

13th Congress)
Republic of the Philippines)
Third Regular Session)

SENATE
SB **2520**

Introduced by Senator Aquilino Q. Pimentel, Jr.

EXPLANATORY NOTE

This is a counter-part bill of House Bill 5838 sponsored by Representative Danilo P. Lagbas of the First District of Misamis Oriental.

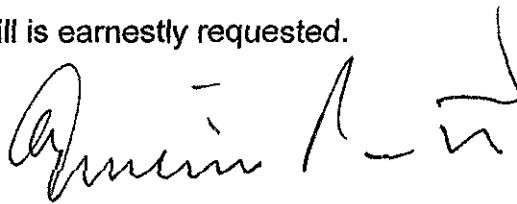
This bill proposes the creation of the Mimbilisan Protected Landscape within the Mimbilisan Watershed in the Municipalities of Talisayan and Balingoan, Province of Misamis Oriental, through its establishment as a component of the National Integrated Protected Areas System (NIPAS) under the category of protected landscape. The total area of the protected area is Six hundred sixty thousand square meters (660,000 sq.m.) or sixty-six (66) hectares, more or less, located within the territory of Barangay Mapua, Municipality of Balingoan, Province of Misamis Oriental.

Under this legislative proposal, the management of the Mimbilisan Protected Landscape shall be vested in the Protected Area Management Board (PAMB), which shall serve as the highest policy-making body for the protected area. The local government units of the municipalities of Balingoan and Talisayan shall participate in the management of the protected area through its membership/representation in the PAMB. The Mimbilisan Protected Landscape Management Office is hereby created within the DENR-Region X.

The zoning of the protected area shall give primary consideration to cultural, economic, and social practices consistent with sustainable management principles by tenured migrants and nearby communities for an appreciable length of time unless such uses are deemed detrimental to biodiversity conservation and the protection of the natural characteristics of the protected area.

A trust fund to be known as the Mimbilisan Protected Area Fund shall be established under this bill for purposes of financing projects for the protected area. All income generated from the operation of the protected area or management of wild flora and fauna in the protected area shall accrue to the fund.

The immediate passage of this bill is earnestly requested.



AQUILINO Q. PIMENTEL, JR.

1 13th Congress)
2 Republic of the Philippines)
3 Third Regular Session)

2511

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6 Introduced by Senator Aquilino Q. Pimentel

8 AN ACT ESTABLISHING THE MIMBILISAN PROTECTED LANDSCAPE LOCATED
9 IN THE MUNICIPALITIES OF BALINGOAN AND TALISAYAN, PROVINCE OF MISAMIS
10 ORIENTAL, PROVIDING FOR ITS MANAGEMENT AND FOR OTHER PURPOSES

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

11 Section 1. Title.- This Act shall be known and cited as "The Mimbilisan Protected
12 Landscape Act."

13 Section 2. Declaration of Policy.— It is the policy of the State to protect and
14 advance the right of the people to a balanced and healthful ecology in accord with the
15 rhythm and harmony of nature. For this purpose, the State shall secure for the present
16 and future generations of Filipinos the perpetual existence of all native plants and
17 animals within the Mimbilisan Watershed in the Municipalities of Talisayan and
18 Balingoan, Province of Misamis Oriental, through its establishment as a component of
19 the National Integrated Protected Areas System (NIPAS) under the category of
20 protected landscape. The State shall likewise promote the participation of local
21 communities in the management of the Mimbilisan Watershed and protect the way of
22 life of the people living in and around the protected area.

23 Section 3. Scope. The boundaries of the Mimbilisan Protected Landscape are as
24 follows: Tie Line: Point 1 or Corner 1 on the map is S 37° W, approximately 6,200
25 meters from the MBM of the Municipality of Talisayan, Misamis Oriental.

26	LINE	BEARING	DISTANCE
27	1 – 2	S 55° 00' E	310.00 meters
28	2 – 3	N 73° 00' E	200.00 meters
29	3 – 4	S 52° 00' E	200.00 meters
30	4 – 5	S 08° 20' E	633.00 meters
31	5 – 6	S 55° 60' W	200.00 meters
32	6 – 7	S 60° 60' W	190.00 meters
33	7 – 8	N 68° 60' W	220.00 meters
34	8 – 9	S 68° 60' W	150.00 meters

1	9 – 10	N 09° 60' W	390.00 meters
2	10 – 11	N 09° 60' E	260.00 meters
3	11 – 12	N 34° 00' E	110.00 meters
4	12 – 13	N 62° 60' W	220.00 meters
5	13 – 14	N 19° 60' W	170.00 meters
6	14 – 15	N 70° 00' E	190.00 meters
7	15 – 1	S 86° 00' E	110.00 meters

8 The total area of the protected area is Six hundred sixty thousand square meters
9 (660,000 sq.m.) or sixty-six (66) hectares, more or less, located within the territory of
10 Barangay Mapua, Municipality of Balingoan, Province of Misamis Oriental.

11 Section 4. Definition of Terms – For purposes of this Act, the following terms
12 shall be defined as follows:

13 a. “Biological Diversity or Biodiversity” shall refer to the wealth of life forms
14 found on earth, the millions of different plants, animals and microorganisms, the genes
15 they contain, and the intricate ecosystem they form;

16 b. “Buffer Zones” shall refer to identified areas outside the boundaries of and
17 immediately adjacent to designated protected areas that need special development
18 control in order to avoid or minimize harm to the protected area;

19 c. “General Management Plan” shall refer to the basic long-term framework
20 plan for the management of the protected area and serves as guide in the preparation
21 of the annual operations plan and budget;

22 d. “General Management Planning Strategy” shall refer to a guide in the
23 formulation of site specific management plans, including buffer zones;

24 e. “Indigenous Peoples” shall refer to people sharing common bonds of
25 language, customs, traditions and other distinctive cultural traits and who have since
26 time immemorial occupied, possessed and utilized a territory;

27 f. “Integrated Protected Area Fund” shall refer to a trust fund established for
28 purposes of financing projects within a protected area;

29 g. “Management Manual” shall refer to the individual management plan
30 containing basic background information, field inventory of the resources, assessment
31 of assets and limitations, regional interrelationships, particular objectives for managing
32 the area, appropriate division into management zones, review of the boundaries, and
33 design of the management programs of the area;

34 h. “National Integrated Protected Areas System (NIPAS)” shall refer to the
35 classification and administration of all designated protected areas established pursuant

1 to Republic Act No. 7586 to maintain essential ecological processes and life-support
2 systems, to preserve genetic diversity, to ensure sustainable use of resources, and to
3 maintain the natural conditions to the greatest extent possible;

4 i. "Protected Area" shall refer to identified portions of land and water set aside
5 by reasons of their unique physical and biological significance, managed to enhance
6 biological diversity, and protected against destructive human exploitation;

7 j. "Protected Area Management Board" shall refer to the site based decision
8 making body responsible in the planning, resource protection and general
9 administration of the area in accordance with the approved management plan;

10 k. "Protected Landscape" shall refer to an area of national significance which
11 is characterized by the harmonious interaction of man and land while providing
12 opportunities for public enjoyment through recreation and tourism within the normal
13 lifestyle and economic activity of the area;

14 l. "Protected Area Superintendent" shall refer to the chief operating officer of
15 the Department of Environment and Natural Resources (DENR) for the Mimbilisan
16 Protected Landscape;

17 m. "Secretary" shall refer to the Secretary of the Department of Environment
18 and Natural Resources (DENR); and

19 n. "Tenured Migrants" shall refer to any person who has actually and
20 continuously occupied an area for five (5) years prior to the designation of the same as
21 a protected area in accordance with the provisions of Republic Act No. 7586 or the
22 NIPAS Act and are solely dependent therein for subsistence;

23 Section 5. Management of the Mimbilisan Protected Landscape.- The
24 management of the Mimbilisan Protected Landscape shall be vested in the Protected
25 Area Management Board (PAMB) as herein provided, which shall serve as the highest
26 policy-making body for the protected area. Through the PAMB, the management
27 structure for the protected area shall promote partnership, participation, cooperation,
28 and coordination with local communities and civil society organizations.

29
30 Section 6. The Protected Area Management Board.- The Protected Area
31 Management Board for the Mimbilisan Protected Landscape shall be composed of:

32 (1) The Regional Executive Director of DENR-Region X, as chairman;

33 (2) The mayors of the Municipalities of Balingoan and Talisayan, Province of
34 Misamis Oriental, or their authorized representatives;

1 (3) The barangay captains with territory inside and adjacent to the protected
2 area or their authorized representatives;

3 (4) The Regional Director of the Department of Agriculture (DA) Region X or his
4 authorized representative;

5 (5) The Provincial Environment and Natural Resources Officer (PENRO) of
6 Misamis Oriental;

7 (6) The Community Environment and Natural Resources Officer of Gingoog
8 City;

9 (7) Two (2) non-government organization/peoples organization (NGO/PO)
10 representatives concerned with protected area management, chosen from among the
11 two (2) municipalities with territory inside the protected area and duly accredited with
12 the municipality being represented; and

13 (8) The Provincial Planning and Development Officer (PPDO) of Misamis
14 Oriental, sitting as ex-officio member, to be endorsed by the provincial governor.

15 Each member of the PAMB shall serve for a term of five (5) years and shall be
16 considered to represent and carry the vote of his or her sector in all matters. The
17 members who represent government officials or agencies shall serve according to the
18 term of office of their principals, unless sooner terminated by such official/s.

19 Section 7. Powers and Functions of the PAMB.- The PAMB for the Mimbilisan
20 Protected Landscape shall exercise the following powers and functions:

21 (a) Issue rules and regulations to implement the provisions of this Act and
22 promote the policy declaration herein set forth;

23 (b) Establish criteria and set fees for the issuance of permits for the activities
24 regulated by the Act, or the approved management plan;

25 (c) Identify the buffer zone for the protected area;

26 (d) Adopt rules of procedure for the conduct of business, including the creation
27 of committees to whom its powers may be delegated;

28 (e) Approve the management plan and oversee the Office of the Protected Area
29 Superintendent (PASu);

30 (f) Deputize interested individuals for the enforcement of the laws, rules and
31 regulations adopted pursuant to this Act;

32 (g) Accept donations, approve proposals for funding and budget allocation and
33 exercise accountability over all funds that may accrue to the protected area;

34 (h) Coordinate with appropriate agencies for the regulation of flight patterns of
35 aircraft going over the area to set acceptable latitudinal limits and emissions; and

1 (i) Retain legal counsel, either on a permanent or temporary basis, to provide
2 legal assistance to the PAMB and the PASu staff whenever they are sued in connection
3 with the performance of their duties under this Act.

4 The Secretary shall exercise authority over the PAMB to ensure that it exercises
5 its authority within the scope of its powers and functions. In case of conflict between
6 administrative orders of national applications issued by the DENR pursuant to the
7 NIPAS Act and the rules and regulations issued by the PAMB, the PAMB shall notify the
8 Secretary who shall resolve such conflict.

9 The local government units of the municipalities of Balingoan and Talisayan shall
10 participate in the management of the protected area through
11 representation/membership in the PAMB as provided under Section 6 hereof. The
12 LGUs shall retain their power to adopt ordinances over the territory covered under this
13 Act, giving due consideration, however, to protected area management objectives. If a
14 conflict between LGU and protected area management objectives remain unresolved
15 within the PAMB, the Secretary shall resolve such issue with the concerned LGU.

16 Section 8. The Mimbilisan Protected Landscape Management Office.- The
17 Mimbilisan Protected Landscape Management Office is hereby created within the
18 DENR-Region X. It shall be headed by the PASu, an employee of DENR-Region X,
19 who shall serve as chief operating officer for the protected area. The PASu shall report
20 directly to the DENR RED for Region X and shall be accountable to the PAMB. The
21 PASu shall reside and establish a main office and sub-offices, as needed, within the
22 protected area.

23 The PASu shall have the following powers and functions.

24 (1) Prepare the management and successor plans as herein provided;

25 (2) Provide a secretariat for the PAMB to supply the latter with all information
26 necessary to make appropriate decisions;

27 (3) Hire and supervise the necessary personnel to support operations as the
28 budget made available by the PAMB may allow;

29 (4) Establish a productive partnership with the local community, including
30 groups interested in the achievement of the goals and objectives of the protected area,
31 and in the planning, protection and management thereof;

32 (5) Develop and implement a park information, education and visitor program;

33 (6) Enforce the laws, rules and regulations relevant to the protected area and
34 assist in the prosecution of offenses thereof;

35 (7) Monitor all activities within the protected area for conformity with the
36 management plan; and

1 (8) Perform such other functions as the PAMB may assign.

2 The PASu shall prepare a management plan in coordination with the appropriate
3 offices of the DENR, LGUs, local communities, and experts on tribal communities who
4 have experience in the particular cultures in the area. The management plan shall be
5 reviewed, approved and adopted by the PAMB and certified to by the Secretary that it
6 conforms to all laws, rules and regulations of national application. In no case shall the
7 management plan be revised or modified without prior consultation with the PAMB.

8 Within one (1) year from the effectivity of this Act, the management plan shall be
9 put into effect in accordance with the NIPAS Act and the procedure herein set forth. It
10 shall contain, among others, the following:

- 11 (a) Period of applicability of the plan
- 12 (b) Key management issues
- 13 (c) Goals and objectives of management
- 14 (d) Site management strategy
- 15 (e) Major management activities such as, but not limited to, enforcement of
16 laws, habitat and wildlife management, sustainable use management,
17 infrastructure development and maintenance, fire and pest control, etc.
- 18 (f) Zoning
- 19 (g) Visitor management programs

20 The PASu shall prepare all successor plans two years before the expiration of
21 the existing plans and shall cause the publication of notices for comments and
22 suggestions on the next successor plan in a newspaper of local circulation and the
23 posting of such notices in the provincial, municipal and barangay halls and in three
24 other areas frequented by the public. *Public consultations may be conducted on the*
25 *successor plan upon the written request of any interested party.* The proposed plan
26 shall be made available to the public during the period for comment and the final version
27 shall be made available for public perusal at the office of the PASu.

28 The zoning of the protected area shall give primary consideration to cultural,
29 economic, and social practices consistent with sustainable management principles by
30 tenured migrants and nearby communities for an appreciable length of time unless such
31 uses are deemed detrimental to biodiversity conservation and the protection of the
32 natural characteristics of the protected area.

33 The management plan shall be prepared in a language understandable in the
34 area, plainly written, and available for perusal anytime to the general public at the PASu
35 office.

36 Section 9. Existing Facilities within the Protected Area.- Existing facilities
37 allowed to remain within the protected area may be charged a reasonable fee by the

1 PAMB, which shall be embodied in a Memorandum of Agreement to be entered into
2 with the owner of the facility. All incomes derived from such fees shall accrue to the
3 Mimbilisan Protected Area Fund established pursuant to this Act.

4 In setting the user fees on man-made facilities managed by private entities, the
5 rates shall be determined by the private entity but shall be comparable to the fees
6 charged for similar facilities in a protected area. For all other facilities, the user fees
7 therein shall be determined in consultation with the PAMB.

8 Section 10. *Utilization of Non-renewable Resources.*- Any exploration for and
9 exploitation or utilization of non-renewable resources within the protected area shall not
10 be allowed. Energy projects, renewable or otherwise, shall be permitted only through
11 an Act of Congress: Provided, that exploitation of renewable energy up to three (3)
12 megawatts capacity shall be exempt from such requirement.

13 (A) Section 11. *Prohibited Acts.*- (A) The penalties prescribed for theft under
14 Articles 309 and 310 of the Revised Penal Code shall be imposed upon any person
15 found guilty of:

16 (1) Hunting, destroying, trapping, disturbing or possessing anywhere within the
17 protected area of any wild plant or animal or products derived therefrom without a
18 permit from the PAMB: Provided, That such permit shall only be given for scientific
19 purposes necessary to promote protected area management;

20 (2) Cutting, gathering, collecting or removing timber or forest products without
21 permit: Provided, That such permit shall only be given for scientific purposes necessary
22 for protected area management;

23 (3) Possessing outside the protected area of any wild plant or animal or
24 products derived therefrom which came from the protected area;

25 (4) Mineral exploration or extraction, drilling or prospecting for minerals within
26 the protected area;

27 (5) Constructing or maintaining any kind of road, structure, fence or enclosure
28 without permit from the PAMB: Provided, That structures within ancestral domains used
29 by indigenous cultural communities shall not need a permit from the PAMB; and

30 (6) Altering, mutilating, excavating, removing, destroying or defacing
31 boundaries, marks or signs, natural formation, burial grounds, religious sites, artifacts,
32 objects belonging to indigenous cultural communities and other objects of natural and
33 scenic value or affixing marks or signs on trees.

1 (B) A fine of not less than One Hundred Thousand Pesos (P100,000.00) nor
2 more than Five Hundred Thousand Pesos (P500,000.00) and/or imprisonment of not
3 less than one (1) year and not more than five (5) yeas shall be imposed upon:

4 (1) Any person or persons found guilty of grazing and/or causing livestock to
5 graze or raising poultry within the protected area without a permit from the PAMB; and

6 (2) Any public officer or officer of the law, who, in dereliction of the duties of his
7 office, shall maliciously refrain from instituting acts necessary to prosecute the violators
8 of this Act, or shall tolerate the commission of offenses herein provided. Conviction for
9 this offense shall also carry the penalty of perpetual disqualification from public office.

10 (C) A fine or not less than One Hundred Thousand Pesos (P100,000.00) but not
11 more than Five Hundred Thousand Pesos (P500,000.00) and/or imprisonment of not
12 less than one (1) year and not more than five (5) years and the restoration and
13 rehabilitation of the damage shall be imposed upon any person who commits the
14 following acts:

15 (1) Violating any rules and regulations in the management plan or by the PAMB
16 or agreements reached before the PAMB in the exercise of its adjudicative functions;

17 (2) Dumping, burning or disposing of any waste products, vegetation or
18 materials within the protected area to the detriment of inhabitants, plants or animals
19 therein;

20 (3) Use of motorized equipment without a permit except motorized vehicles
21 within the national highway, provincial road, or other public thoroughfare traversing the
22 park: Provided, That such thoroughfares were legally constructed;

23 (4) *Occupying any portion of land inside the protected area without a permit*
24 *from the PAMB: Provided, That such occupation shall be of such a nature as to last*
25 *more than ten (10) days in particular portion of the protected area; and*

26 (5) Entering the protected area without a permit from the PAMB.

27 Any person who shall induce or conspire with another person to commit any of
28 the acts prohibited in this Section or cause his workers to commit any of such acts shall
29 be liable in the same manner as the one actually performing the act.

30 The valuation of the damage resulting from any of the acts prohibited herein shall
31 take into account biodiversity and conservation consideration as well as aesthetic and
32 scenic values. Conviction for any of these acts shall likewise carry the penalty of
33 eviction from the protected area and forfeiture in favor of the government of
34 transportation facilities, structures, building materials, equipment, devices and weapons
35 used in the commission of the offense.

1 The local government unit (LGU) responsible for the arrest of a violator and the
2 confiscation of materials used in the commission of the offense shall have a fifty percent
3 (50%) share from the proceeds in the disposition of confiscated materials. The other
4 fifty percent (50%) shall accrue to the Mimbilisan Protected Area Fund.

5 The above prohibitions shall not include activities identified in the management
6 plans and such other measures as are necessary for protection, preservation and
7 protected area management, which shall be undertaken by the PASu or other persons
8 deputized by the PAMB. The certified customs and traditional practices of indigenous
9 cultural communities are also allowable activities over which the above prohibitions shall
10 not apply.

11 Section 12. Special Prosecutors.- Within thirty (30) days from the effectivity of
12 this Act, the Department of Justice (DOJ) shall designate a special prosecutor to whom
13 all cases of violation of laws, rules and regulations in the protected area shall be
14 assigned. Such special prosecutor shall coordinate with the PAMB and the PASu in the
15 performance of his/her duties and assist in the training of wardens and rangers in
16 arresting and prosecuting violators of this Act. The PAMB may appoint a special private
17 prosecutor on a case-to-case basis, to assist the public prosecutor.

18 Section 13. Mimbilisan Protected Area Fund.- There is hereby established a
19 trust fund to be known as the Mimbilisan Protected Area Fund *for purposes of financing*
20 projects for the protected area. All income generated from the operation of the
21 protected area or management of wild flora and fauna in the protected area shall accrue
22 to the fund. These income shall be derived from visitors'/tourists' fees, fees from
23 permitted sale and export of flora and fauna and other resources from the protected
24 areas, *proceeds from registration and lease of multiple-use areas, including tourism*
25 concessions, contributions from industries and facilities directly benefiting from the
26 protected area; and such other fees and income derived from the operation of the
27 protected area.

28 The fund maybe augmented by grants, donations, endowment from various
29 sources, domestic or foreign for purposes related to their functions: Provided, That the
30 fund shall be deposited as a special account in the National Treasury and
31 disbursements therefrom shall be made solely for the protection, maintenance,
32 administration, and management of the system, and duly approved projects endorsed
33 by the PAMB in accordance with existing accounting and budgeting rules and
34 regulations: Provided, further, That the fund shall not be used to cover personal
35 services expenditures.

36 The LGUs shall continue to impose and collect all other fees not enumerated
37 herein which they have traditionally collected, such as business permits, property tax,

1 and rentals of local government units facilities. Furthermore, local government units
2 may charge add-ons to fees imposed by the PAMB provided that such add-ons shall be
3 determined based on the contribution of the local government units in the maintenance
4 and protection of the protected area.

5 Sec. 14. Appropriations.— The Secretary of the Department of Environment and
6 Natural Resources (DENR) shall immediately include in the Department's program the
7 implementation of this Act, the funding of which shall be included in the annual General
8 Appropriations Act.

9 Sec. 15. Construction.— The provisions of this Act shall be construed liberally in
10 favor of the protection and rehabilitation of the Mimbilisan watershed and water
11 resources and the conservation and restoration of biological diversity, taking into
12 account the needs and interests of qualified tenured migrants, for present and future
13 Filipino generations. The NIPAS Act shall have suppletory effect in the implementation
14 of this Act.

15 This Act shall not be deemed to resolve or used as basis for the resolution of any
16 existing boundary conflict between the municipalities of Balingoan and Talisayan.

17 Section 16. Transitory Provision.— In order to ensure the sustainability and
18 integrity of the watershed and water resources, the recovery and restoration of
19 biological diversity, and to develop sustainable livelihood opportunities for tenured
20 migrants, the DENR shall henceforth cease to issue concessions, licenses, permits,
21 clearances, compliance documents, or any other instrument that allows exploitation and
22 utilization of resources within the protected area until the management plan shall have
23 been put into effect.

24 Section 17. Repealing Clause.— All laws, rules and regulations inconsistent
25 herewith are modified accordingly.

26 Section 18. Separability Clause.— If any part or section of this Act is declared by
27 the courts as unconstitutional, such declaration shall not affect the other parts or
28 sections hereof.

29 Section 19. Effectivity Clause.— This Act shall take effect fifteen (15) days after
30 publication in the Official Gazette or in a newspaper of general circulation readily
31 available in and around the scope specified herein. It shall likewise be posted in a
32 conspicuous place in the provincial, municipal and barangay halls within the area as
33 well as in three (3) other places frequented by the public.

34 Approved.