

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

FIFTEENTH CONGRESS
First Regular Session

COMMITTEE REPORT NO. 267

Submitted by the Committee on Local Government on 29 SEP 2010
Re: House Bill No. 3401

Recommending its approval in substitution of House Bill No. 140

Sponsors: Representatives Arnaiz, Fortuno, Padilla, Treñas, Sarmiento (M), Malapitan, Ramos, Jr., Mendoza (J), Eriguel, Miraflores, Plaza, Ejercito, Cajayon, Ortega (V), Tiangco, Ocampos, Loyola, Ting, Cari, Tinga and Acharon

Mr. Speaker:

The Committee on Local Government to which was referred House Bill No. 140 introduced by Representative Salvio B. Fortuno entitled:

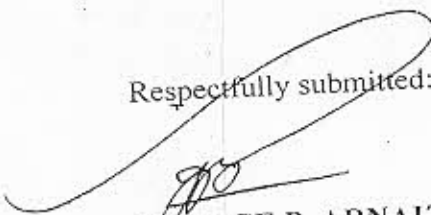
**“AN ACT
EMPOWERING THE PUNONG BARANGAY TO ADMINISTER OATH OF
OFFICE TO ANY GOVERNMENT OFFICIAL, INCLUDING THE PRESIDENT
OF THE REPUBLIC OF THE PHILIPPINES, AMENDING FOR THE PURPOSE
SECTION 420 OF REPUBLIC ACT No. 7160 AS AMENDED, OTHERWISE
KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991”**

has considered the same and has the honor to report it back to the House of Representatives with the recommendation that House Bill No. 3401 entitled:

**“AN ACT
AUTHORIZING THE PUNONG BARANGAY TO ADMINISTER THE OATH OF
OFFICE OF ANY GOVERNMENT OFFICIAL, INCLUDING THE PRESIDENT
OF THE REPUBLIC OF THE PHILIPPINES, AMENDING FOR THE PURPOSE
SECTION 41 OF EXECUTIVE ORDER No. 292 OTHERWISE KNOWN AS THE
ADMINISTRATIVE CODE OF 1987”**

be approved in substitution of House Bill No. 140 with Representatives Fortuno, Arnaiz, Padilla, Treñas, Sarmiento (M), Malapitan, Ramos, Jr., Mendoza (J), Eriguel, Miraflores, Plaza, Ejercito, Cajayon, Ortega (V), Tiangco, Ocampos, Loyola, Ting, Cari, Tinga and Acharon as authors thereof.

Respectfully submitted:



GEORGE P. ARNAIZ
Chairman
Committee on Local Government

THE HONORABLE SPEAKER
HOUSE OF REPRESENTATIVES

THE HONORABLE SPEAKER
HOUSE OF REPRESENTATIVES

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

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL No. 3401

INTRODUCED BY: REPRESENTATIVES FORTUNO, ARNAIZ, PADILLA, TREÑAS, SARMIENTO (M), MALAPITAN, RAMOS, JR., MENDOZA (J), ERIGUEL, MIRAFLORES, PLAZA, EJERCITO, CAJAYON, ORTEGA (V), TIANGCO, OCAMPOS, LOYOLA, TING, CARL, TINGA AND ACHARON

AN ACT
AUTHORIZING THE PUNONG BARANGAY TO ADMINISTER THE OATH OF OFFICE OF ANY GOVERNMENT OFFICIAL, INCLUDING THE PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES, AMENDING FOR THE PURPOSE SECTION 41 OF EXECUTIVE ORDER No. 292 OTHERWISE KNOWN AS THE ADMINISTRATIVE CODE OF 1987

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

1 **SECTION 1.** Section 41 of Executive Order No. 292 otherwise known as the
2 Administrative Code of 1987 is hereby amended to read as follows:

3 **“SECTION 41. Officers Authorized to Administer Oaths.** – (1) The
4 following officers have general authority to administer oath: Notaries public,
5 members of the judiciary, clerks of courts, the Secretary of the either House of the
6 Congress of the Philippines, of departments, bureau directors, register of deeds,
7 provincial governors and lieutenant-governors, city mayors, municipal mayors,
8 **PUNONG BARANGAYS** and any other officer in the service of the government
9 of the Philippines whose appointment is vested in the President.

10 (2) Oaths may also be administered by any officer whose duties, as defined by
11 law or regulation, require presentation to him of any statement under oath.”

12 **SEC. 2.** All laws, executive orders, presidential decrees, rules and regulations, which
13 are inconsistent with this Act are hereby amended, repealed or modified accordingly.

14 **SEC. 3.** This Act shall take effect fifteen (15) days after its publication in at least two
15 newspapers of general circulation.

16 *Approved,*

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

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL No. 140

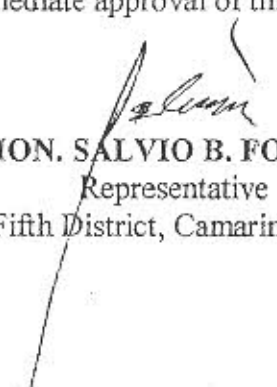
Introduced by: **REPRESENTATIVE SALVIO B. FORTUNO**

EXPLANATORY NOTE

The euphoria generated by the earlier pronouncement of then President-apparent Benigno Simeon C. Aquino III to take his oath before a punong barangay in his hometown in Tarlac has brought to the fore the issue as to whether or not the punong barangay can administer oath to the highest official of the land. The great enthusiasm felt by punong barangays at that time had practically been doused with cold water when several legal luminaries expressed their legal views that the punong barangay has no power to administer oath except *"in connection with any matter relating to all proceedings in the implementation of the katarungang pambarangay"*.

This bill therefore seeks to empower the punong barangay to administer the prescribed oath of office before any government official, including the President of the Philippines, perform their respective functions and responsibilities. The paramount objective of this piece of legislation is to give the incoming President wider latitude or great opportunity to choose from who among the public officials, will administer oath to His Excellency. While this measure will break the long standing tradition where the President takes his oath before the Chief Justice, it will also give due recognition to the untiring support extended by the punong barangays to the President. The oath-taking ceremony will give the highest official of the land the opportunity to reach out to the highest official of the lowest political unit, just like the seraph in heaven meeting the lowest reptiles of the dust.

The foregoing reasons warrant the immediate approval of this bill.


HON. SALVIO B. FORTUNO
Representative
Fifth District, Camarines Sur

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

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 140

Introduced by: **REPRESENTATIVE SALVIO B. FORTUNO**

AN ACT

EMPOWERING THE PUNONG BARANGAY TO ADMINISTER OATH OF OFFICE TO ANY GOVERNMENT OFFICIAL, INCLUDING THE PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES, AMENDING FOR THE PURPOSE SECTION 420 OF REPUBLIC ACT No. 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:

SECTION 1. Section 420 of Republic Act No. 7160 as amended, otherwise known as the Local Government Code of 1991 is hereby amended to read as follows:

"SECTION 420. *Power to Administer Oaths.* - THE PUNONG BARANGAY IS HEREBY AUTHORIZED TO ADMINISTER THE PRESCRIBED OATH OF OFFICE BEFORE PERFORMING OFFICIAL FUNCTIONS AND RESPONSIBILITIES, TO ANY GOVERNMENT OFFICIAL, INCLUDING THE PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES.

The punong barangay, as chairman of the lupong tagapamayapa, and the members of the pangkat are ALSO hereby authorized to administer oaths in connection with any matter relating to all proceedings in the implementation of the katarungang pambarangay."

SEC. 2. All laws, executive orders, presidential decrees, rules and regulations, which are inconsistent with this Act are hereby amended, repealed or modified accordingly.

SEC. 3. This Act shall effect fifteen (15) days after its publication in at least two newspapers of general circulation.

Approved,

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

Fifteenth Congress
First Regular Session

Minutes of the meeting of the Committee on Local Government held on September 8, 2010 1:30 p.m. at Conference Rooms 3 & 4,
Ramon V. Mitra Bldg., House of Representatives, Quezon City

Guests:

1. Undersecretary Austere Panadero, Department of Interior and Local Government (D.I.L.G.)
2. USEC Acosta, Bureau of Local Government Supervision, DILG
3. Dir. Manuel Q. Gotis, Bureau of Local Government Development, DILG
4. Mr. Raymond Fabre, consultant, DILG
5. Police Dir. Alfredo N. Caballes, Philippine National Police (PNP)
6. Atty. Gina V. Wenceslao, Attorney III, Legal Service, DILG
7. Ms. Minerva Eloisa Esquivas, Division Chief, National statistics Office (NSO)
8. Ms. Maria Solita C. Vergara, Statistician II, NSO

I. CALL TO ORDER / ROLL CALL

The Chairperson, Rep. George P. Arnaiz, called the meeting to order at 1:40 p.m.

II. APPROVAL OF THE MINUTES OF THE MEETING OF THE AUGUST 25, 2010 MEETING

On motion of Rep. Florencio T. Miraflores, duly seconded, the Body dispensed with the reading of the minutes of the meeting held on August 25, 2010 and approved the same.

II. REMARKS OF THE CHAIRPERSON

The Chair informed the Body that Secretary Jesse M. Robredo, DILG, cannot attend the meeting because of the Incident and Investigative Review Committee (IIRC) meeting. However, he said that the Secretary was represented by his Undersecretary the Hon. Austere Panadero and some department heads of the agency including the Philippine National Police to brief the Committee on certain matters concerning local governments. The Chair wanted to know from the Department the following:

1. The plans and programs of the Department, its attached agencies including the Philippine National Police.
2. The priority legislative agenda and other matters concerning local governments including any plan of action to prevent the occurrence of the similar hostage taking incident.
3. Whether the present administration strictly adheres to the constitutional mandate of ensuring the autonomy of local governments.
4. What form of assistance that the Department can extend or offer to the local governments.

III. BRIEFING BY THE SECRETARY OF THE DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT, HON. JESSE M. ROBREDO

At the outset, Hon. Austere Panadero, USEC, DILG, expressed his apology to the Committee for the absence of Sec. Robredo who was attending the IIRC meeting.

He enumerated the plans and programs of the Department next year, to wit:

1. To empower the local government units (LGUs) to improve their accountability systems.
2. Promoting civil society partnerships.
3. Improving the internal operations of the Department on how it relates with the local governments, civil society groups, private sector.

Rep. Rodolfo C. Farinas made a point of clarification. He inquired that in the agenda, the briefing was supposed to be given by Sec. Robredo. ASEC Panadero replied that Sec. Robredo is attending the meeting on the hostage taking incident.

USEC Panadero explained that their approach to empower the LGUs are pursued in several fronts, to wit:

1. Raising fiscal and financial resources for local development, improving local governance and advancing local autonomy.
2. Help LGUs prepare project proposals and link them to financing to upgrade their local infrastructure capacities.

3. Providing assistance to fourth and sixth class municipalities to access financing to address the Millennium Development Goals
4. Assisting LGUs to access more financing for the maintenance of their road facilities.

He stated that the capacity building program is also a major program of the local government sector. He further stated that the capacity building efforts will be concentrated on the following:

1. To implement the "Disaster Risk Reduction Law" and "Climate Change Law".
2. Harnessing local economic development.
3. Promoting transparency by implementing the "Anti-Red Tape Law".

He explained that the key component in the capacity building is the introduction next year of a "Performance Challenge Fund" which is an incentive fund for the LGUs in the form of counterpart funding to high impact capital investment projects as embodied in their annual investment program. The "Performance Challenge Fund" shall initially be opened to the lower income LGUs on the condition that LGUs pass the "seal of good housekeeping". He explained that there are four areas of a "seal of good housekeeping" to wit;

1. To show that their internal control systems on their fiscal management side are adequate;
2. Sound planning systems are put in place;
3. Transparency and accountability systems are in place; and
4. That the LGUs are adopting a performance monitoring system.

He stated that the Department would improve their awards programs namely the Gawad Pamana Lahi Awards, Lupong Tagapamayapa Incentive Award and the Galing Pook Award.

USEC Panadero informed the Body that they have already submitted to the Committee their draft proposals which include the following:

1. Formula based grant which calls for some adjustments in the share of the LGUs from the national tax collection;
2. Proposals to improve local revenue collections by amending Book II of the Local Government Code specifically Local Taxation and Fiscal Matters;
3. Amend the "Motor Vehicle Users Charges Law" which allocates only five percent of the fund to the LGUs and which is grossly inadequate considering that sixty one percent (61%) of the road network are local roads and the rest are national roads.

Rep. Mel Senen S. Sarmiento pointed out that there should be a study on the "situs of taxation". He cited as an example the Province of Bukidnon. He said that thousands of hectares of land are being used by Del Monte and Dole Corporations but said corporations are paying taxes in their head office in Manila. He felt that it is unfair. He suggested that seventy percent (70%) of the tax due should be given to the host locality and thirty percent (30%) shall be remitted to the head office.

The Chair informed the Body that he already has a copy of the proposed amendments of the DILG to the Local Government Code and he will furnish each Member a copy.

USEC Panadero replied that they would conduct the study on the "situs of tax issue" and update the Committee on its findings.

Rep. Randolph S. Ting informed the Body that Tuguegarao City has a pending case with the banking institutions in the City for the collection of business licenses and permits.

Rep. Joselito Andrew R. Mendoza pointed out that the Province of Bulacan is not IRA dependent. He said that in their budget, fifty-six percent (56%) of their funds come from the IRA and forty-four percent (44%) from local funds. He said that Bulacan is the only province in the Philippines which can borrow funds from international financial institutions.

Rep. Victor F. Ortega requested ASEC Panadero if he could provide him with a hard copy of ASEC Panadero's presentation and the SWS Survey. ASEC Panadero replied that he will provide the Members of the Committee copies of his presentation and the SWS Survey.

Rep. Mary Mitzi L. Cajayon inquired on the official stand of the DILG on the abolition of the Sangguniang Kabataan (SK). ASEC Panadero replied that they have already transmitted their stand to Congress. The Chair clarified that the official stand of the Department is to abolish the SK and have a youth representative in the barangay council. The Chair informed the Body that there were already two (2) bills filed to abolish the SK authored by Reps. Garay and Gunigundo

Rep. Oscar G. Malapitan inquired what the DILG is doing to barangay chairmen who are in their fourth or even fifth terms in office and still would like to run in the coming barangay elections. USEC Panadero replied that Sec.

Robredo has already sent a letter to the Commission on Elections (COMELEC) with a list of barangay chairmen who are on their third term and around fifty barangay chairmen who are on their fourth term. He said that there is a proposal to publish the names of the barangay chairmen who are already on their last term of office. The Chair appreciated the action of Sec. Robredo. Rep. Ting informed the Body that it is also happening in Tuguegarao City.

Rep. Mendoza asked if the DILG has a budget for the training of barangay chairmen and SK Chairmen or "Lakbay Arals". Replying in the affirmative, USEC Panadero stated that for the year 2011 the DILG has a budget of 22 million pesos but it would be used for the barangays of lower income LGUs or around 10,000 barangays out of 42,000 barangays. Rep. Mendoza pointed out most barangay chairmen request for funds from the governor, mayors, congressmen for their "Lakbay Arals". He suggested that the Department should take a look on this. USEC Panadero admitted that they have to improve their system on these "Lakbay Arals" and thanked Rep. Mendoza for calling their attention.

Rep. Roy M. Loyola raised an issue on the selection of police provincial directors. He narrated the experience of the Province of Cavite in choosing their provincial director. He said that the provincial director was replaced against the will of the Governor. The provincial officials filed a case against the DILG and PNP officials on the illegal replacement of the provincial director. He stated that they obtained a temporary restraining order (TRO) from the court. Unfortunately, he said the TRO was not implemented because the DILG and the PNP did not implement it. He hoped that the DILG will respect and honor the law in the selection of provincial directors and chiefs of police not only in Cavite but also throughout the country.

Rep. Loyola also raised the issue of the fire inspection fee. He said that the fire inspection fee should not be remitted anymore to the national treasury considering that the LGUs are spending for the gasoline, equipments, office supplies and maintenance of the offices of the Bureau of Fire Protection (BFP).

USEC Panadero answered the second issue first. He said that there is a new law, Republic Act No. 9514, which states that the fire code fees will no longer be collected by the LGUs but by the BFP. He further said that the fees collected will be used by the BFP to procure equipments, fire trucks and to construct fire stations. To the issue of the selection of police provincial directors, USEC Panadero requested Police Director Alfredo N. Caballes to answer the query of Rep. Loyola.

Police Dir. Alfredo N. Caballes, Philippine National Police (PNP), admitted that by provision of law, the provincial governors and mayors have the power to choose their police provincial and city directors. He said that in the PNP, there is a Senior Officers Placement and Promotion Board, which deliberates on the candidates for provincial and city directors and chiefs of police of municipalities. The board, he said will choose the candidates and submits the list to the local chief executives for their selection. He admitted that the policy is sometimes violated because of "intervening variables".

The Chair pointed out that the LGUs has a share in the fire fees. He explained that in crafting R.A. 9514, he proposed an amendment that LGUs must given a twenty percent (20%) share in the fees to be collected by the BFP. USEC Panadero agreed with the statements of the Chair. He explained that the LGUs has a twenty percent (20%) share in the fire code fees and eighty percent (80%) accrues to the national treasury and is being implemented starting this year.

Rep. Tobias Reynald M. Tiangco inquired about the "intervening variables" Police Dir. Caballes stated and what Congress can do so that the PNP can fully implement the law in the selection of chiefs of police. P/Dir. Caballes explained what "intervening variables" are. He said that the PNP now is a "highly politicized" organization and that requests from political figures and religious groups are taken into account but he stressed that there must be a strict adherence to the existing rules and procedures.

Rep. Ortega observed that although the mayor is the one who chooses his chief of police, it is from the list of candidates supplied by the PNP. Dir. Caballes agreed with the observations of Rep. Ortega.

Dir. Caballes replied in the affirmative to the query of Rep. Mendoza whether the "intervening variables" still exist.

Rep. Ting suggested that the law on the BFP be amended so that the Bureau of Fire Protection will now be called the Bureau of Fire Protection and Safety. He said that the BFPS will now take care of the disaster management response of the community. USEC Panadero clarified that under the "Disaster Risk Reduction Law", the BFP is now harnessed for disaster responses.

Rep. Jerry P. Trenas requested for a copy of the Implementing Rules and Regulations (IRR) on R.A. 10121 or the "Disaster Risk Reduction Law". USEC Panadero promised to furnish Rep. Trenas with a copy of the draft IRR on R.A. 10121.

Rep. Pedro B. Acharon, Jr., inquired on the use of the intelligence fund. He hoped that the Secretary of the DILG review the usage of the intelligence fund which is thirty percent (30%) of the budget for peace and order or five percent (5%) of the total budget whichever is lower. USEC Panadero replied that they will take a look on the special

requirements of Mindanao fully knowing that there are a lot of LGUs that are in conflict situations. He said that the usage of the fund should be more flexible and to cover part of the development work.

As to the query of Rep. Loyola on how much is the budget of the DILG for firetrucks, USEC Panadero replied that for the year 2010, it is 582.6 million pesos while for the year 2011 is 950 million pesos. The Chair suggested that the USEC consider the requests of the Members of the Committee for fire trucks and police patrol cars. USEC Panadero will convey the request of the Committee to the BFP and the PNP. The Chair will furnish the USEC with the list of Members of the Committee who are in urgent need of fire trucks and police cars.

Thereafter, the Chair expressed his appreciation to USEC Panadero and his staff for the briefing.

IV. DELIBERATION ON HOUSE BILL NO. 140 – “ AN ACT EMPOWERING THE PUNONG BARANGAY TO ADMINISTER THE OATH OF OFFICE TO ANY GOVERNMENT OFFICIAL, INCLUDING THE PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES, AMENDING FOR THE PURPOSE SECTION 420 OF REPUBLIC ACT NO. 7160 AS AMENDED, OTHERWISE KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991”, INTRODUCED BY REP. SALVIO B. FORTUNO

Rep. Salvio B. Fortuno read the explanatory note of his bill as his sponsorship speech. He said that the bill seeks to empower the punong barangay to administer the prescribed oath of office before any government official, including the President of the Philippines. He further said that the paramount objective of this piece of legislation is to give the incoming President a wider latitude or great opportunity to choose who among the public officials will administer his oath. Rep. Fortuno stressed that the bill is non-controversial and its implementation does not need any appropriation.

Rep. Fortuno replied in the affirmative to the suggestion of the Chair that Members of the Committee who are present be made co-authors of the bill.

Thereafter, on motion of Rep. Carlos Carlos M. Padilla, duly seconded, the body approved House Bill No. 140 subject to the appropriate committee report.

V. DELIBERATION ON HOUSE BILL No. 2061- “ AN ACT REAPPORTIONING THE LONE LEGISLATIVE DISTRICT AND THE SANGGUNIANG PANLUNGSOD OF THE CITY OF ILOILO”, INTRODUCED BY REP. JERRY P. TRENAS

Rep. Jerry P. Trenas moved that the bill be submitted to a technical working group (TWG) in order to refine the bill. The Chair hearing no objection to the motion, approved the same.

The Chair appointed Rep. Trenas as the chairman of the TWG and Reps Tinga, Sarmiento and Miraflores as members.

VI. DELIBERATION ON HOUSE BILL NO. 2693 – “ AN ACT REAPPORTIONING THE COMPOSITION OF THE FIRST LEGISLATIVE DISTRICT AND SANGGUNIANG PANLUNGSOD SEATS OF THE CITY OF CALOOCAN”, INTRODUCED BY REP. OSCAR G. MALAPITAN

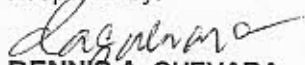
Rep. Oscar G. Malapitan also moved for that House Bill No. 2693 be referred to a technical working group. The Chair hearing no objection to the motion, approved the same.

The Chair appointed Rep. Malapitan as the chairman of the TWG and Reps. Cajayon, Mendoza and Padilla.

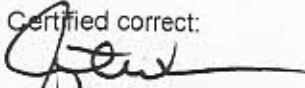
VI. ADJOURNMENT

There being no other matters to discuss, the meeting adjourned at 3:35 p.m.

Prepared by:


DENNIS A. GUEVARA
SLSO II

Certified correct:


LUTHMYR P. TEOXON
Committee Secretary

Noted by:

HON. GEORGE P. ARNAIZ
Chairman

FACT SHEET

House Bill No. 140

(As approved on September 08, 2010)

AUTHORIZING THE PUNONG BARANGAY TO ADMINISTER OATH OF OFFICE OF ANY GOVERNMENT OFFICIAL, INCLUDING THE PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES

Introduced by: Rep. Salvio B. Fortuno

Committee Referral: Local Government

Committee Chairperson: Rep. George P. Arnaiz

OBJECTIVES:

- To give an incoming President a wider latitude to choose who from among the public officials will administer his oath of office;
- To give due recognition to the position of Punong Barangay and its importance in political and governmental affairs;

KEY PROVISION:

- The bill aims to empower the punong barangay to administer the prescribed oath of office of any government official, including the President of the Philippines.

RELATED LAWS:

- Section 41 of Executive Order No. 292 otherwise known as the Administrative Code of 1987.