

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

THIRTEENTH CONGRESS
First Regular Session

House Bill No. 3520



***Introduced by Akbayan Representatives Mario "Mayong" Joyo Aguja,
Loretta Ann P. Rosales and Ana Theresia Hontiveros-Baraquel***

Explanatory Note

It is a fundamental tenet of our republican system of government that the creation, and consequently, the modification and abolition, of public offices is primarily a legislative function. Except as to such extent as the provisions of the Constitution limit it, legislative power is supreme, and Congress may at its sole discretion, decide what public offices are suitable, necessary, or convenient. The form, structure, and extent of the government bureaucracy, therefore, are matters principally and properly within the sphere of legislative determination.

However, extraordinary circumstances that prevailed during the period some three decades past have led to the partial erosion of the primacy of Congress' control over the State bureaucracy. Two laws, both enacted by during this period by Presidents wielding extraordinary powers of legislation, have granted the Executive the power to reorganize the National Government.

The first, Presidential Decree No. 1416 (as subsequently amended by Presidential Decree No. 1772) was issued by then President Ferdinand E. Marcos during Martial Law. It grants the President the "continuing authority to reorganize the National Government," and for this purpose allows her/him to "create, abolish, group, consolidate, merge, or integrate entities, agencies, instrumentalities, and units of the National Government, as well as expand, amend, change, or otherwise modify their powers, functions and authorities, including, with respect to government-owned or controlled corporations, their corporate life, capitalization, and other relevant aspects of their charters."

The second, Executive Order No. 292, otherwise known as the Administrative Code of 1987, was issued by then President Corazon C. Aquino two days before her residual authority to enact legislation under the Constitution expired. It grants the President the authority to "reorganize

[her/his Office," by "abolishing, consolidating or merging units thereof or transferring functions from one unit to another."

It is clear that both laws were enacted during extraordinary junctures of Philippine history by Presidents who at the time were vested with legislative authority – President Marcos, under the Martial Law regime of "constitutional authoritarianism," and President Aquino, under the transitory provisions of the present Constitution, the last vestiges of the revolutionary "Freedom Constitution." With the reestablishment of a democratic and republican system of government, the power of legislation that these Presidents relied upon to create a continuing Executive authority to reorganize the government bureaucracy has likewise been reestablished as the sole prerogative of Congress.

It is now believed that, in a similar vein, and consistent with the principles that govern the Republic, the power to reorganize the National Government must likewise be restored to the sole and exclusive purview of Congress.

The advisability of this measure is further underscored by the events surrounding the Executive's recent efforts to reorganize government bureaucracy without legislation but through mere administrative fiat. The confusion, panic, and even outrage that greeted attempts at Executive "rationalization" of certain government offices, such as the Department of Agrarian Reform and the Presidential Commission for the Urban Poor, only illustrates the fact that under a free, open, and democratic form of government, it is inadvisable to leave a broad and far-reaching policy like government reorganization solely in the hands of a few administrative officials. It is far more reasonable, and far more consistent with the principles of republicanism, that such matters be left to the most representative branch of government, Congress.

It is in this context that the following measure repealing Presidential Decree No. 1416 (as amended) and Section 31, Chapter 10, Title III, Book III of Executive Order No. 292 is proposed.



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AN ACT

RESTORING TO CONGRESS THE SOLE AND EXCLUSIVE AUTHORITY TO REORGANIZE THE NATIONAL GOVERNMENT, REPEALING FOR THIS PURPOSE PRESIDENTIAL DECREE NO. 1416, AS AMENDED, AND SECTION 31, CHAPTER 10, TITLE III, BOOK III OF EXECUTIVE ORDER NO. 292 SERIES OF 1987 OTHERWISE KNOWN AS THE ADMINISTRATIVE CODE OF 1987

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

SECTION 1. Declaration of Policy – It is hereby recognized that under our republican system of government, the creation, modification, and abolition, of public offices is primarily a legislative function, and that Congress may, at its sole discretion, decide what public offices are suitable, necessary, or convenient. Pursuant to this, it is hereby declared that any reorganization of the National Government is a matter principally and properly within the sphere of legislative determination.

SECTION 2. Repeal of Laws Granting the President the Power of Reorganization – Consistent with the above-stated principle, Presidential Decree No. 1416, as amended, and Section 31, Chapter 10, Title III, Book III, of Executive Order No. 292 series of 1987, otherwise known as the Administrative Code of 1987, which grant the President of the Philippines the continuing authority to reorganize the National Government, in whole or in part, are hereby REPEALED.

SECTION 3. Separability Clause. – If any provision of this Act, or any part thereof, is declared unconstitutional, the same shall not affect the validity and effectivity of the other portions.

SECTION 5. *Repealing Clause.* – All laws, executive orders, presidential decrees, proclamations, rules, regulations, issuances and enactments or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.

SECTION 6. *Effectivity* – This Act shall take effect after fifteen (15) days from its complete publication either in the *Official Gazette* or in a newspaper of general circulation in the Philippines, whichever comes earlier.

APPROVED.