sources, including ODA, to be used in the development of Benham Rise, subject to existing laws, rules and regulations;
- (o) To sue and be sued, enter into contracts, acquire, purchase, hold, lease, transfer, dispose of property of any kind or nature to carry out the purpose to this Act; and,
- (p) Discharge other functions that may be deemed necessary or as may be provided by law.

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

**SECTION 8. *Power and Duties of the Commissioner.*** The Commissioner shall have the following powers and duties:

- (a) To direct and manage the affairs of the Commission in accordance with its policies, programs and rules and regulations;
- (b) Call and preside meetings of the Commissioners 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 Commission.
- (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 Commission's work among the various concerned sectors and stakeholders;
- (f) Call on any agency, group, individual member of the Commission, 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 Commission all policy recommendations, plans and programs for approval;
- (i) Accept, on behalf of the Commission, 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 Commission;
- (j) Supervise administrative operations including disbursement of any fund of the Commission, subject to the usual accounting and auditing procedures, and submit reports thereon;
- (k) Execute and administer the policies and measures approved by the Commission;

- (l) Appoint all employees of the Commission, 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 Commission 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 Commission, including those for expert and consultant services and other reports of accountabilities emanating from the Commission; and
- (o) Perform such other functions that the Commission may direct to carry out the provisions of this Act or which are necessary or incidental to his/her office.

**SECTION 9. *Advisory Panel.*** The Commission shall have an advisory panel composed of the following:

- (a) Department of Environment and Natural Resources (DENR) Secretary or the duly authorized representative with a minimum rank of an assistant secretary;
- (b) Department of Energy (DOE) Secretary or the duly authorized representative with a minimum rank of an assistant secretary;
- (c) Department of Agriculture (DA) Secretary or the duly authorized representative with a minimum rank of an assistant secretary;
- (d) Department of Science and Technology (DOST) Secretary or the duly authorized representative with a minimum rank of an assistant secretary;
- (e) Department of Finance (DOF) Secretary or the duly authorized representative with a minimum rank of an assistant secretary;
- (f) Department of Tourism (DOT) Secretary or the duly authorized representative with a 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;
- (j) National Economic Development Authority 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.

1       **SECTION 11. Secretariat.** A Secretariat is hereby established to serve and assist the  
2 Board in the effective implementation of this Act. The Secretariat shall be headed by an  
3 Executive Director, appointed by the Chairperson of the Commission upon the recommendation  
4 or concurrence of the other two Commissioners. *Provided*, That no person shall be appointed as  
5 Executive Director unless he/she is a holder of a degree in any of the following fields:  
6 economics, business, public administration, law, management or their equivalent and have at  
7 least five (5) years relevant experience in said fields: *Provided*, further, That he/she shall be a  
8 resident of the Philippines five (5) years prior to his/her appointment and has the requisite  
9 eligibilities for third level career service position pursuant to the career executive rank system.

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11       **SECTION 12. Organizational Structure.** The Commissioner shall determine the  
12 organizational structure, staffing pattern and pay scales of the Commission subject to existing  
13 civil service and compensation laws. The Commissioner may reorganize the Commission and  
14 may create or abolish divisions, units or branches therein as the exigencies of the affairs of the  
15 Commission may require.

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

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

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30       **SECTION 15. Implementing Rules and Regulations.** The Commissioner, in close  
31 coordination and consultation with the Advisory Panel and the National Panel of Technical  
32 Experts shall, within sixty (60) days from the date of effectivity of this Act, promulgate and  
33 publish the rules and regulations for the effective and faithful implementation of this Act:  
34 *Provided*, That the failure of the promulgation of the said rules and regulations shall not prevent  
35 the implementation of this Act upon its effectivity.

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

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

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

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50    Approved.