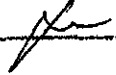


THIRTEENTH CONGRESS OF THE }
REPUBLIC OF THE PHILIPPINES }
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SENATE

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(In substitution of H. No. 4853)

Prepared jointly by the Committees on Environment and Natural Resources, Local Government, and Finance, with Senator Cayetano and the members of the Committees as authors

AN ACT
DECLARING THE BESSANG PASS NATURAL MONUMENT IN THE MUNICIPALITY OF CERVANTES, ILOCOS SUR AS A PROTECTED AREA 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 “Bessang Pass Protected
2 Area Act of 2006.”

3 SEC. 2. *Land Classification.* – All lands of the public domain comprising the
4 Bessang Pass Protected Area shall fall under the classification of National Park as
5 provided for in the Philippine Constitution. *However,* Public lands already classified as
6 agricultural and alienable or disposable prior to the passage of this Act shall remain as
7 such and may be disposed of pursuant to the provisions of Commonwealth Act No. 141
8 or the Public Land Act, as amended.

9 SEC. 3. *Category.* – The Bessang Pass, which is known for its intact stand of pine
10 forest in Region 1 and as the site of the historic Battle of Bessang Pass during World
11 War II, is hereby categorized pursuant to the NIPAS Act as a natural monument and
12 shall hereinafter be referred to as the Protected Area (PA).

13 SEC. 4. *Scope.* – The boundaries of the Bessang Pass Natural Monument are as
14 follows:

15 PARCEL 1. Beginning at point mark “I” on the map, being S 66 deg. 00 min,
16 W, 3,300 meters from corner 10, Project No. 13, block 23 of A & D, LC Map No. 1276:

- 17 Point 2 N 20° 33’ 16” E 1,378.610 m.
- 18 Point 3 N 69° 26’ 03” E 748.684 m.
- 19 Point 4 S 78° 25’ 37” E 1,638.908 m.
- 20 Point 5 S 20° 56’ 52” W 3,398.480 m.
- 21 Point 6 N 61° 42’ 05” W 948.030 m.

1	Point	7	S 70° 33' 48" W	631.166 m.
2	Point	8	N 46° 50' 14" W	535.089 m.
3	Point	9	N 28° 01' 24" W	292.903 m.
4	Point	10	N 64° 40' 35" W	352.890 m.
5	Point	11	N 49° 26' 06" E	490.845 m.
6	Point	12	N 64° 25' 41" E	659.415 m.
7	Point	1	N 38° 54' 52" W	424.160 m.

8 containing an area of six hundred ninety-three and 3166/10000 (693.3166) hectares,
9 as PA.

10 **PARCEL 2.** Parcel 2 constitutes the buffer zone whose boundary begins at the
11 corner marked "I" on the map identical to corner "I" of Bessang Pass Natural
12 Monument:

13	Point	2	S 39° 25' 33" E	423.735 m.
14	Point	3	S 64° 36' 26" W	594.362 m.
15	Point	4	S 49° 28' 50" W	486.421 m.
16	Point	5	S 65° 09' 42" E	353.941 m.
17	Point	6	S 28° 30' 53" E	282.047 m.
18	Point	7	S 47° 21' 05" E	535.216 m.
19	Point	8	N 70° 20' 13" E	636.297 m.
20	Point	9	S 62° 11' 41" E	950.432 m.
21	Point	10	N 21° 09' 16" E	3,426.934 m.
22	Point	11	S 78° 00' 50" E	505.805 m.
23	Point	12	S 19° 50' 34" W	4,012.372 m.
24	Point	13	N 61° 48' 02" W	1,255.922 m.
25	Point	14	S 69° 39' 22" W	623.725 m.
26	Point	15	N 46° 38' 29" W	910.980 m.
27	Point	16	N 27° 28' 38" W	218.409 m.
28	Point	17	N 64° 50' 04" W	355.949 m.
29	Point	18	N 64° 50' 04" W	514.149 m.
30	Point	19	N 50° 30' 41" E	1,178.639 m.
31	Point	20	N 38° 33' 59" W	376.642 m.
32	Point	21	N 21° 39' 12" E	952.021 m.
33	Point	22	S 74° 03' 35" E	505.782 m.
34	Point	1	S 20° 20' 38" W	838.323 m.

35 containing an area of four hundred twenty-seven and 7917/10000 (427.7917) hectares,
36 as buffer zone.

37 Parcels 1 and 2 shall have a total aggregate area of one thousand one hundred
38 twenty-one and 1083/10000 (1,121.1083) hectares, subject to actual ground survey.

1 Both the PA and the buffer zone shall be under the administrative jurisdiction of
2 the Department of Environment and Natural Resources (DENR) and shall be
3 administered in accordance with the provisions of the NIPAS Act.

4 **SEC. 5. *Definition of Terms.*** – For purposes of this Act, the following terms shall
5 be defined as follows:

6 (a) “Buffer zone” refers to identified areas outside the boundaries of and
7 immediately adjacent to designated PAs pursuant to Section 8 of the NIPAS Act that
8 need special development control in order to avoid or minimize harm to the PA.

9 (b) “Indigenous Peoples (IPs)” refers to people defined as such in Republic Act
10 No. 8371, otherwise known as the “Indigenous People’s Rights Act (IPRA) of 1997”.

11 (c) “Integrated Protected Area Fund (IPAF)” refers to the trust fund established for
12 purposes of financing projects of the NIPAS.

13 (d) “Protected Area Management Board (PAMB)” refers to the site-based decision-
14 making body responsible in the planning, resource protection and general
15 administration of the PA.

16 (e) “Natural monument” refers to a relatively small area focused on protection
17 of small features to protect or preserve nationally significant natural and historical
18 features on account of their special interest or unique characteristics.

19 (f) “Nongovernment organization (NGO)” refers to any civic, development or
20 philanthropic organization which is multi-sectoral in character.

21 (g) “Protected area (PA)” refers to any identified portions of land and water set
22 aside by reason of their unique physical and biological significance, managed to
23 enhance biological diversity and protected against destructive human exploitation.

24 (h) “Protected Area Superintendent (PASu)” refers to the chief operating DENR
25 officer in the PA.

26 (i) “Tenured migrants” refers to any person who has actually and continuously
27 occupied an area for five years prior to the designation of the same as PA in
28 accordance with the NIPAS Act and are solely dependent therein for subsistence.

29 **SEC. 6. *Control and Supervision.*** – The DENR shall be the lead agency tasked to
30 implement the provisions of this Act through the PAMB. The participation of the local
31 government units (LGUs), other government agencies and NGOs shall be through their
32 membership to the PAMB.

33 **SEC. 7. *Management of the Protected Area.*** – The PAMB shall be the highest
34 policy-making body of the PA and shall be composed of the following:

35 (1) The Regional Executive Director (RED) of the DENR I, as chairman;

36 (2) The Provincial Planning and Development Officer (PPDO);

37 (3) The Mayor of the Municipality of Cervantes and the Provincial Governor of
38 Ilocos Sur, or their duly designated representatives as members;

1 (4) Maximum of three representatives from nongovernment organizations/local
2 community organizations involved in PA management based at Cervantes, Ilocos Sur,
3 and duly accredited by the municipal government, to be chosen in an election
4 exclusively called for the purpose by the DENR in coordination with concerned LGUs;

5 (5) One representative from each tribal community to be chosen in an election to
6 be conducted by the DENR in coordination with the National Commission on
7 Indigenous Peoples (NCIP); and

8 (6) One representative from other national government agencies, to be chosen
9 through election called for the purpose by the DENR among the representatives of all
10 national government agencies involved in PA management in the Municipality of
11 Cervantes.

12 Every member of the PAMB shall serve for a term of five years and shall be
13 considered to represent his or her sector and deemed to carry the vote of such sector in
14 all matters. In the case of members who are government officials, the term of office
15 shall be attached to the office held.

16 In the selection of the representatives of POs and NGOs, preference shall be
17 accorded to those organizations that are involved in the conservation, protection and
18 development of the PA. Representation shall be by institution and shall aim to achieve
19 balance in representation by geographic location or areas.

20 The representatives from the LGUs and national agencies in the PAMB shall
21 include among their duty to appraise their respective constituents, office or sector, to
22 ensure that the provisions of this Act is consistent with the Local Government Code of
23 1991 (R. A. No. 7160), other relevant statutes and ordinances, and local and national
24 development plans and projects. Failure to comply with the foregoing shall subject such
25 representative to disciplinary action as the PAMB may provide.

26 The PAMB shall have the following powers and functions:

27 (1) Issue all rules and regulations to prohibit acts that may be prejudicial to the PA
28 and the policy declaration herein set forth as well as established criteria;

29 (2) Set fees for the issuance of permits for activities regulated by this Act or the
30 management plan;

31 (3) Issue rules and regulations for the resolution of conflict through appropriate
32 culturally sensitive and effective means;

33 (4) Adopt rules and procedures for the conduct of business, including the creation
34 of committees to whom its powers may be delegated;

35 (5) Approve the management plan and oversee the office of the PASu;

36 (6) Deputize interested individuals for the enforcement of the laws, rules and
37 regulations governing conduct in the PA and its buffer zone; and

1 (7) Approve proposals for funding and budget allocation and exercise
2 responsibility over all funds that may accrue to the Bessang Pass Natural Monument.

3 The DENR, through the RED shall exercise the authority to oversee the PAMB to
4 ensure that it acts within the scope of its powers and functions. In case of a conflict
5 between administrative orders of national application issued by the DENR pursuant to
6 the NIPAS Act and the rules and regulations issued by the PAMB, the PAMB shall
7 notify the Secretary of the DENR who shall decide whether to apply the rule or
8 withdraw its application in the PA. The decision of the Secretary shall be guided by a
9 preference to local initiative and specific policies enacted by the PAMB. The decision
10 of the Secretary may be appealed to the regional trial court who has jurisdiction over
11 the PA.

12 Within one year from the effectivity of this Act, a management plan shall have
13 been put into effect following the GMPS provided under the NIPAS Act and according
14 to the procedures herein set forth. It shall contain, among others, the following:

15 (a) the category of the PA;

16 (b) period of applicability of the plan;

17 (c) key management issues;

18 (d) goals and objectives of management in support of Section 2 hereof;

19 (e) site management strategy;

20 (f) major management activities such as, but not limited to, enforcement of laws,
21 habitat and wildlife management, sustainable use management, infrastructure
22 development and maintenance, fire and pest control;

23 (g) zoning; and

24 (h) visitor management programs.

25 The PASu shall prepare the management plan in consultation with the appropriate
26 offices of the DENR and local experts who may donate their services including, but not
27 limited to, people's organizations, NGOs and local government agencies. The
28 management plan shall be reviewed, approved and adopted by the PAMB and shall be
29 certified by the Secretary of the DENR. Such certification shall declare that the
30 management plan conforms to all laws, rules and regulations of national application
31 issued by the DENR. In no case shall the DENR revise or modify the management
32 plan without prior consultation with the PAMB.

33 The PASu, in coordination with all concerned offices, shall likewise prepare all
34 successor plans. One year before the expiration of the period of applicability of the
35 plan in effect, the PASu shall cause publication of notices for comments and
36 suggestions on the next successor plan in a newspaper of local circulation and the
37 posting of such notices in the provincial, municipal and barangay halls, and in three
38 other areas frequented by the public. Public hearings may be conducted on the

1 successor plan upon the written request of any interested party. The final plan shall be
2 made available for public comment at the office of the PASu upon its approval by the
3 PAMB.

4 The zoning of the PA shall give primary consideration to the traditional zones used
5 and recognized by indigenous peoples and tenured migrants unless such uses are
6 deemed detrimental to biodiversity and the protection of the natural characteristics of
7 the PA.

8 The plan shall be prepared in a language understandable in the area, plainly
9 written and available for comments to the general public at the PASu office.

10 **SEC. 8. Existing Facilities Within the PA.** – Within sixty (60) days from the
11 effectivity of this Act, major existing facilities such as roads, buildings, water systems,
12 transmission lines, communication facilities, heavy equipment, and irrigation facilities
13 existing within the boundaries of the PA shall submit project description to the PAMB
14 through the PASu.

15 The PAMB, with the assistance of the DENR, shall determine whether the
16 existence of such facility and its future plan and operations will be detrimental to the PA
17 or whether conditions for its operation shall be imposed. If any such conditions are
18 violated, the owner of the facility shall be liable to pay a fine of Five thousand pesos
19 (P5,000.00) for every violation. Upon reaching a total fine of Five hundred thousand
20 pesos (P500,000.00), the PAMB through the PASu and deputizing other government
21 entities, shall cause the cessation and demolition of the facility at the cost of its owner.

22 Existing facilities allowed to remain within the PA may be charged a reasonable
23 royalty by the DENR. All income from such royalty shall accrue to the Mt. Hilong-Hilong
24 Protected Area Fund.

25 **SEC. 9. Bessang Pass Protected Area Fund.** – There is hereby
26 established a trust fund to be known as the Bessang Pass Protected Area Fund for
27 purposes of financing projects of the system. All income generated from the operation
28 of the system or management of wild flora and fauna in the PA shall accrue to the fund.
29 These income shall be derived from visitors/tourists fees, fees from permitted sale and
30 export of flora and fauna and other resources from the PA, proceeds from registration
31 and lease of multiple-use areas including tourism concessions, contributions from
32 industries and facilities directly benefiting from the PA, and such other fees and
33 incomes derived from the operation of the PA.

34 The fund may be augmented by grants, donations, endowment from various sources,
35 domestic or foreign, for purposes related to their functions: *Provided*, That the fund
36 shall be deposited as a special account in the National Treasury and disbursements
37 therefrom shall be made solely for the protection, maintenance, administration and
38 management of the system, and duly approved projects endorsed by the PAMB in

1 accordance with existing accounting and budgeting rules and regulations: *Provided,*
2 *further,* That the fund shall not be used to cover personal services expenditures.
3 The LGUs shall continue to impose and collect all other fees not enumerated herein
4 *which they have traditionally collected, such as business permits, property tax and*
5 *rentals of LGUs' facilities. Furthermore, LGUs may charge add-ons to fees imposed by*
6 *the PAMB: Provided,* That such add-ons shall be determined based on the contribution
7 of the LGUs in the maintenance and protection of the PA.

8 **SEC. 10. *Tenured Migrants.*** – Persons who have actually and continuously
9 occupied a portion of the forest land within the PA five years before the effectivity of
10 this Act and are solely dependent on that area for their livelihood shall be considered
11 as tenured migrants within the PA.

12 For the purpose of official documentation of rights and extent of occupation within
13 the PA, a tenured migrant shall be issued a tenorial instrument over such area as has
14 been occupied or cultivated five years before the effectivity of the NIPAS Act. For
15 areas occupied by tenured migrants that are designated as zones in which no
16 occupation or other human activities are allowed, a provision for the transfer of the
17 tenured migrants to multiple-use zones or the buffer zone shall be undertaken using
18 humanitarian consideration.

19 Upon the cancellation of a tenured migrant instrument for cause, abandonment or
20 by voluntary surrender of rights, the PASu shall take immediate steps to rehabilitate the
21 area in order to return it to its natural state prior to the cultivation or other activity by the
22 tenured migrant.

23 **SEC. 11. *Appropriations.*** – The Secretary of the DENR shall immediately
24 include in the Department's program the implementation of this Act, the funding of
25 which shall be included in the annual General Appropriations Act.

26 **SEC. 12. *Prohibited Acts and Penalties.*** – The following acts are hereby
27 prohibited within the PA:

28 (a) Hunting, destroying, disturbing or mere possession of any plant or animal or
29 product derived therefrom without a permit from the PAMB;

30 (b) Dumping of any waste products detrimental to the PA, or to the plants and
31 animals or inhabitants therein;

32 (c) Use of any motorized equipment without a permit from the PAMB;

33 (d) Mutilating, defacing or destroying objects of natural beauty, or objects of
34 interest to cultural communities;

35 (e) Damaging and leaving roads and trails in a damaged condition;

36 (f) Squatting, mineral location or otherwise occupying any land;

37 (g) Constructing or maintaining any kind of structure, fence or enclosure, or
38 conducting any business enterprise without a permit from the PAMB;

1 (h) Leaving in exposed or unsanitary condition refuse or debris, or depositing the
2 same in ground or in bodies of water; and

3 (i) Altering, removing, destroying or defacing boundary marks or signs.

4 SEC. 13. *Penalties.* – Whoever violates this Act or any rules and regulations
5 issued by the DENR or the PAMB pursuant to this Act or whoever is found guilty by a
6 competent court of justice of any of the offenses in the preceding section shall be fined
7 in the amount of not less than Five thousand pesos (P5,000.00) nor more than Five
8 hundred thousand pesos (P500,000.00), exclusive of the value of the thing damaged or
9 imprisonment for not less than one year but not more than six years, or both, as
10 determined by the court: *Provided*, That if the area requires rehabilitation or restoration
11 as determined by the court, the offender shall also be required to restore or
12 compensate for the restoration to the damage: *Provided, further*, That the court shall
13 order the eviction of the offender from the area and the forfeiture in favor of the
14 government of all minerals, timber or any species collected or removed, including all
15 equipment, devices, and firearms used in connection therewith and any construction or
16 improvement made thereon by the offender. If the offender is an association or
17 corporation, the president or manager shall be directly responsible for the act of his
18 employees and laborers: *Provided, finally*, That the DENR may impose administrative
19 fines and penalties consistent with this Act.

20 SEC. 14. *Reporting Responsibility.* – The PASu, through the PAMB shall be
21 responsible in the preparation of accomplishment reports on the activities undertaken
22 in the PA for submission to the Secretary of the DENR.

23 SEC. 15. *Construction.* - The provisions of this Act shall be construed liberally in
24 favor of tenured migrants and in harmony with the principles of protection and
25 conservation of biodiversity. Provisions of Republic Act No. 7586 not inconsistent with
26 the provisions of this Act shall have suppletory effect in the implementation of this Act.

27 SEC. 16. *Separability Clause.* – If any part or section of this Act is declared
28 by the court as unconstitutional, such declaration shall not affect the other parts or
29 sections hereof.

30 SEC. 17. *Repealing Clause.* – The provisions of the NIPAS Act are hereby
31 modified in accordance with the provisions herein. All other laws, rules and regulations
32 inconsistent with this Act are hereby repealed or modified accordingly.

33 SEC. 18. *Effectivity Clause.* This Act shall take effect fifteen (15) days after
34 its complete publication in the *Official Gazette* or in a national newspaper of general
35 circulation available in the PA. This Act shall be translated in a dialect known in the PA
36 by the DENR within thirty (30) days from approval hereof and shall be posted for three
37 consecutive weeks in conspicuous place in the provincial, municipal and barangay halls
38 within the PA as well as in three other public places frequented by the public.

Approved,