

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City
TWENTIETH CONGRESS
First Regular Session



HOUSE BILL NO. 2102

Introduced by **REP. BERNADETTE "DETTE" G. ESCUDERO**

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 unequivocally affirms the principle of local autonomy through multiple articles and provisions, thereby establishing it as an incontestable mandate. This affirmation recognizes local autonomy not merely as a policy objective but as a constitutional exercise of power vested in local government units (LGUs), which they are duty-bound to assert and uphold within the bounds of law.

It is therefore clear that LGUs are vested with the authority to make independent administrative determinations within their respective jurisdictions. Consequently, any rule, regulation, or issuance affecting the exercise of such autonomy must not, in any manner or form, amount to a restriction, diminution, or control thereof.

In *Pimentel, Jr. vs. Aguirre* and *Mandanas vs. Ochoa*, the Supreme Court likewise clarified and defined the constitutional grant of local autonomy as specifically provided for in Section 2, Article X of the Constitution in the following manner:

"In Ganson 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."

*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 held in the foregoing jurisprudence, including *Villafuerte v. Robredo*, the grant of local autonomy is not synonymous with local government units' sovereignty within the State but emphasizes interdependence between the national and local government agencies. Accordingly, while the imposition of regulations upon LGUs may be valid, such regulatory measures are intended not to diminish autonomy, but to promote and strengthen the capacity for self-governance within the framework of national unity.

Consequently, decentralization, as an essential component of local autonomy, must not be rendered illusory or ineffectual by the imposition of requirements for prior approval from national government agencies. On the contrary, for LGUs to exercise true autonomy, they must be afforded the capacity to act promptly and effectively in response to the exigencies of public service, free from undue restrictions or excessive central oversight.

Section 4, Article X of the Constitution prescribes the exercise of mere supervision, not control, by the President over LGUs. *Mondano vs. Silvosa* contrasted the President's power of supervision over LGUs with 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) decades of implementation and the way it has been interpreted and applied as a constitutionally prescribed and mandated policy.

For local autonomy to be meaningful, felt, and effective, it must confer upon LGUs the authority to make decisions on matters that directly concern local affairs. While such autonomy is not absolute and remains subject to the Constitution and national laws, the limitations imposed upon its exercise must not operate in a manner that enables the national government to unduly restrict the actions of LGUs or to supplant their judgment with its own.

In view of the foregoing points, the expeditious approval of this measure is respectfully sought.



HON. BERNADETTE "DETTE" G. ESCUDERO
Representative
1st District, Sorsogon

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

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

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

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

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

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

"(b) There shall be established in every local government unit an **INDEPENDENT**, accountable, efficient, and dynamic

organizational structure and operating mechanism that will meet the priority needs and service requirements of its communities;

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

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

“x x x;

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

“x x x.”

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

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

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

“Sec. 288. *Rules and Regulations.* – The Secretary of Finance, in consultation with the Secretary of Budget and Management **AND THE LOCAL GOVERNMENT UNITS THROUGH THEIR RESPECTIVE LEAGUES**, shall promulgate the necessary rules and regulations for a simplified disbursement scheme designed for the speedy and effective enforcement of the provisions of this Chapter **WITHOUT**

RESTRICTING THE ADMINISTRATIVE DETERMINATION OF LOCAL GOVERNMENT UNITS."

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

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

"(a) x x x;

"x x x;

"(d) In cases of abolition of positions and the creation of new ones resulting from the abolition of existing positions in the career service, such abolition or creation shall be made in accordance with pertinent provisions of this code and the civil service law, rules and regulations **AS GUIDELINES WITHOUT RESTRICTING THE ADMINISTRATIVE DETERMINATION OF LOCAL GOVERNMENT UNITS;**

"x x x.

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

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

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

"Sec. 354. *Administrative Issuances; Budget Operations Manual.* – The Secretary of Budget and Management **AND THE LOCAL GOVERNMENT UNITS THROUGH THEIR RESPECTIVE LEAGUES** jointly with the Chairman of the Commission on Audit shall, ~~[within one (1) year from the effectivity of this Code]~~ **IF SO REQUESTED BY LOCAL GOVERNMENT UNITS THROUGH THEIR RESPECTIVE LEAGUES,** promulgate a Budget Operations Manual for local government units to improve and systematize methods, techniques, and procedures employed in budget preparation, authorization, execution, and accountability **WITHOUT RESTRICTING THE**

ADMINISTRATIVE DETERMINATION OF LOCAL GOVERNMENT UNITS."

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

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

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

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

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

Adopted,