

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

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S E N A T E

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S. No. 233

Introduced by Senator S. R. Osmeña III

EXPLANATORY NOTE


Mindanao, with its vast and largely untapped economic resources is rapidly becoming a symbol of the Philippines' wasted opportunities. The recent armed conflict in Mindanao is but a manifestation of the widespread unrest among the people of Mindanao after several decades of government neglect. Mindanao accounts for some 18% of Gross Domestic Product, although it accounts for some 24% of employed persons.

This bill seeks to create the Mindanao Development Authority, as the government agency mandated to catalyze the development of Mindanao through an integrated approach.

Among the functions and responsibilities of the Mindanao Development Authority will be the conduct of feasibility studies for the realization of island-wide development initiatives such as power and railway corporations. It will coordinate industry, agriculture, infrastructure, communications and other enterprises of inter-regional character. It will also commence the proper and integrated utilization of Mindanao's resources including its navigable rivers, forest and timber lands.

A piecemeal development approach promotes fragmented, if not negative growth. The MDA will serve as the central authority to chart a vision for Mindanao and coordinate all policies for a coherent, effective management approach.

In view of the foregoing, early passage of this bill is earnestly requested.


SERGIO OSMEÑA III
Senator

THIRTEENTH CONGRESS OF THE REPUBLIC
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SENATE

S. No. 233

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AN ACT
CREATING THE MINDANAO DEVELOPMENT AUTHORITY, DEFINING ITS
POWERS AND FUNCTIONS, AND FOR OTHER PURPOSES

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

1 SECTION 1. *Title.* – This Act shall be known as the “Mindanao
2 Development Authority Act of 2004.”

3 SEC. 2. *Declaration of Policy.*– It is hereby declared the policy of the
4 State to accelerate the development of the island of Mindanao as an integrated
5 whole; encourage greater processing of the products of its forests, mineral
6 resources, farms and waters and promote viable projects to manufacture
7 consumer goods for increased self sufficiency, while at the same time promoting
8 conservation of the ecology. To this end the Government will, in addition to
9 intr1a-regional development activities, plan and undertake or otherwise support
10 projects and programs which link Mindanao's administrative regions with each
11 other by communications, transport, financial and commercial systems.

12 SEC. 3. *Creation of the Mindanao Development Authority.* - To help
13 implement the foregoing policy, there is hereby created a body corporate to be
14 known as the Mindanao Development Authority, hereinafter referred to as the
15 Authority, which shall be governed by the provisions of this Act.

16 SEC. 4. *Territorial Jurisdiction.* – The Authority shall cover all the
17 provinces and cities of regions 9, 10, 11, 12 and 13 as well as such provinces

1 and cities within the autonomous Region in Muslim Mindanao except those who
2 have formally expressed their desire to be excluded therefrom.

3 SEC. 5. *Principal Office and Term.* - The principal office of the Authority
4 shall be in Davao City. It may however establish such branches, subsidiaries,
5 offices or agencies as it may deem necessary to attain the objectives of this Act.
6 Authority shall have a term of fifty (50) years from the effectivity hereof renewable
7 for the same period unless otherwise provided by laws.

8 SEC. 6. *Purpose and Major Tasks.* - The Authority is created to plan and
9 catalyze the development of Mindanao as an integrated economy. Toward this
10 end, the Authority shall:

11 (1) Formulate plans for the socio-economic and development of
12 Mindanao as a single integrated economy;

13 (2) Conduct feasibility studies and explore sources of financing of
14 priority programs and projects, whether governmental or private, that will support
15 and encourage Mindanao-wide economic and social development, such as
16 Mindanao Power Corporation, regional commercial banks, Mindanao railroad,
17 petroleum refinery, skills and values promotion, accelerated reforestation;

18 (3) Advocate to the people of Mindanao, to their elected
19 representatives in Congress, and to central government national policies that will
20 foster the integrated balanced development of Mindanao, in such policy areas as
21 banking; investment and lending by GSIS, SSS and other government financing
22 institutions; transport and communications infrastructure, exports of agricultural
23 products, reforestation, education and skills training;

24 (4) Integrate, prioritize and program major interregional projects
25 contained in regional development plans formulated by Regional Development
26 Councils and submit these directly to and for approval of the NEDA Board, where
27 such projects are deemed by the Authority to affect substantially the integrated
28 development of Mindanao. The NEDA Board shall expeditiously act on such
29 projects submitted by the Authority within a reasonable period;

(5) Coordinate industry, agriculture, infrastructure construction and other enterprises of interregional character within Mindanao which may be necessary and/or directly contribute to the rapid socio-economic development of Mindanao as an integrated economy by itself or in cooperation with other government entities, and/or private persons or entities: *Provided*, That the authority shall directly engage only in those activities as are in the nature of catalytic or pioneering ventures and are demonstrably beyond the scope, capacity, and interest of purely private enterprises and existing government entities: *Provided, further*, That the authority shall engage only in such activities that are Mindanao-wide or interregional in character;

(6) Formulate plans of improvement of the navigability of all the rivers in Mindanao and the provision of flood control;

(7) Promote reforestation and proper use of marginal lands in Mindanao;

(8) Promote investments in any field as would enhance the socio-economic development of Mindanao and uplift the living standards of the people and their socio-political activity;

(9) Provide the machinery for extending the necessary planning, management and technical assistance to prospective and existing investors in Mindanao; and

(10) Coordinate and cooperate with the Autonomous Region in Muslim Mindanao on development projects affecting provinces and cities in the Autonomous Region, and on all other matters of mutual interest.

SEC. 7. *Powers and Functions*. - In the exercise of those activities which are in the nature of catalytic or pioneering ventures, which are demonstrably beyond the scope, capacity and interest of purely private enterprises and existing government entities and are of Mindanao-wide and interregional in character, as a body corporate, the Authority shall have the following powers and functions:

(1) to sue and be sued, enter into contracts, acquire, purchase, hold, lease transfer, dispose of property of any kind or nature necessary to carry out the purposes of this Act;

(2) to cause the reclamation of lands, including foreshore and submerged areas within its operation by dredging, filling or other means or to acquire reclaimed lands;

(3) to cause the development, improvement, acquisition, administration, dealing in, subdivision, disposition, leasing and selling of reclaimed areas and any all kinds of reclaimed lands owned, managed, controlled and/or operated under its jurisdiction, and to provide for such services as may be necessary for the efficient, economic, and beneficial utilization of the said properties;

(4) to receive, take, and hold by bequest, devise, gift, purchase, loan, lease or by any lawful manner, and to manage or administer, either absolutely or in trust for any of its purposes, any asset, grant, or property, real or personal, from foreign or domestic sources, subject to such limitations as are provided in existing laws and regulations; and to convert such assets, grant or property; invest and reinvest the same under this provision and deal with the expand its assets and income in such manner as will best promote its objectives;

(5) To acquire, purchase, alter, construct, enlarge, occupy, mortgage, manage and dispense by lease or sale or otherwise deal in lands and buildings of every kinds and character, whether belonging to or to be acquired by the Authority;

(6) to issue such regulations as may be necessary for the proper use by private parties of any or all of the Authority's properties and to impose or collect fees or tolls for their use;

(7) to engage or invest on, or enter into joint venture with Filipino and foreign investors in such Mindanao-wide interregional projects as it may deem proper and necessary or contributory to the economic development of Mindanao;

(8) to exercise the right of eminent domain as may be necessary for the purpose for which the Authority is created;

(9) Whenever essential to the proper transaction of its business or to carry out the purposes of its organization, to contract indebtedness and issue bonds;

(10) to acquire real estate and to construct therein dams, reservoirs, transmission lines, power houses, and other structures and infrastructure projects including site along the rivers or any of their tributaries;

(11) to generate, distribute, and sell electric power and other forms of energy;

(12) to build, operate, and transfer Mindanao-wide and interregional projects involving railroads, ports, highways, telephone and other transportation and communication systems, and to promote establishment of such projects through build-operate and transfer schemes; and

(13) to review and recommend for approval by the NEDA Board such Mindanao-wide and interregional programs, projects and plans by national government agencies.

SEC. 8. *Creation of Special Economic Zone.* – The President of the Philippines shall create, by proclamation, Special Economic Zones, in specific sites in Mindanao, fixing and delimiting corresponding metes and bounds and subject to the mandate and limitations of the Constitution and the pertinent provisions of Local Government Code.

SEC. 9. *Capital Stock.* - The Authority shall have an authorized capital stock of One billion pesos (P1,000,000,000.00), the amount to be fully subscribed and paid by the National Government to be appropriated out of any funds in the National Treasury not otherwise appropriated. The Southern Philippines Development Authority is hereby abolished. All its assets and liabilities are hereby absorbed: *Provided, That*, existing liabilities of the Southern

1 Philippines Development Authority due the National Government are hereby
2 converted into capital of the Authority.

3 SEC. 10. *Board of Directors and Advisory Council.*- The affairs and
4 business of the Authority shall be directed and its properties managed and
5 preserved, unless provided otherwise in this Act, by a Board of Directors. The
6 Board shall have nine (9) members with the NEDA Director-General as chairman
7 and the following as members: Administrator, the five (5) chairmen of the
8 Regional Development Councils of Regions 9, 10, 11, 12 and 13 and the
9 chairman of the regional planning and development board of ARMM and two (2)
10 representatives of non-governmental organizations chosen by the Advisory
11 Council for a term of two (2) years.

12 The Board shall receive policy guidance from an Advisory Council,
13 hereinafter referred to as the Council, composed of Governors of the provinces
14 and mayors of the cities covered by this Act, and not less than ten (10) but not
15 more than fifteen (15) representatives from the private sector/NGOs who shall be
16 chosen by majority vote of the elective members of the Council.

17 The members of the Board shall have one (1) vote each. A majority of
18 members shall constitute a quorum. A decision shall, as far as practicable, be
19 reached by consensus. If no consensus is reached, a decision shall be upon a
20 vote of the majority of all members of the Board.

21 The Board shall:

22 1. Formulate policies, develop programs and promulgate rules and
23 regulations to carry out the powers and functions of the Authority;

24 2. Approve each year a budget to cover the operations of the
25 Authority based upon;

26 (a) Payment for the utilization of the Authority's energy projects in the
27 member-provinces and cities;

28 (b) The annual appropriation and other funds which Congress may
29 approve for the Authority;

1 3. Fix the compensation, emoluments, and allowances of the
2 Administrator and other officers and personnel of the Authority;

3 4. Perform such other functions as may be necessary to carry out the
4 purposes of this Act.

5 SEC. 11. *Duties and Functions of the Chairman of Board.* – The
6 Chairman shall:

7 (1) Call and preside at the meetings of the Board and see to it that the
8 policies, programs and rules and regulations developed and promulgated by it
9 are implemented properly;

10 (2) Present for approval by the Board:

11 (a) The annual budget of the Authority;

12 (b) The rules and regulations needed to carry out the provisions
13 of this Act and the amendments thereto;

14 (c) Other matters which he deems necessary or proper for the
15 effective implementation of this Act; and

16 (d) The annual report on the activities and finances of the
17 Authority; copies of which upon approval by the Board and the Advisory
18 Council, shall be furnished to the Office of the President of the Philippines
19 and both Houses of Congress.

20 (3) Perform such other functions which the Board on advice of
21 the Advisory Council, may direct to carry out the provisions of this Act.

22 SEC. 12. *Organizational Structure.* - The Board shall determine the
23 organizational structure, staffing pattern, and pay scales subject to the Salary
24 Standardization Law, of the Authority and the officers and employees thereof.
25 The Board may reorganize the same and create or abolish divisions, offices,
26 units, branches or agencies therein, as the exigencies of the affairs of the
27 Authority may require.

28 SEC. 13. *Administrator.* – The Board shall have an Administrator to be
29 appointed by the President of the Philippines who shall be the Chief Executive

1 Officer of the Authority and ex-officio Vice Chairman of the Board with the rank of
2 Presidential Assistant.

3 The Administrator shall possess the qualifications of at least a degree in
4 Economics or allied courses with ten (10) years experience in Mindanao.

5 The Administrator shall have the following powers, duties and
6 responsibilities:

7 (a) to submit to the Board, through the Chairman, policies and
8 measures which, in his judgement, are necessary to carry out the purpose and
9 provisions of this Act;

10 (b) to prepare the budget of the Authority for approval of the Board;

11 (c) To execute and administer the policies and measures approved by
12 the Board;

13 (d) To direct and supervise the operations and internal administration
14 of the Authority. He may delegate certain administrative responsibilities to other
15 officers of the Authority subject to the rules and regulations of the Board;

16 (e) to appoint all employees of the Authority except the heads of
17 departments and divisions whose appointments shall be made by the Board
18 upon his recommendation; and to remove, dismiss or otherwise discipline for
19 cause, such employees in accordance with the standard guidelines for
20 recruitment, employment, and discipline of personnel which shall be formulated
21 by the Board;

22 (f) to represent the Authority in all dealings with other offices,
23 agencies, and instrumentalities of the Government and with all persons and
24 entities, public or private;

25 (g) subject to the approval of the Board to determine the rates of
26 compensation, allowances, honoraria, and such other additional compensation
27 which the authority is hereby authorized to grant its officers, technical staff, and
28 consultants including the necessary detailed personnel;

1 (h) to exercise such other powers as may be granted to him by the
2 Board.

3 SEC. 14. *Power to Issue Bonds.* – Whenever the Board deems it
4 necessary for Authority to incur an indebtedness or to issues bonds to carry out
5 the provisions of this Act, it shall, by resolution, so declare and state the
6 purposes for which the proposed debt in to be incurred.

7 In order that such resolution be valid, it shall be passed by the affirmative
8 vote of at least a simple majority of all members of the Board, affirmed by the
9 Advisory Council, and approved by the President of the Philippines upon the
10 recommendation of the Secretary of Finance, after consultation with the National
11 Economic and Development Authority and the Monetary Board of the Central
12 Bank of the Philippines.

13 SEC. 15. *Sinking Fund.* - A sinking fund shall be established by the
14 Authority in such manner that the total annual contributions thereto, accrued at
15 such rate of interest as may be determined by the Secretary of Finance in
16 consultation with the Monetary Board, shall be sufficient to redeem at maturity
17 the bonds issued under the provisions of this Act. Said fund shall be under the
18 custody of the Central Bank of the Philippines which shall invest the same in
19 such manner as the Monetary Board may approve, charging all expenses of such
20 investment of said sinking fund, and crediting the same with the interest on
21 investments and other income accruing thereto.

22 SEC. 16. *Foreign Loans.* - The Authority is hereby authorized to contract
23 loans, credit and indebtedness, in any convertible foreign currency or capital
24 goods from time to time from foreign governments or any international financial
25 institutions or fund sources.

26 SEC. 17. *Auditor.* - The Chairman of the Commission on Audit shall be
27 *ex officio* Auditor in charge of the audit of the Authority. He shall appoint a
28 representative who shall be the auditor thereof. The Chairman of the
29 Commission on Audit (COA) shall, upon recommendation of the Auditor of the

1 Authority, appoint or remove personnel of the said auditing office in accordance
2 with the Authority's merit system. The operating expenses of this office and the
3 salaries and travelling expenses of the officials and employees thereof shall be
4 fixed by the Board and paid by the Authority. Such representative shall render a
5 semestral report to the Chairman of the Commission on Audit and the Board
6 which shall furnish copies thereof to all members of the Advisory Council. The
7 Chairman of the COA shall submit to the President of the Philippines and the
8 Congress an annual report covering the financial condition and operations of the
9 Authority.

10 These audit reports shall contain a statement of the resources and
11 liabilities including earnings and expenses, the amount of surplus, reserves and
12 profits as well as losses, bad debts and such other facts which under auditing
13 rules and regulations are considered necessary to accurately describe the
14 financial conditions and operations of the Authority: *Provided*, That before such
15 reports are made, the Authority shall be given reasonable opportunity to examine
16 the exceptions and criticisms of the auditor of the Authority or the Chairman of
17 the COA as the case maybe, to point out, explain or answer any inaccuracies
18 therein, if any, and to file a statement which shall be appended by the Auditor of
19 the Authority and the Chairman of the COA in their respective reports.

20 The Authority shall publish annually its financial statements.

21 SEC. 18. *Merit System.* - All officials and employees of the Authority
22 shall be selected and appointed on the bases of merit and fitness in accordance
23 with the comprehensive and progressive merit system to be established by the
24 Authority immediately upon its organization in accordance with Civil Service Law,
25 rules and regulations. Their qualifications being equal, long time residents of
26 Mindanao shall be preferred in recruiting Authority staff. The recruitment,
27 transfer, promotion, and dismissal of all its personnel including temporary
28 workers shall be governed by such merit system.

1 SEC. 19. *Donations and Gifts.* – The Authority shall have the right to
2 receive donations or bequests which shall be utilized only for the implementation
3 of the programs and projects of the Authority: *Provided,* That programs and
4 projects of the Authority financed by foreign grants of financial assistance with
5 national security implications shall be approved the same if it fails to act on the
6 request from the Authority for such approval within thirty (30) days from receipt
7 thereof. Any such donations or bequests shall be exempt from the payment of gift
8 taxes and the full amount of such donations or bequests shall be deductible from
9 the gross income of the donor for the year during which the same is made.

10 SEC. 20. *Applicability of the Corporation Law.* - The provisions of the
11 Corporation Law, as amended insofar as they are not inconsistent with this Act,
12 shall be applicable to the operations of the Authority.

13 SEC. 21. *Abolition of the Southern Philippines Development Authority.* -
14 The Southern Philippines Development Authority (SPDA) offices outside the
15 autonomous region created under Presidential Decree No. 1703, amending P.D.
16 No. 690 are hereby abolished. All its budgetary appropriations, finances
17 properties, records, rights equipment, chooses in action, and other assets as well
18 as liabilities and accountabilities are hereby transferred to the Authority. The
19 existing qualified SPDA personnel covered by Civil Service Law and rules and
20 regulations shall be absorbed by the Authority. However, due to a larger scope of
21 functions of the Authority, these personnel shall undergo training and take
22 examinations for reorganization purposes.

23 The Authority shall approve and prescribe its new staffing pattern and
24 prescribe the authorized positions created there under. The same shall be filled
25 with regular appointments in accordance with Civil Service Laws, rules and
26 regulations. Those incumbents whose positions are not included therein or who
27 are not re-appointed shall be deemed separated from the service or retired under
28 existing laws and regulations.

1 SEC. 22. *Appropriations.* – Such sums, in addition to the customary
2 appropriations for the SPDA, as may be necessary for the continued operation of
3 the Authority shall be included in the Annual General Appropriations Act.

4 SEC. 23. *Separability Clause.* - Should any provisions of this Act be
5 declared invalid or unconstitutional, any provision not affected thereby remain in
6 full force and effect.

7 SEC. 24. *Repealing Clause.*- Presidential Decree No. 690, as amended,
8 is hereby repealed. All other laws, decrees, orders, rules and regulations and
9 other issuances or parts thereof inconsistent with this Act are hereby repealed or
10 modified accordingly.

11 SEC. 25. *Effectivity.* - This Act shall take effect upon its approval and
12 publication in two (2) newspapers of general circulation in Mindanao and the
13 entire country.

Approved,