

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Constitution Hills, Quezon City

TWENTIETH CONGRESS
First Regular Session

HOUSE BILL NO. 2849



Introduced by Lone District of Agusan del Norte Representative
HON. DALE B. CORVERA

AN ACT
CREATING THE LAKE MAINIT DEVELOPMENT AUTHORITY,
PRESCRIBING ITS POWERS, FUNCTIONS AND DUTIES, AND PROVIDING
FUNDS THEREOF

EXPLANATORY NOTE

Lake Mainit is the fourth largest lake in the Philippines located at Northeastern Mindanao. Its total surface area of 173.40 square kilometers is shared by the provinces of Agusan del Norte and Surigao del Norte.

The socioeconomic contribution of the lake the provinces of Agusan del Norte and Surigao del Norte cannot be overemphasized. Through its rich supply of fish, the lake serves as a major source of food and livelihood for the communities surrounding it. It also serves as a source of potable water and of irrigation for the croplands around it. The lake also serves as a major ecotourism destination and likewise supports the operation of a 25-Megawatt hydroelectric power plant which supports the local grid with additional power supply while also providing some measure of flood control.

With the increase in population residing at the Lake Mainit region, lack of unified protection mechanism or measures, and the lack of a designated authority which will enforce these measures, the destructive activities in the Lake Mainit area, such as logging, illegal fishing, and water contamination, becomes rampant.

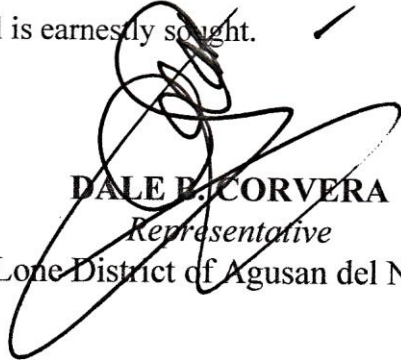
Although there exists Lake Mainit Development Alliance, composed of the two aforementioned provinces; the municipalities of Tubay, Santiago, Jabonga and Kitcharao - all from Agusan del Norte; Alegria, Mainit, Tubod, and Sison, - all from Surigao del Norte; the Department of Economy; Planning and Development; the Department of Natural Resources; the Department of Agriculture; the Bureau of Fisheries and Aquatic Resources; the Department of Tourism; and the Philippine Information Agency; which serves as the coordinating body of multi-stakeholders in preserving and promoting the Lake Mainit ecosystem, the Alliance is scarce in funding and lacks full-time personnel to achieve its general goal of properly managing the Lake Mainit ecosystem and developing potential resources in order to reduce poverty and improve the quality of life of the people in the area.

In fact, based on the 2015 estimates of the Alliance, the budgetary needs for the development of Lake Mainit total P2.3 billion pesos: Infrastructure Sector – P 725 million, Environment Sector – P4.4 million, Social Sector – P187 Million, Institutional Sector – P60.2 million, and Economic Sector – P1.312 billion. These amounts are difficult to raise, even if we combine the National Tax Allotments of the concerned Local Government Units and consider that the LGUs have other socio-economic responsibilities and obligations.

This representation believes that these challenges may be best addressed by creating an authority primarily tasked to protect, promote and develop the Lake Mainit area is vital for its long-term sustainable balanced growth. The authority must have the capacity to raise its own funds but should be initially supported and funded by the national government.

This version of the bill is a rehash of the draft Substitute Bill to House Bill Nos. 1537 (Rep. Barbers) and 3054 (yours truly) which were filed in the 19th Congress. Unfortunately, it did not reach the plenary for 2nd reading.

In view of the foregoing, approval of this bill is earnestly sought. ✓



DALE B. CORVERA
Representative
Lone District of Agusan del Norte

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

CHAPTER I
DECLARATION OF POLICY AND CREATION OF AUTHORITY

SECTION 1. *Short Title.* – This Act shall be known as the *Lake Mainit Development Authority Act*.

SEC. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to promote and accelerate the development and balanced growth of Lake Mainit, its subwatersheds and surrounding areas, within the context of national and regional plans, policies, and programs for socio-economic development, with due regard on the protection of the environment, preservation of the quality of human life and ecological systems, and prevention of human-induced disturbances and ecological deterioration.

Moreover, it is the policy of the State to recognize and promote the rights of the Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) within the framework of national unity and development, as well as to protect their rights to their ancestral lands to ensure their economic, social, and cultural well-being.

SEC. 3. *Creation of the Lake Mainit Development Authority.* – There is hereby created a corporate body to be known as the Lake Mainit Development Authority (LMDA), which shall be organized within one hundred twenty (120) days after the approval of this Act. It shall be composed of a governing board of directors to be known as Lake Mainit Development Board (LMDB) and the Management.

The Authority shall execute the powers and functions herein vested and conferred upon it, in order to carry out the aims and purposes set forth in this Act.

SEC. 4. *Location of Principal Office.* – The Authority shall maintain its principal office in the Municipality of Kitcharao, Province of Agusan del Norte. It may also have branch offices in other areas, as deemed necessary, to discharge its functions.

SEC. 5. *Mandate of the Authority.* – The LMDA shall exercise the following mandates:

- a. Conduct an extensive survey of the region, particularly its socio-economic conditions, hydrologic characteristics, freshwater and marine resources, renewable energy prospects, tourist spots, and other aspects; and on the basis thereof, draft a comprehensive and detailed plan, which shall be called as the Lake Mainit Development Plan, designed to promote the region's rapid socio-economic development and sound environmental management, and implement the plan thereafter: *Provided*, That such plan is in accordance with national guidelines and existing laws and is approved by the Department of Economy, Planning, and Development (DEPDev). For the purpose of the survey, public and private entities shall provide necessary data and information, except those that are deemed inviolable under existing laws: *Provided further*, That the Authority shall secure the Free and Prior Informed Consent (FPIC) from concerned ICCs/IPs, pursuant to Republic Act No. 8731 or the *Indigenous Peoples Rights Act of 1997*;
- b. Prepare a water quality management program and undertake projects for the improvement and maintenance of the standard water quality of the watershed;
- c. Regularly monitor the environmental condition of the region, especially its biodiversity and level of pollution, and carry out measures to address any concerns;
- d. Provide the necessary planning, management, and technical assistance to prospective and existing investors in the region;
- e. Evaluate and approve or disapprove all plans, programs, and projects within the region, proposed by local government units (LGUs), public corporations, and private enterprises.

The Authority shall issue necessary clearance for all proposed plans, programs, and projects within 30 days from submission thereof, unless the proposal will cause pollution, ecological imbalance, or displacement of livelihood and people.

Provided, That the Authority is hereby empowered to institute necessary legal proceeding against any person who shall implement any plan, program, or project without prior clearance from the Authority. *Provided further*, That any LGU, public corporation, and private enterprise whose plan, program, or project was disapproved by the Authority, may appeal the decision to the DEPDev within fifteen (15) days from receipt of notice, and its decision on the matter shall be final. Reasonable fees as determined by the Board shall be collected by the Authority for the processing of such plan, program, or project. *Provided furthermore*, That expansion plans shall be considered as new plans, subject to the review of the Authority and payment of the processing fees.

The Authority, national and local government offices, and public corporations shall coordinate their plans, programs, or projects and licensing procedures with respect to the Lake

Mainit Development Plan, which shall be binding upon all parties concerned, upon the approval of the DEPDev Board;

- f. Exercise exclusive jurisdiction on the issuance of permits for the use of the bodies of water of the lake for any projects or activities affecting the same, including but not limited to navigation, irrigation, potable water supply, recreation and tourism, domestic and agricultural use, construction, and operation of fish enclosures; and collect reasonable fees for the conduct of said activities;
- g. Develop water supply from ground or lake water for municipal, agricultural, and industrial uses; and to enter into agreements with LGUs, government agencies and corporations, and private entities to supply, distribute, and market such water resource;
- h. Exercise water rights over public waters within the watershed whenever necessary, whether ground or surface water, to carry out the purposes of the Authority;
- i. Engage in agriculture, industry, commerce, or other activities within the region which may be necessary or directly contributory to the socio-economic development of the region, and for this purpose, whether by itself or in cooperation with private persons or entities, organize, finance, invest in, and operate subsidiary corporations: *Provided*, That the Authority shall only engage in activities that are considered new ventures or are clearly beyond the scope, capacity, or interest of private enterprises, unless public interest requires otherwise, due to considerations on geography, technical or capital requirements, returns on investment, and risk;
- j. Plan, program, finance, and undertake infrastructure projects such as river, flood, and tidal control, waste water and sewerage, water supply, irrigation, housing, roads, and related works, when so required within the context of its development plans and programs, including the readjustment, relocation, or resettlement of people within the region, as deemed necessary by the Authority.

Provided, That for any project to be financed wholly or in part by the Authority, it is hereby authorized to collect reasonable fees and tolls, as determined by the Board, and subject to the approval of the DEPDev Board from users and beneficiaries, to recover costs of construction, maintenance, and operation of the projects.

Provided further, That if the Authority finds it necessary to undertake such infrastructure projects classified by the DEPDev as social overhead capital, the Authority shall be authorized to receive financial assistance from the government, and the amount necessary to carry out the said project subject to the terms and conditions that may be imposed by the government, upon recommendation of the DEPDev Board. *Provided furthermore*, That such amount is hereby authorized to be earmarked out of the funds of the National Treasury not appropriated;

- k. Receive compensation for damages to water and marine resources of Lake Mainit and its sub-watersheds, as a result of failure to meet established water and effluent quality standards, or from omission by a person, private or public, juridical or otherwise, punishable under the law, which shall be earmarked for water quality control and management;

- l. Collaborate with related agencies offering financial, technical, and physical assistance accorded for lake development and rehabilitation projects;
- m. Facilitate or extend financial assistance or act as a surety or a guarantor, or both, to qualified agricultural, industrial, and commercial enterprises;
- n. Undertake reclamation projects or acquire reclaimed grounds, if necessary, to accomplish the aims and purpose of the Authority, subject to the approval of the DEPDev Board; and
- o. Submit an annual report to the stockholders regarding the operation of the Authority, particularly a statement of its financial conditions, activities undertaken, progress of projects and programs, and plans of action for the succeeding years; *Provided however*, That a majority of the stockholders may require the Authority to submit reports other than the annual report herein required, which must be submitted within thirty (30) days from notice thereof.

CHAPTER II CORPORATE POWERS

SEC. 6. *Powers and Functions of the Board.* – The LMDB shall exercise the following powers and functions:

- a. To succeed on its corporate name;
- b. To sue and be sued in such corporate name;
- c. To adopt, alter, and use a corporate seal;
- d. To adopt, amend, and repeal its by-laws;
- e. To enter into contracts of any kind and description, to carry out its purpose and functions under this Act;
- f. To acquire, buy, purchase, hold or lease, personal and real property as it deems necessary in the transaction of its business, or in relation to carrying out its purposes under this Act; and to lease, mortgage, sell, alienate, or otherwise encumber, utilize, exploit, or dispose any personal and real property held by it, subject to prior or existing individual or communal right of private parties or the government;
- g. To exercise the right of eminent domain whenever the Authority deems it necessary to attain its objectives under this Act;
- h. To raise, borrow, or obtain funds, from any source, private or government, foreign or domestic, and to enter into any financial or credit arrangements in order to support and carry out its objectives and purposes, subject to the approval of the Monetary Board of the Bangko Sentral ng Pilipinas, upon the recommendation of the Department of Finance and to other pertinent laws governing public debt and expenditure;

- i. To purchase, hold, alienate, mortgage, pledge, or otherwise dispose the shares of the capital stock or any bond, securities, or other evidence of indebtedness created by any corporation, co-partnership, or government agencies or instrumentalities; and with the owner of said stock, to exercise all the rights of ownership, including the right to vote therein.

Provided, That the Authority shall not invest its funds in any high risk debt instruments issued without recourse to commercial banks or investment houses, as well as in any speculative stocks; and

- j. To perform any acts which a corporation, co-partnership, or natural person is authorized to discharge under the current laws, or which may be enacted hereafter; to carry on its business or to attain or further any of its objectives.

CHAPTER III CAPITALIZATION AND FINANCING

SEC. 7. *Capitalization and Financing.* – The Authority shall have an authorized capital of One hundred million pesos (P100,000,000.00), of which the amount of Fifty-one million pesos (P51,000,000.00) shall be subscribed by the National Government and Forty-nine million pesos (P49,000,000.00) shall be subscribed by provinces, cities, and municipalities within the region, government corporations and private investors:

Provided, That at least twenty five percent (25%) of the National Government's subscription shall be fully paid: *Provided further*, That the authorized capital stock may be increased upon the recommendation of DEPDev.

The authorized capital stock of One hundred million pesos (P100,000,000.00) shall be divided into One million (1,000,000) shares of stock with a par value of one hundred pesos (P100.00) per share.

The shares of stock of the Authority shall be divided into seven hundred thousand (700,000) common shares, voting, and three hundred thousand (300,000) preferred shares, non-voting, with fixed shares of seven hundred thousand pesos (700,000), a minimum of four hundred thousand (400,000) shares shall be subscribed by the National Government, and at least sixty percent (60%) of the balance shall be subscribed by the Provinces of Agusan del Norte and Surigao del Norte, in proportions agreed upon by both provincial governments. The remaining balance of the common shares shall be open for subscription to municipalities and private investors.

Of the preferred shares of three hundred thousand (300,000) a minimum of one hundred ten thousand (110,000) shares shall be subscribed by the National Government. The balance of the preferred shares shall be available for subscription to LGUs, government corporations, and private investors. *Provided*, That preferred shares shall enjoy preference with respect to the distribution of dividends and assets in case of dissolution.

SEC. 8. *Powers of Municipal Corporations to Subscribe.* – For purpose of attaining the purposes of the Authority, provinces, cities, and municipalities are hereby authorized to subscribe, own, buy, or hold shares of stock of the Authority.

SEC. 9. *Operating Expenses.* – For the operating expenses of the Authority, the sum of Five million pesos (P5,000,000.00) is hereby appropriated annually for five (5) years, from the date of the enactment of this Act.

The Board may appropriate out of the funds of the Authority the amount needed for operating expenses.

SEC. 10. *Exemption from Tax.* – The Authority shall be exempt from all taxes, licenses, fees, and duties incidental to its operations. The exemption shall extend to its subsidiary corporations: *Provided*, That its subsidiary corporations shall be subject to all said taxes, licenses, fees, and duties five (5) years after establishment, under a scale as follows: twenty percent (20%) of all said taxes during the sixth year, forty percent (40%) of all said taxes during the seventh year, sixty percent (60%) of all said taxes during the eighth year, eighty percent (80%) of all said taxes during the ninth year, and one hundred percent (100%) of all said taxes during the tenth year after said establishment. Such exemption shall include any tax or fee imposed by the government on the sale, purchase, or transfer of foreign exchange. All notes, bonds, debentures and other obligations issued by the Authority shall be exempt from all taxes both as to principal and interest, except inheritance and gift taxes.

SEC. 11. *Sinking Fund.* – A sinking fund shall be established such that the total annual contribution accrued at a rate of interest determined by the Board and confirmed by the stockholders representing a majority of the subscribed capital stock outstanding and are entitled to vote, shall be sufficient to redeem the bonds issued at maturity under this Act.

The fund shall be under the custody of the treasurer of the Authority who shall invest the same as the Board may direct, charge expenses of investment to said sinking fund, and credit the same with interest on investment and other income belonging to it.

CHAPTER IV MANAGEMENT AND PERSONNEL

SEC. 12. *Incorporation.* – The members of the first Board of Directors shall be elected by the stockholders and the date of incorporation shall be determined by the date of the first meeting of the Board.

SEC. 13. *Board of Directors.* – The Authority shall be governed by a Board of Directors composed of seven (7) ex-officio members and twelve (12) appointive members, as follows:

Ex-officio members:

- a. Secretary of the Department of Environment and Natural Resources (DENR) or a representative;
- b. Secretary of the Department of Agriculture (DA) or a representative;
- c. Secretary of the DEPDev or a representative;
- d. Secretary of the Department of Public Works and Highways (DPWH) or a representative;
- e. Secretary of the Department of Energy (DOE) or a representative;
- f. Secretary of the Department of Trade and Industry (DTI) or a representative; and
- g. Secretary of the Department of Tourism (DOT) or a representative;

Appointive members:

- a. Three (3) representatives from the Province of Agusan del Norte;
- b. Three (3) representatives from the Province of Surigao del Norte;
- c. Three (3) representatives from the ICCs/IPs; and
- d. Three (3) representatives from the private sector.

The Secretary of the DENR shall serve as Chairperson of the Board. The Board shall elect the General Manager (GM) of the Authority among the appointive members, who shall automatically serve as the Vice-Chairperson. The selection, appointment, and term of office of the appointive members shall be in accordance with the pertinent provisions of Republic Act No. 10149, otherwise known as the GOCC Governance Act of 2011.

SEC. 14. *Powers and Functions of the Board of Directors.* –

- a. Formulate, prescribe, amend, and repeal rules and regulations to govern the conduct of business of the Authority;
- b. Appoint and fix the compensation of all officials from division heads and above, and others of equivalent rank including the Assistant General Manager upon the recommendation of the General Manager;
- c. Suspend, remove, or otherwise discipline for just cause all appointed officials, through a majority vote of all members of the Board;
- d. Approve the annual or supplemental budgets of the Authority; and
- e. Perform other acts and functions necessary to carry out the provisions of this Act.

SEC. 15. *Meetings of the Board.* – The Board shall meet at least once a month.

SEC. 16. *Per Diems.* – The members of the Board shall receive per diem for every board meeting: *Provided*, That these shall be determined by the Governance Commission for GOCCs (GCG) using as reference, among others, Executive Order No. 24 dated February 10, 2011. *Provided further*, That the Directors shall not be entitled to retirement benefits.

SEC. 17. *Powers & Duties of the General Manager.* – The GM shall be the Chief Executive of the Authority and shall have the following powers and duties:

- a. Prepare the agenda for the meeting of the Board and submit the policies and measures for consideration necessary to carry out the purposes and provisions of this Act;
- b. Execute and administer the policies, plans, programs, and projects approved by the Board;
- c. Direct and supervise the operation and internal administration of the Authority and may delegate certain administrative responsibilities to other officers of the Authority, subject to the rules and regulations of the Board;
- d. Appoint officials and employees below the rank of division heads to positions in the approved budget, upon written recommendation of the division head concerned, using the standard set forth in the Authority's merit system as a guide;

- e. Submit to the Board quarterly reports on personnel selection, placement, and training;
- f. Submit to the DEPDev an annual report and other reports as may be required, including the details of the annual and supplemental budgets of the Authority; and
- g. Perform other functions as may be provided by law.

SEC. 18. *Qualifications of the General Manager.* –The appointed GM should be a natural born citizen, a resident of the Philippines, has unquestionable integrity, and demonstrates competence and experience in any of the fields of public administration, economic planning, environment and natural resource management, or in the establishment and management of large agricultural, commercial, or industrial enterprises.

SEC. 19. *Tenure of the General Manager.* – The GM shall be elected by the Board annually among the appointive members.

SEC. 20. *Compensation of the General Manager.* - The General Manager shall receive compensation and other benefits of equivalent rank as determined by the GCG.

SEC. 21. *Administrative Officials.* – The activities of the Authority shall be carried out under the supervision of the GM through the following administrative officials:

- a. An Assistant General Manager who shall have powers, duties, and functions that may be delegated by the GM, and shall act on the authority of the latter in case of a temporary incapacity, or until a new GM is duly appointed;
- b. A Division Chief for Operations;
- c. A Division Chief for Planning, Programming, and Research;
- d. A Division Chief for Administration;
- e. A Corporate Counsel, with the rank of division head, to advise and represent the Authority on legal matters, procedures, and actions; and
- f. A Corporate Treasurer, with a rank of division head, who shall have custody of the funds and properties of the Authority.

SEC. 22. *Auditor.* – The Chairman of the Commission on Audit (COA) shall be the ex-officio Auditor of the Authority and may exercise such function through a representative with the assistance of a necessary personnel in the performance of duties.

SEC. 23. *Implementing Rules and Regulations.* – The implementing rules and regulations to effectively carry out the provisions of this Act shall be promulgated and adopted by the Board within ninety (90) days after the approval of this Act, which shall be published in at least one (1) national newspaper of general circulation.

SEC. 24. *Repealing Clause.* – All laws, decrees, executive orders, proclamations, rules and regulations, parts thereof inconsistent herewith are hereby repealed or modified accordingly.

SEC. 25. *Separability Clause.* – If any provision of this Act is held invalid or unconstitutional, the other provisions not affected hereby shall remain valid and subsisting.

SEC. 26. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.

Approved,