

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 2925

Introduced by **AKBAYAN** Representatives **Walden F. Bello** and **Kaka J. Bag-ao**

EXPLANATORY NOTE

Every year, the government goes through a very meticulous process of setting its goals and priorities, identifying necessary programs and projects, putting the required budgetary allocations for the programs and projects it has identified. In the end, the preparation of the government's annual appropriations ensures that its work plan promotes efficiency, generates more revenue for the government and responds effectively to national development requirements.

All government instrumentalities depend on the allocations made on the approved General Appropriations Act to realize its set objectives, programs and projects. Its efficiency lies in the regular availability of budgetary support to oil its machinery and accomplish its mandate.

More importantly, the local government code provided the impetus for local governments to chart its own destiny by allowing it to identify significant and necessary development initiatives for its respective localities towards progress and development of its citizenry.

In most cases however, due to the uncertainty in the releases of allotment, government instrumentalities and local governments fall prey to the whimsical exercise of deferment, rescission or even reversion of appropriations frustrating the expectations of their respective constituencies with false promises of implementing development programs that may never be realized.

The Impoundment Control and Regulation Act of 2009 ensures that proper limits and procedures are put in place in the exercise of the President's authority to defer, rescind or reserve expenditures that have already been approved by Congress through the General Appropriations Act.

This proposed law in addition safeguards the authority of the President so that succumbing to pressures and other influence that negates the very reason for the enactment of the General Appropriations Act is avoided.

In the end, the objective of this proposed legislation is to make the government both local and national to work better for its citizenry towards national development.


WALDEN F. BELLO


KAKA J. BAG-AO

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 2925

Introduced by AKBAYAN Representatives Walden F. Bello and Kaka J. Bag-ao

AN ACT
REGULATING THE POWER OF THE PRESIDENT TO DEFER, RESCIND, OR
RESERVE EXPENDITURE OF APPROPRIATIONS AUTHORIZED BY
CONGRESS

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

SECTION 1. Title. – This Act shall be known as the Impoundment Control and Regulation Act of 2009.

SECTION 2. Declaration of Policy. – It is the policy of the State to formulate and implement a National Budget that is anchored on a meticulous assessment of the government's budgetary requirements based on clearly-defined national priorities, that promotes efficiency and resolve in government's revenue generation efforts, and is truly responsive to the needs of national development. Towards this end, all appropriations, except those which shall be explicitly deferred, rescinded, reserved, or provided for otherwise in the General Appropriations Act, shall be automatically released within the first semester of the year through the issuance of advices of allotment in accordance with approved work and financial plans, and shall be utilized according to the corresponding purposes provided for in the General Appropriations Act. Any other deferral, rescission, or reservation of appropriations in the General Appropriations Act shall be made in accordance with this Act.

SECTION. 3. Definition of Terms. – Section 2, Chapter 1, Book VI of Executive Order No. 292 (s. 1987) otherwise known as the Administrative Code of 1987, is hereby amended to read as follows:

"Section 2. Definition of Terms. – When used in this Book:

1. "Appropriation" refers to an authorization made by law or other legislative enactment, directing payment out of government funds under specified conditions or for specified purposes.
2. "Allotment" refers to an authorization issued by the Department of the Budget to an agency, which allows it to incur obligation for specified amounts contained in a legislative appropriation.
3. "Advice of allotment" refers to the formal document issued by the Department of Budget and Management which contains the authorizations, conditions, and amount of obligations that an agency can incur pursuant to a legislative appropriation.

4. "Budget" refers to a financial plan required to be prepared pursuant to Section 16 (1), Article VIII of the Constitution, reflective of national objectives, strategies and programs.
5. "Current operating expenditures" refers to appropriations for the purchase of goods and services for current consumption or for benefits expected to terminate within the fiscal year.
6. "Capital outlay" or "capital expenditures" refers to an appropriation for the purchase of goods and services, the benefits of which extend beyond the fiscal year and which add to the assets of the Government, including investments in the capital of government-owned or controlled corporations and their subsidiaries.
7. "Continuing appropriation" refers to an appropriation available to support obligations for a specified purpose or project, even when these obligations are incurred beyond the budget year.
8. "Deferral" means withholding or delaying the release of appropriated amounts provided for projects or activities.
9. "Expected result" means service, product, or benefit that will accrue to the public, estimated in terms of performance measures or targets.
10. "Fiscal year" refers to the period beginning with the first day of January and ending with the thirty-first day of December of each calendar year.
11. The "Government" means the National Government, including the Executive, the Legislative and the Judicial Branches, and the Constitutional Commissions.
12. "Department and agency" and "department or agency" include all departments, bureaus, offices, boards, commissions, courts, tribunals, councils, authorities, administrations, centers, institutes, state colleges and universities, and all other establishments and instrumentalities of the National Government as defined in the preceding paragraph.
13. *"Impoundment resolution" means a joint resolution of both Houses of Congress expressing either approval or disapproval of a rescission, reservation, deferral, or suspension of an appropriation or several appropriation items as proposed by the President.*
14. "Obligation" refers to an amount committed to be paid by the Government for any lawful act made by an authorized officer for and in behalf of the Government.
15. "Program" refers to the functions and activities necessary for the performance of a major purpose for which a government agency is established.
16. "Project" means a component of a program covering a homogenous group of activities that results in the accomplishment of an identifiable output.
17. *"Rescission" means cancellation of all or parts of an enacted appropriation which has not yet been spent or obligated.*
18. *"Reservation" means imposition of reserves on an appropriated amount for government expenditures.*

SECTION 4. Sections 37 and 38 of Chapter 5, Book VI of Executive Order No. 292 (s. 1987) otherwise known as the Administrative Code of 1987, are hereby repealed and replaced with the following provisions:

"Section 37. Rescission and Reservation of Appropriation. – Whenever the President determines that all or part of any budget appropriation will not be required to carry out the full objectives or scope of programs for which it is provided, or that such budget appropriation should be

rescinded for fiscal policy or other reasons, including the termination of authorized projects or activities, or whenever all or part of any budget appropriation for the current fiscal year is to be reserved from obligation for such fiscal year, the President shall transmit to both Houses of Congress a special message specifying:

- (1) the amount of budget appropriation which he proposes to be rescinded or which is to be so reserved;
- (2) any account, department, agency or instrumentality of the government to which such budget appropriation is available for obligation, and the specific projects or governmental functions involved;
- (3) the reasons why the budget appropriation should be rescinded, or is to be so reserved;
- (4) the estimated fiscal, economic and budgetary effect of the proposed rescission or reservation; and
- (5) all facts, circumstances and considerations relating to or bearing upon the proposed rescission or reservation upon the purposes, programs, activities and projects for which such appropriation is provided.

Section 37-A. Approval of Rescission or Reservation. – Both Houses of Congress shall act on the proposed rescission or reservation within forty-five (45) calendar days after the receipt of such proposal from the President by issuing a joint impoundment resolution, either approving or disapproving the same. *Provided*, that if the President's special message is received within a period of less than forty-five (45) calendar days before the end of a regular session, the President's message shall be deemed to have been submitted on the first day of the succeeding regular session of Congress and the forty-five (45) day period referred to in this Section shall commence on the day after such first day. *Provided further*, that if Congress does not issue an impoundment resolution within the specified period, the proposed rescission or reservation shall be deemed disapproved. *And provided furthermore*, that funds corresponding to the rescinded appropriations shall revert to the unappropriated surplus of the general fund and shall not be made available for expenditure for any purpose except as may be provided for in a subsequent law enacted by Congress.

Section 37-B. Use of Reserves. – When changes in conditions during the year justify the use of the reserved appropriations which have been imposed under this Act or under the General Appropriations Act, the amount involved shall be allocated back for the use by, and upon the request of the department, office, or agency on whose appropriation the reserve was originally imposed.

Section 37-C. Deferral of Releases. – Whenever the President, the Secretary of Budget and Management, the head of any department, agency or instrumentality of the Government proposes to defer the release of any appropriation for a specific purpose, program, activity, or project, the President shall transmit to the House of Representatives and the Senate a special message specifying:

- (1) the amount of the appropriation proposed to be deferred;

- (2) any account, department, agency or instrumentality of the Government to which such appropriation is available for obligation, and the specific projects or governmental functions involved;
- (3) the period of time during which the appropriation is proposed to be deferred;
- (4) the reasons for the proposed deferral, including any legal authority invoked by him to justify the proposed deferral;
- (5) the estimated fiscal, economic and budgetary effect of the proposed deferral;
- (6) all facts, circumstances and considerations relating to or bearing upon the proposed deferral and the decision to effect the proposed deferral, including any analysis of such facts, circumstances and considerations in terms of their application to any legal authority and specific elements of legal authority invoked by him to justify such proposed deferral upon the objects, purposes, program, activities and projects for which such appropriation is provided.

A deferral may not be proposed for any period of time extending beyond the end of the fiscal year in which the special message proposing the deferral was transmitted to the House of Representatives and the Senate.

Section 37-D. Approval of Release Deferral. – Both Houses of Congress shall act on the proposed deferral within forty-five (45) calendar days after the receipt of the proposal from the President. *Provided*, that if the President's special message is received within a period of less than forty-five (45) calendar days before the end of a regular session, the President's message shall be deemed to have been submitted on the first day of the succeeding regular session of Congress and the forty-five (45) day period referred to in this Section shall commence on the day after such first day. *Provided further*, that if Congress does not issue an impoundment resolution within the specified period, the President shall proceed with the deferral procedures.

Section 38. Mode of Transmittal of the Special Message of the President. – The President shall transmit to Congress at any time during the budget year but not later than the fifteenth (15th) day of October of the budget year the special message referred to in either Section 4 or 7 of this Act, which may include one or more proposals for rescission, reservation, or deferral on one or more appropriation items, through the Committee on Finance of the Senate and the Committee on Appropriations of the House of Representatives.

Section 38-A. Submission of Quarterly Reports. – Within thirty (30) days after the end of each quarter, the Secretary of Budget and Management shall submit to the Committee on Appropriations of the House, of Representatives and the Committee on Finance of the Senate, a list of releases made out of reserved and deferred appropriations, and comparative statements showing the annual general appropriations, the annual program of continuing and automatic appropriations, and the corresponding releases of allotments and cash allocations for each department, agency, corporation and fund. *Provided*, that the releases from each lump-sum or special-purpose fund shall be supported with schedules indicating the specific departments, agencies, corporations, or entities which received the fund releases and the purposes of such

releases. The quarterly reports shall also include a cumulative summary of all appropriations rescinded, deferred, or reserved, including, where applicable, the corresponding impoundment resolution/s approving such rescissions, deferrals, or reservations."

SECTION 5. Section 33 (6) of Chapter 5, Book VI of Executive Order No. 292 (s. 1987) otherwise known as the Administrative Code of 1987, is hereby amended to read as follows:

Section 33. Allotment of Appropriations. – Authorized appropriations shall be allotted in accordance with the procedure outlined hereunder:

XXX XXX XXX

(6) *Pursuant to Sections 37, 37-A, 37-B, 37-C, and 37-D of this Book, the Secretary shall have no authority to modify or amend any allotment previously issued. In case he shall find at any time that the probable receipts from taxes or other sources of any fund will be less than anticipated and that as a consequence the amount available for the remainder of the term of the appropriations or for any allotment period will be less than the amount estimated or allotted therefor, he shall recommend to the President the reduction of the amount or amounts allotted he deems necessary to conform to the targeted budgetary goals. The President, in turn, shall follow the procedure prescribed in Sections 37, 37-A, 37-B, 37-C, 37-D, and 38 of this Book for the approval of requests for authority for the suspension of expenditures of appropriations."*

SECTION 6. Penal Provision. – Any violation of this Act shall be considered misuse of government funds and illegal expenditures and punished as such in accordance with Sections 80 and 43 of Book VI of Executive Order No. 292 (s. 1987) otherwise known as the Administrative Code of 1987.

SECTION 7. 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 8. Repealing Clause. – All laws, decrees, executive orders, letters of instructions, letters of implementation, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed, modified, superseded, or amended accordingly.

SECTION 9. Effectivity Clause. – This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in at least two (2) national newspapers of general circulation, whichever comes earlier.

Approved,