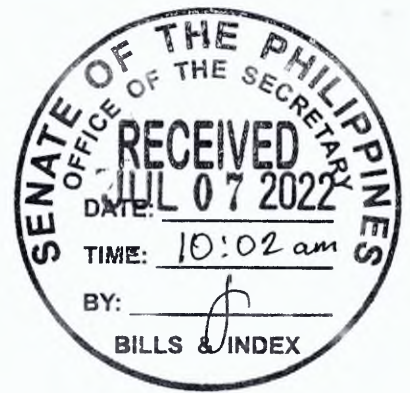


NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



SENATE

S. No. 52

Introduced by Senator FRANCIS G. ESCUDERO

**AN ACT
TO FURTHER STRENGTHEN LOCAL AUTONOMY THROUGH A MORE
RATIONALIZED SYSTEM OF DECENTRALIZATION AMENDING FOR THE
PURPOSE REPUBLIC ACT NUMBER 7160, AS AMENDED, OTHERWISE
KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991**

EXPLANATORY NOTE

The Constitution speaks of local autonomy in five (5) occasions,¹ all couched in mandatory terms. Concomitantly, as a Constitutional mandate, local government units are allowed to make independent administrative determinations on their own and theirs alone. Hence, any regulations in the exercise of local autonomy must not, in any manner or form, result in neither restriction nor control.

The cases of *Pimentel, Jr. vs. Aguirre*² and *Mandanas vs. Ochoa*³ clarified and defined, respectively, the Constitutional grant of local autonomy as specifically provided for in Section 2, Article X of the Constitution in the following manner:

*"In Ganzon v. Court of Appeals, we said that local autonomy signified "a more responsive and accountable local government structure instituted through a system of decentralization." The grant of autonomy is intended to "break up the monopoly of the national government over the affairs of local governments, x x x not x x x to end the relation of partnership and interdependence between the central administration and local government units x x x." Paradoxically, local governments are still subject to regulation, however limited, for the purpose of enhancing self-government."*⁴ (underscoring supplied)

Under the Philippine concept of local autonomy, the national government has not completely relinquished all its powers over local governments, including autonomous regions. Only administrative powers over local

¹ Section 25, Article II; Section 2, Article X; Section 5, Article X; Section 11, Article X; and Section 14, Article X.

² GR No. 132998, 19 July 2000.

³ GR No. 199802, 03 July 2018.

⁴ *Pimentel, Jr. vs. Aguirre*, GR No. 132998, 19 July 2000.

*affairs are delegated to political subdivisions. The purpose of the delegation is to make governance more directly responsive and effective at the local levels. In turn, economic, political and social development at the smaller political units are expected to propel social and economic growth and development. But to enable the country to develop as a whole, the programs and policies effected locally must be integrated and coordinated towards a common national goal. Thus, policy-setting for the entire country still lies in the President and Congress. As we stated in *Magtajas v. Pryce Properties Corp., Inc.*, municipal governments are still agents of the national government.⁵ (underscoring supplied)*

"The constitutional mandate to ensure local autonomy refers to decentralization. In its broad or general sense, decentralization has two forms in the Philippine setting, namely: the decentralization of power and the decentralization of administration. The decentralization of power involves the abdication of political power in favor of the autonomous LGUs as to grant them the freedom to chart their own destinies and to shape their futures with minimum intervention from the central government. This amounts to self-immolation because the autonomous LGUs thereby become accountable not to the central authorities but to their constituencies. On the other hand, the decentralization of administration occurs when the central government delegates administrative powers to the LGUs as the means of broadening the base of governmental powers and of making the LGUs more responsive and accountable in the process, and thereby ensure their fullest development as self-reliant communities and more effective partners in the pursuit of the goals of national development and social progress. This form of decentralization further relieves the central government of the burden of managing local affairs so that it can concentrate on national concerns.⁶"(underscoring supplied)

As ruled in the above cited cases and in *Villafuerte vs. Robredo*⁷, the grant of local autonomy is not synonymous to local government units' sovereignty within the state but emphasizes interdependence between the national and local government agencies. Such that while regulations may be validly imposed on local government units, such regulations are but geared toward "enhancing self-governance.⁸"

Consequently, decentralization, which is inherent in local autonomy, should not be rendered useless and without effect by the necessity of prior approval from national government agencies. To the contrary, local governments to be autonomous must be able to act promptly and effectively in the exigencies of public service sans any undue restrictions.

Section 4, Article X of the Constitution prescribes the exercise of mere supervision, not control, by the President over local government units. *Mondano vs.*

⁵ *Ibid.*

⁶ *Mandanas vs. Ochoa*. GR No. 199802, 03 July 2018.

⁷ GR No. 195390, 10 December 2014.

⁸ *Ibid.*

*Silvosa*⁹ contrasted the President's power of supervision over local government units with that of the President's power of control over all officials in the national government, thus:

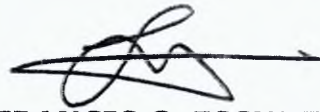
"In administrative law, supervision means overseeing or the power or authority of an officer to see that subordinate officers perform their duties. If the latter fail or neglect to fulfill them, the former may take such action or step as prescribed by law to make them perform their duties. Control, on the other hand, means the power of an officer to alter or modify or nullify or set aside what a subordinate officer ha[s] done in the performance of his duties and to substitute the judgment of the former for that of the latter."¹⁰

Otherwise stated, *"supervisory power, when contrasted with control, is the power of mere oversight over an inferior body; it does not include any restraining authority over such body."¹¹*

In view of the foregoing, this bill seeks to amend Republic Act No. 7160, as amended, or the Local Government Code of 1991, taking into consideration its more than three (3) decade implementation and the way it has been interpreted and applied as a Constitutionally prescribed and mandated policy.

For local autonomy to be made effective, it must amount to effective authority for local government units to decide matters concerning local affairs. And although it may not be absolute, the parameters limiting its exercise must not give the national government the power to restrict the actions of local government units or to substitute its judgment with their own.

RESPECTFULLY SUBMITTED.


FRANCIS G. ESCUDERO^{op}

⁹ GR No. L-7708, 30 May 1955.

¹⁰ *Ibid.*

¹¹ *Taule vs. Santos*, citing *Hebron vs. Reyes*, GR No. 90336, 12 August 1991.

NINETEENTH CONGRESS OF THE)
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SENATE

S. No. 52

Introduced by Senator FRANCIS G. ESCUDERO

AN ACT
TO FURTHER STRENGTHEN LOCAL AUTONOMY THROUGH A MORE
RATIONALIZED SYSTEM OF DECENTRALIZATION AMENDING FOR
THE PURPOSE REPUBLIC ACT NUMBER 7160, AS AMENDED,
OTHERWISE KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991

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

1 Section 1. *Declaration of State Policies and Principles.* – It is hereby
2 declared a policy of the State to ensure local autonomy of its territorial and
3 political subdivisions consistent with decentralization inherent in local
4 autonomy thereby ensuring local administrative determination without undue
5 restrictions.

6
7 Sec. 2. *Interpretation.* – The provisions of this Act shall be
8 interpreted in favor of local autonomy and to ensure the independent
9 administrative determination of local government units free from any control
10 or regulation of national agencies such that the national government is not
11 given the power to restrain or substitute the judgement of local government
12 units with its own.

13
14 Sec. 3. *Amendments.* – The following provisions of Republic Act
15 No. 7160, as amended, are hereby amended as follows:

16
17 "*Section 3. Operative Principles of Decentralization.* - *The formulation*
18 *and implementation of policies and measures on local autonomy shall*
19 *be guided by the following operative principles:*

20
21 (a) *There shall be an effective allocation among the different*
22 *local government units of their respective powers, functions,*
23 *responsibilities, and resources* **INDEPENDENT OF ANY**
24 **RESTRICTIONS FROM NATIONAL AGENCIES;**

25
26 (b) *There shall be established in every local government unit an*
27 **INDEPENDENT,** *accountable, efficient, and dynamic*

1 organizational structure and operating mechanism that will meet
2 the priority needs and service requirements of its communities;
3

4 (c) Subject to civil service law, rules and regulations **AS**
5 **GUIDELINES AND WITHOUT RESTRICTING**
6 **ADMINISTRATIVE DETERMINATION**, local officials and
7 employees paid wholly or mainly from local funds shall be
8 appointed or removed, according to merit and fitness, by the
9 appropriate appointing authority;

10
11 (d) The vesting of duty, responsibility, and accountability in local
12 government units shall be accompanied with provision for
13 reasonably adequate resources to **INDEPENDENTLY AND**
14 **EFFECTIVELY** discharge their powers and [effectively] carry
15 out their functions: hence, they shall have the power to create
16 and broaden their own sources of revenue and the right to a
17 just share in national taxes and an equitable share in the
18 proceeds of the utilization and development of the national
19 wealth within their respective areas;

20
21 (e) Provinces with respect to component cities and
22 municipalities, and cities and municipalities with respect to
23 component barangays, shall ensure that the acts of their
24 component units are within the scope of their prescribed powers
25 and functions;

26
27 (f) Local government units may group themselves, consolidate
28 or coordinate their efforts, services, and resources commonly
29 beneficial to them;

30
31 (g) The capabilities of local government units, especially the
32 municipalities and barangays, shall be enhanced by providing
33 them with opportunities to participate actively in the
34 implementation of national programs and projects **AND THE**
35 **MEANS AND CAPABILITIES TO INDEPENDENTLY CARRY**
36 **ON THEIR RESPECTIVE PROGRAMS AND PROJECTS;**

37
38 (h) There shall be a continuing mechanism to enhance local
39 autonomy not only by legislative enabling acts but also by
40 administrative and organizational reforms;

41
42 (i) Local government units shall share with the national
43 government the responsibility in the management and
44 maintenance of ecological balance within their territorial
45 jurisdiction, subject to the provisions of this Code and national
46 policies;

1 (j) Effective mechanisms for ensuring the accountability of local
2 government units to their respective constituents shall be
3 strengthened in order to upgrade continually the quality of local
4 leadership;

5
6 (k) The realization of local autonomy shall be facilitated through
7 improved coordination of national government policies and
8 programs and extension of adequate technical and material
9 assistance to less developed and deserving local government
10 units;

11
12 (l) The participation of the private sector in local governance,
13 particularly in the delivery of basic services, shall be encouraged
14 to ensure the viability of local autonomy as an alternative
15 strategy for sustainable development; and

16
17 (m) The national government shall ensure that decentralization
18 contributes to the continuing improvement of the performance
19 of local government units and the quality of community life.”

20
21
22 "Section 76. Organizational Structure and Staffing Pattern. - Every local
23 government unit shall **INDEPENDENTLY** design and implement its
24 own organizational structure and staffing pattern taking into
25 consideration its service requirements and financial capability, subject to
26 the minimum standards and guidelines prescribed **FOR THE PURPOSE**
27 **by the Civil Service Commission WITHOUT RESTRICTING THE**
28 **ADMINISTRATIVE DETERMINATION OF LOCAL GOVERNMENT**
29 **UNITS.**"

30
31
32 "Section 325. General Limitations. - The use of the provincial, city, and
33 municipal funds shall be subject to the following limitations:

34
35 (a) The total appropriations, whether annual or supplemental,
36 for personal services of a local government unit for one (1) fiscal
37 year shall not exceed forty-five percent (45%) in the case of
38 first to third class provinces, cities and municipalities, and fifty-
39 five percent (55%) in the case of fourth class or lower, of the
40 total annual income from regular sources realized in the next
41 preceding fiscal year. The appropriations for salaries, wages,
42 representation and transportation allowances of officials and
43 employees of the public utilities and economic enterprises
44 owned, operated, and maintained by the local government unit
45 concerned shall not be included in the annual budget or in the
46 computation of the maximum amount for personal services. The
47 appropriations for the personal services of such economic
48 enterprises shall be charged to their respective budgets;

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(b) No official or employee shall be entitled to a salary rate higher than the maximum fixed for his position or other positions of equivalent rank by applicable laws or rules and regulations issued thereunder;

(c) No local fund shall be appropriated to increase or adjust salaries or wages of officials and employees of the national government, except as may be expressly authorized by law;

*(d) In cases of abolition of positions and the creation of new ones resulting from the abolition of existing positions in the career service, such abolition or creation shall be made in accordance with pertinent provisions of this code and the civil service law, rules and regulations **AS GUIDELINES WITHOUT RESTRICTING THE ADMINISTRATIVE DETERMINATION OF LOCAL GOVERNMENT UNITS;***

(e) Positions in the official plantilla for career positions which are occupied by incumbents holding permanent appointments shall be covered by adequate appropriations;

(f) No changes in designation or nomenclature of positions resulting in a promotion or demotion in rank or increase or decrease in compensation shall be allowed, except when the position is actually vacant, and the filling of such positions shall be strictly made in accordance with the civil service law, rules and regulations;

(g) The creation of new positions and salary increases or adjustments shall in no case be made retroactive;

(h) The annual appropriations for discretionary purposes of the local chief executive shall not exceed two percent (2%) of the actual receipts derived from basic real property tax in the next preceding calendar year. Discretionary funds shall be disbursed only for public purposes to be supported by appropriate vouchers and subject to such guidelines as may be prescribed by law. No amount shall be appropriated for the same purpose except as authorized under this Section."

*"Section 288. Rules and Regulations. - The Secretary of Finance, in consultation with the Secretary of Budget and Management **AND THE LOCAL GOVERNMENT UNITS THROUGH THEIR RESPECTIVE LEAGUES,** shall promulgate the necessary rules and regulations for a simplified disbursement scheme designed for the speedy and effective enforcement of the provisions of this Chapter **WITHOUT***

1 **RESTRICTING THE ADMINISTRATIVE DETERMINATION OF**
2 **LOCAL GOVERNMENT UNITS."**

3
4 "*Section 326. [Review of] Appropriation Ordinances of Provinces,*
5 *Highly-Urbanized Cities, Independent Component Cities, and*
6 *Municipalities within the Metropolitan Manila Area. – [The Department*
7 *of Budget and Management shall review o] Ordinances authorizing the*
8 *annual or supplemental appropriations of provinces, highly-urbanized*
9 *cities, independent component cities, and municipalities within the*
10 *Metropolitan Manila Area* **SHALL BE IN ACCORDANCE WITH THE**
11 **GUIDELINES SET IN THE BUDGET OPERATIONS MANUAL AS**
12 **PROVIDED FOR IN SECTION 354 OF THIS CODE WITHOUT**
13 **NEED OF ANY REVIEW** *[in accordance with the immediately*
14 *succeeding Section]."*

15
16 "*Section 354. Administrative Issuances; Budget Operations Manual. -*
17 *The Secretary of Budget and Management* **AND THE LOCAL**
18 **GOVERNMENT UNITS THROUGH THEIR RESPECTIVE LEAGUES**
19 *jointly with the Chairman of the Commission on Audit shall, [within one*
20 *(1) year from the effectivity of this Code] IF SO REQUESTED BY*
21 **LOCAL GOVERNMENT UNITS THROUGH THEIR RESPECTIVE**
22 **LEAGUES,** *promulgate a Budget Operations Manual for local*
23 *government units to improve and systematize methods, techniques, and*
24 *procedures employed in budget preparation, authorization, execution,*
25 *and accountability* **WITHOUT RESTRICTING THE**
26 **ADMINISTRATIVE DETERMINATION OF LOCAL GOVERNMENT**
27 **UNITS."**

28
29 "*Section 383. Implementing Rules and Regulations. - The Chairman of*
30 *the Commission on Audit* **AND THE LOCAL GOVERNMENT UNITS**
31 **THROUGH THEIR RESPECTIVE LEAGUES** *shall promulgate the rules*
32 *and regulations necessary to effectively implement the provisions of this*
33 *Title, including requirements as to testing, inspection, and*
34 *standardization of supply and property* **WITHOUT RESTRICTING THE**
35 **ADMINISTRATIVE DETERMINATION OF LOCAL GOVERNMENT**
36 **UNITS."**

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38
39 Sec. 4. *Separability Clause.* - If any provision of this Act or the
40 application of such provision to any person or circumstance is declared
41 invalid, the remainder of the Act or the application of such provision to other
42 persons or circumstances shall not be affected thereby.

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44
45 Sec. 5. *Repealing Clause.* - All laws, decrees, administrative issuances,
46 rules and regulations, and orders or parts thereof inconsistent with this Act
47 are deemed repealed or modified accordingly.

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Sec. 6. *Effectivity.* - This Act shall take effect after fifteen (15) days following the completion of its publication in the Official Gazette or in two (2) national newspapers of general circulation, whichever comes first.

Approved,