

SENATE

S. No. 229

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Introduced by **Senator Francis G. Escudero**

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**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<sup>1</sup>, 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 (GR No. 132998, 19 July 2000) and Mandanas vs. Ochoa (GR No. 199802, 03 July 2018) 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.*

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<sup>1</sup> In Section 25, Article II; and Sections 2, 5, 11, and 14, Article X.

*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 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*

*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 (Underscoring supplied)."*

As ruled in the above cited cases and in *Villafuerte vs. Robredo* (GR No. 195390, 10 December 2014), 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."

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. Silvosa* (GR No. L-7708, 30 May 1955) 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."*

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."

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**

**SENATE**

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*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assemble*

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

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

10           Sec. 3. Section 3 of Republic Act No. 7160 is hereby amended to read as  
11 follows:

12                   "Sec. 3. *Operative Principles of Decentralization.* – The  
13 formulation and implementation of policies and measures on local  
14 autonomy shall be guided by the following operative principles:

1           “(a) There shall be an effective allocation among the  
2 different local government units of their respective powers,  
3 functions, responsibilities, and resources **INDEPENDENT OF**  
4 **ANY RESTRICTIONS FROM NATIONAL AGENCIES;**

5           “(b) There shall be established in every local government  
6 unit an **INDEPENDENT**, accountable, efficient, and dynamic  
7 organizational structure and operating mechanism that will meet  
8 the priority needs and service requirements of its communities;

9           “(c) Subject to civil service law, rules and regulations **AS**  
10 **GUIDELINES AND WITHOUT RESTRICTING**  
11 **ADMINISTRATIVE DETERMINATION**, local officials and  
12 employees paid wholly or mainly from local funds shall be  
13 appointed or removed, according to merit and fitness, by the  
14 appropriate appointing authority;

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

24           “x x x;

25           “(g) The capabilities of local government units, especially  
26 the municipalities and barangays, shall be enhanced by providing  
27 them with opportunities to participate actively in the  
28 implementation of national programs and projects **AND THE**  
29 **MEANS AND CAPABILITIES TO INDEPENDENTLY CARRY**  
30 **ON THEIR RESPECTIVE PROGRAMS AND PROJECTS;**

1 "x x x."

2 Sec. 4. Section 76 of Republic Act No. 7160 is hereby amended to read  
3 as follows:

4 "Sec. 76. *Organizational Structure and Staffing Pattern.* – Every  
5 local government unit shall **INDEPENDENTLY** design and implement  
6 its own organizational structure and staffing pattern taking into  
7 consideration its service requirements and financial capability, subject  
8 to the minimum standards and guidelines prescribed **FOR THE**  
9 **PURPOSE** by the Civil Service Commission **WITHOUT RESTRICTING**  
10 **THE ADMINISTRATIVE DETERMINATION OF LOCAL**  
11 **GOVERNMENT UNITS."**

12 Sec 5. Section 288 of Republic Act No. 7160 is hereby amended to read  
13 as follows:

14 "Sec. 288. *Rules and Regulations.* – The Secretary of Finance, in  
15 consultation with the Secretary of Budget and Management **AND THE**  
16 **LOCAL GOVERNMENT UNITS THROUGH THEIR RESPECTIVE**  
17 **LEAGUES**, shall promulgate the necessary rules and regulations for a  
18 simplified disbursement scheme designed for the speedy and effective  
19 enforcement of the provisions of this Chapter **WITHOUT**  
20 **RESTRICTING THE ADMINISTRATIVE DETERMINATION OF**  
21 **LOCAL GOVERNMENT UNITS."**

22 Sec. 6. Section 325 of Republic Act No. 7160 is hereby amended to read  
23 as follows:

24 "Sec. 325. *General Limitations.* – The use of the provincial, city,  
25 and municipal funds shall be subject to the following limitations:

26 "(a) x x x;

27 "x x x;

28 "(d) In cases of abolition of positions and the creation of new  
29 ones resulting from the abolition of existing positions in the career

1 service, such abolition or creation shall be made in accordance with  
2 pertinent provisions of this code and the civil service law, rules and  
3 regulations **AS GUIDELINES WITHOUT RESTRICTING THE**  
4 **ADMINISTRATIVE DETERMINATION OF LOCAL GOVERNMENT**  
5 **UNITS;**

6 "x x x.

7 Sec. 7. Section 326 of Republic Act No. 7160 is hereby amended to read  
8 as follows:

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

20 Sec. 8. Section 354 of Republic Act No. 7160 is hereby amended to read  
21 as follows:

22 "Sec. 354. *Administrative Issuances; Budget Operations Manual.*  
23 – The Secretary of Budget and Management **AND THE LOCAL**  
24 **GOVERNMENT UNITS THROUGH THEIR RESPECTIVE LEAGUES**  
25 jointly with the Chairman of the Commission on Audit shall, ~~[within one~~  
26 ~~(1) year from the effectivity of this Code]~~ **IF SO REQUESTED BY**  
27 **LOCAL GOVERNMENT UNITS THROUGH THEIR RESPECTIVE**  
28 **LEAGUES**, promulgate a Budget Operations Manual for local  
29 government units to improve and systematize methods, techniques, and  
30 procedures employed in budget preparation, authorization, execution,

1 and accountability **WITHOUT RESTRICTING THE**  
2 **ADMINISTRATIVE DETERMINATION OF LOCAL GOVERNMENT**  
3 **UNITS."**

4 Sec. 9. Section 383 of Republic Act No. 7160 is hereby amended to read  
5 as follows:

6 "Sec. 383. *Implementing Rules and Regulations.* - The Chairman  
7 of the Commission on Audit **AND THE LOCAL GOVERNMENT UNITS**  
8 **THROUGH THEIR RESPECTIVE LEAGUES** shall promulgate the rules  
9 and regulations necessary to effectively implement the provisions of this  
10 Title, including requirements as to testing, inspection, and  
11 standardization of supply and property **WITHOUT RESTRICTING THE**  
12 **ADMINISTRATIVE DETERMINATION OF LOCAL GOVERNMENT**  
13 **UNITS."**

14 Sec. 10. *Separability Clause.* – If any provision of this Act or the application of  
15 such provision to any person or circumstance is declared invalid, the remainder of the  
16 Act or the application of such provision to other persons or circumstances shall not be  
17 affected thereby.

18 Sec. 11. *Repealing Clause.* – All laws, decrees, administrative issuances, rules  
19 and regulations, and orders or parts thereof inconsistent with this Act are deemed  
20 repealed or modified accordingly.

21 Sec. 12. *Effectivity.* – This Act shall take effect after fifteen (15) days following  
22 the completion of its publication in the *Official Gazette* or in two (2) national  
23 newspapers of general circulation, whichever comes first.

*Approved,*