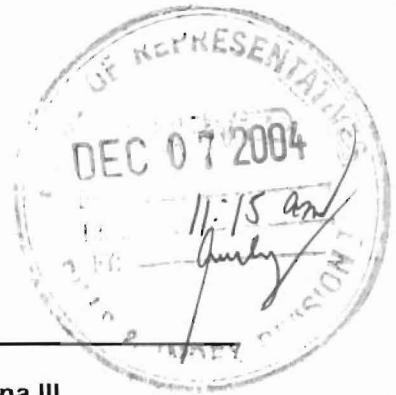


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
Second Regular Session

H. No. 3427



Introduced By Representative Teofisto "TG" L. Guingona III

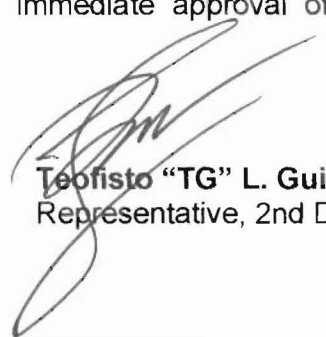
EXPLANATORY NOTE

This bill seeks to create a check and balance mechanism in the appointment of military officers in the AFP through an alternating and balancing system in the selection of officers from the graduates of the Philippine Military Academy (or the PMAers) on the one hand, and graduates of Officers Candidate Schools, Reserve Officers Training Course, flying schools, foreign military schools, other military schools, and licensed technical professionals who are admitted into military service (or the non-PMAers), on the other. This bill also pushes for the appointment of civilians as coordinating staff for comptrollership and logistics, but at the same time gives the President the flexibility to still appoint military officers in those positions under some conditions. Finally, this bill also seeks to strengthen the AFP leadership by limiting the candidates to the position of AFP Chief of Staff to those with at least one remaining year prior to mandatory retirement.

The goal of this bill is to strengthen the AFP so it can more effectively and efficiently function to do its constitutional mandate to protect the people and the State, and to secure the country's sovereignty and the integrity of the national territory. This can be achieved first by heightening the morale of the members of the AFP by showing them through the alternating and balancing system of appointment that they all have an equal chance of promotion. With this system in place, the check and balance mechanism will work to lessen opportunities of abuse, possibilities of cover-up, and temptations of committing graft and corruption, which in the end will work to the benefit of all members of the AFP, and the country and people it is mandated to serve and protect.

Finally, the provision of this bill to ensure that no officer may be appointed as Chief of Staff unless he has at least a year to go prior to retirement, is envisioned to give the appointee sufficient time to acquaint himself with the tasks, and more time to make the necessary changes and reforms in the organization, which in the end is hoped to result to a more effective and stronger AFP.

In view of the foregoing, the immediate approval of this bill is earnestly sought.


Teofisto "TG" L. Guingona III
Representative, 2nd District of Bukidnon

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HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
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Introduced By Representative Teofisto "TG" L. Guingona III

AN ACT INSTITUTIONALIZING A CHECK AND BALANCE SYSTEM IN THE
APPOINTMENT OF KEY OFFICERS IN THE ARMED FORCES OF THE
PHILIPPINES, AND FOR OTHER PURPOSES

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

Section 1. *Short Title.* - This Act shall be known as the "AFP Check and Balance Act of 2004."

Section 2. *Declaration of Policy.* — It is the policy of the State, in conformity with the mandate of the Constitution, to develop a high degree of professionalism in the Armed Forces. Furthermore, it is also a policy of the State to maintain honesty and integrity in all aspects of public service, including the military, and to take positive and effective measures against graft and corruption. For these purposes, the State shall ensure that there is always a balanced number of Philippine Military Academy (PMA) and non-PMA graduates in key positions within the Armed Forces of the Philippines (AFP), and by adopting an alternating system of appointment, wherein the military officers from these two groups will take turns in occupying key positions, and subsequently replicating this system in all applicable positions within the AFP.

Section 3. *Definition of Terms.* — For purposes of this Act, the term "military groups" shall refer to PMAers and non-PMAers. PMAers are those who obtained their degree from the Philippine Military Academy, while non-PMAers refer to a group of military officers who entered military service either through the Officers Candidate Schools (OCS), Reserve Officers Training Course (ROTC), flying schools, foreign military schools, and other military schools, or are technical service professionals like engineers, medical doctors, nurses, lawyers, and other professionals who were admitted into the military service. While the term "military school" shall refer to the PMA, OCS, ROTC, flying schools, foreign military schools, and other military schools. The

word "civilian" in this Act shall be construed as a competent professional, who has never been admitted into active military service, and has not been charged not convicted of any criminal, civil, or administrative offense at the time of his appointment.

Section 4. *The Chief of Staff.* – No one may be appointed as Chief of Staff of the AFP less than one (1) year before his mandatory retirement: *Provided*, That if the incumbent is a PMAer, then he should be succeeded by a non-PMAer, and vice versa. This alternating system of appointment for the position of Chief of Staff between PMAers and non-PMAers shall at no time be interrupted, except in cases wherein the President requests in writing, and obtains an approval by both houses of Congress, to waive this rule on alternating succession for justifiable reasons.

Section 5. *The Vice Chief of Staff.* – The Vice Chief of Staff shall not be graduate of the same military group as the Chief of Staff.

Section 6. *The Coordinating Staff (J-Positions).* – Members of the Coordinating Staff (J-Positions) shall, as far as practicable, be comprised of a balanced number of PMAers, and non-PMAers: *Provided*, That no more than three (3) members of the coordinating staff shall belong to the same graduating batch of the same military school: *Provided, further*, That the Coordinating Staff for Comptrollership (J6) and Logistics (J4) shall, as much as possible be civilians, however, if they are military officers they shall not be of the same military group as that of the Chief of Staff: *Provided furthermore*, That PMAers and non-PMAers shall hold the coordinating staff positions on an alternating basis. This means that if the current holder of a J-position is a PMAer, then he should be succeeded by a non-PMAer and vice versa.

Section 7. *Term of Office of Coordinating Staff (J-Positions).* – The Coordinating Staff shall be co-terminus with the Chief of Staff, with a possible reappointment under another Chief of Staff.

Section 8. *The Commanding Generals and the Vice-Commanders of the Major Services.* – In no case shall the Commanding General and the Vice Commander of each of the major services, belong to the same military group.

Section 9. *The Coordinating Staff of the Major Services.* – Members of the Coordinating Staff of each of the major services shall, as far as practicable, be comprised of a balanced number of PMAers, and non-PMAers: *Provided, further*, That no more than three (3) members of the coordinating staff shall belong to the same graduating batch of the same military school: *Provided furthermore*, That the Coordinating Staff for Comptrollership and Logistics shall, as much as possible be civilians, however, if they are military officers they shall not be of the same military group as that of the Commanding General of the Major Service that they are serving.

Section 10. *Replication of the alternating system of appointment.* - Within eleven (11) months upon the passage of this law, the AFP shall ensure that the alternating system of appointment between PMAers and non-PMAers, is replicated down to the lowest reasonable level. The AFP Chief of Staff is hereby mandated to submit a report on the extent of replication of the system across the military hierarchy, as well as the extent of implementation of this Act not later than one (year) after the passage of this law to the Commander-in-Chief, the Secretary of National Defense, the Senate President, and the Speaker of the House.

Section 11. *In times of war and national emergency.* - The requirements of this Act may only be waived in times of war and national emergency as declared by Congress.

Section 12. *Implementing Rules and Regulations.* - The Department of National Defense in coordination with the Armed Forces of the Philippines, the National ROTC Alumni Association, and the Philippine Military Academy Alumni Association shall formulate and issue the implementing rules and regulations necessary for the effective implementation of this Act within sixty (60) days after its passage.

Section 13. *Transitory Provisions.* - Officers currently occupying positions specified in this Act shall continue in office until their replacements shall have been appointed. The President shall appoint a new set of military officers, in accordance with this Act, within one-hundred twenty (120) days upon its approval.

Section 14. *Repealing Clause.* - All laws, rules and regulations, and other issuances or parts thereof, which are inconsistent with the provisions of this Act, are hereby repealed or modified accordingly.

Section 15. *Separability Clause.* - In case any provision of this Act or any portion thereof is declared unconstitutional by a competent court, other provisions shall not be affected thereby.

Section 16. *Effectivity.* - This Act shall take effect immediately upon its approval.

Approved,