

AN ACT GRANTING FURTHER AUTONOMOUS POWERS TO LOCAL GOVERNMENTS

REPUBLIC ACT NO. 5185, September 12, 1967

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

SECTION 1. Short Title.—This Act shall be known as the Decentralization Act of 1967.

SEC. 2. Declaration of Policy.—It is hereby declared to be the policy of the State to transform local governments gradually into effective instruments through which the people can, in a most genuine fashion, govern themselves and work out their own destinies.

It is therefore, the purpose of this Act to grant to local governments greater freedom and ampler means to respond to the needs of their people and promote their prosperity and happiness and to effect a more equitable and systematic distribution of governmental powers and resources. To this end, local governments henceforth shall be entrusted with the performance of those functions that are more properly administered in the local level and shall be granted with as much autonomous powers and financial resources as are required in the more effective discharge of these responsibilities.

SEC. 3. Additional Powers and Functions.—The provincial and city governments are hereby empowered to undertake field agricultural extension work and rural health work when ever deemed to be necessary by the Provincial and Municipal Boards or City Councils to assist or supplement existing national programs or services in their respective areas of jurisdiction. These services shall be administered in accordance with the policies and programs formulated in the national offices concerned. The National Government shall render technical, financial and other assistance to local governments in connection with said services.

To enable the provincial and city governments to undertake the aforementioned functions, they shall retain the amounts heretofore contributed by provincial, city and municipal governments to the National Government for field agricultural extension and rural health work, which shall accrue to the general fund of the province. Provided, that upon the effectivity of this Act, all personnel performing the above services whose salaries are paid out of the amounts contributed by the provincial and municipal governments, shall be absolved by the provinces or municipalities where they are regularly or presently assigned; Provided, however, That the personnel heretofore mentioned shall not be laid off as a consequence of the provision of this section, and shall forthwith be subject to civil service law, rules and regulations: And, provided, further, That in cases of subsequent vacancies, the same shall be filled in accordance with the pertinent and applicable provisions of this Act.

As a result of the provisions of this section, the Budget Commissioner shall make the necessary and corresponding adjustments in the national budget. ,

SEC. 4. Appointments of Heads, Assistant Heads of Local Offices and their Subordinates.—The Provincial Assessor, Provincial Agriculturist and other heads of offices entirely paid out of provincial funds and their respective assistants shall, subject to civil service law, rules and regulations, be appointed by the Provincial Governor: Provided, however, That this section shall not apply to Judges, Auditors, Fiscals., Division

Superintendents of Schools, Supervisors, Principals, Provincial Treasurers, Provincial Health Officers and District Engineers. The City Assessor, City Agriculturist, City Chief of

Police and City Chief of Fire Department and other heads of offices entirely paid out of city funds and their respective assistants or deputies shall, subject to civil service law, rules and regulations, be appointed by the City Mayor: Provided, however, That this section shall not apply to Judges, Auditors, Fiscals, City Superintendents of Schools, Supervisors, Principals, City Treasurers; City Health Officers and City Engineers.

The Municipal Chief of Police and Municipal Attorney and other heads of offices entirely paid out of municipal funds and their respective assistants or deputies shall, subject to civil service law, rules and regulations, be appointed by the Municipal Mayor: Provided, however, That this section shall not apply to Judges and Municipal Treasurers.

In cases of vacancies in the offices of heads and assistant heads of local offices, the governor or mayor shall fill them by appointment from a list of the five next ranking eligible and qualified persons as certified by the Civil Service Commissioner: Provided, That these five persons shall have stated beforehand that they will assume the position, if appointed.

The ranking shall be based on such factors as class of province, city or municipality where the vacancy occurs, seniority, efficiency rating, extraordinary qualifications and other supplementary criteria as may be prescribed by the Civil Service Commission.

All other employees, except teachers, paid out of provincial, city or municipal general funds, road and bridge funds, school funds, and other local funds shall, subject to civil service law, rules and regulations, be appointed by the Provincial Governor, City or Municipal Mayor upon recommendation of the office head concerned. Such recommendation shall be made within fifteen days after the existence of a vacancy, otherwise the recommendation of the office head concerned shall be deemed waived.

Upon effectivity of this Act, all officials and other employees appointed by the local chief executive shall be paid entirely out of local funds.

Within thirty days after the existence of a vacancy, provided that funds are available as certified by the provincial, city or municipal treasurer concerned, the local chief executive concerned shall appoint a suitable person to fill such vacancy. In the case of a chief or assistant chief of a local office, appointments for such vacancies shall be submitted within the same period prescribed above.

The suspension, removal, transfer and other personnel actions shall be subject to the provisions of civil service law, rules and regulations.

The maximum salary scales for officials and employees authorized under existing law for first class provinces, cities and municipalities may, subject to the proviso herein, also be applicable to officials and employees of all other lower class provinces, cities and municipalities, subject to availability of funds and observance of civil service law, rules and regulations: Provided, however, That an official or employee can be eligible for the salary scales of the next higher class province, city or municipality after every two years of continuous service.

SEC. 5. Suspension and Removal of Elective Local Officials.—Any provision of law to the contrary notwithstanding, the suspension and removal of elective local officials shall be governed exclusively by the provisions of this section.

The grounds for suspension and removal of elective local officials are the following: (a) disloyalty to the Republic of the Philippines; (b) dishonesty; (c) oppression; and (d) misconduct in the office.

Written subscribed and sworn charges against any elective provincial and city official shall be preferred before the President of the Philippines; against any elective municipal official before the provincial governor or the secretary of the provincial board concerned; and against any elective barrio official before the municipal or city mayor or the municipal or city secretary concerned.

Within seven days after the charges are preferred, the President, Governor, or Mayor, as the case may be, or his duly authorized representative, as provided in the preceding paragraph, shall notify the respondent of such charges. The President, Provincial Board and City or Municipal Council, as the case may be, shall hear and investigate the truth or falsity of the charges within ten days after receipt of such notice: Provided, That no investigation shall commence or continue within ninety days immediately prior to an election. The preventive suspension of the respondent officer shall not extend beyond sixty days after the date of his suspension. At the expiration of sixty days, the suspended officer shall be reinstated in office without prejudice to the continuation of the proceedings against him until their completion, unless the delay in the decision of the case is due to the fault, neglect or request of the suspended officer, in which case, the time of delay shall not be counted in computing the time of 'suspension: Provided, however, That if the suspended officer shall have been found guilty as charged before the expiration of the thirty days, his suspension, in the case of municipal and barrio officials, may continue until the case is finally decided by the Provincial Board.

The respondent shall have full opportunity to appear and defend himself in person or by counsel/to confront and cross-examine the witnesses against him and to require the attendance of witnesses and the production of documentary evidence in his favor through the compulsory process¹ of subpoena or subpoena duces tecum.

Within thirty days after "the" end of investigation, the President, Provincial Board, City or Municipal Council, as the case may be, shall render its decision in writing, stating clearly and distinctly the facts and the reasons for such decision and shall immediately furnish copies of the decision to the respondent and all interested parties: Provided, That the penalty of suspension shall not exceed the unexpired term of the respondent: Provided, further, That the penalty of suspension or removal shall not be a bar to the candidacy of the respondent so suspended or removed for any elective public office as long as he meets the qualifications so required for the office: And provided, finally, That the decision shall not preclude the filing of criminal actions arising from the same charges as provided for under existing laws.

In case of appeals from decisions of suspension or removal, the provisions of existing laws shall continue to be applicable.

SEC. 6. Prohibition Against Practice.—A member of the Provincial Board or City or Municipal Council shall not appear as counsel before any court in any civil case wherein the province, city or municipality, as the case may be, is the adverse party: Provided, however, That no member of the Provincial Board shall so appear except in behalf of his province in any civil case wherein any city in the province is the adverse party whose voters are enfranchised to vote for provincial officials, nor shall such member of the Provincial Board or City or Municipal Council appear as counsel for the accused in any criminal .case wherein an officer or employee of said province, city or municipality is accused of an offense committed in relation to the latter's office, nor shall he collect any fee for his appearance in any administrative proceedings before provincial, city or municipal agencies of the province, city or municipality, as the case may be, of which he is an elected official.

The provisions of this Section shall likewise apply to provincial governors and city and municipal mayors.

SEC. 7. Succession to Office of Vice-Governor and Vice-Mayor.—In case a vacancy occurs in the office of Vice-Governor or Vice-Mayor, the board or council member, as the case may be, who obtained the highest number of votes, or in cases of provinces, cities, or municipalities where the provincial, city or municipal board

members are elected by districts, the highest percentage of total votes cast in the last election, shall succeed to the officer: Provided, however, That such member meets all the requirements for the position: Provided, further, That in case of the, the pertinent provisions of the Revised Election Code shall apply.

SEC. 8. Filling of Special Vacancies in Local Legislative Bodies.—Vacancy occurring in Board or Council as a consequence of the preceding Section shall be filled automatically by the Board or council member who obtained the second highest number of votes, or if the provincial, city or municipal board members are elected by districts, the second highest percentage of total votes cast in the last election. Succeeding vacancy or vacancies as a result of such succession shall be filled automatically by other members as ranked on the basis of the number of votes or percentage of votes received.

Vacancies occurring in the board or council created through death, resignation, permanent incapacity, removal from office or as a consequence of the preceding paragraph prior to sixty days of a presidential election shall be filled by special election coinciding with such presidential election. Any person so elected shall be last in the ranking of board or council members. If the vacancy occurs after such period, the President alone, in the case of elective provincial and city officials and the provincial governors in the case of elective municipal officials, shall appoint qualified person belonging to the political party or faction of the officer whom he is to replace, upon recommendation of the said political party or faction and who shall serve the unexpired term of the office: Provided, That in cities where councilors are elected by district, the qualified person shall come from the same district where the vacancy exists. Such appointment shall be made within fifteen days after the recommendation of the respective political party or faction has been received. In case of temporary vacancies, the provisions of existing laws shall continue to be applicable.

SEC. 9. Filling of Elective Offices in Newly Created Provinces, Cities, Municipalities or Municipal Districts.—Elective offices in any new province, city, municipality or municipal district shall be filled by regular or special elections to coincide with the next regular presidential or local election; Provided, That if it is created within thirty days before a regular presidential or local election, the said vacancies shall be filled as hereinafter provided in the next succeeding section.

SEC. 10. Filling of Elective Offices in Newly Classified Provinces, Cities, Municipalities or Municipal Districts.—In the event of reclassification of provinces, cities or municipalities where additional members of the Provincial Board, and City or Municipal Board or Council are to be appointed, such additional members shall be appointed upon recommendation of the head of the Provincial, City or Municipal Chapter of the political party which obtained the largest total number of votes in the province, city or municipality, as the case may be, in the last preceding elections for local officials.

SEC. 11. Actions of Provincial, Municipal and City Officials or Provincial Boards Declared Immediately Effective.—

I. The following actions of provincial officials or boards and councils, as provided for in the pertinent sections of the Revised Administrative Code shall take effect without the need of approval or direction from any official of the national government:

- (a) Permission for officials to absent themselves from the province under Section 2073;
- (b) Compensation for persons appointed to temporary services under Section 2077;
- (c) Payment of salary accruing pending suspension under Section 2079;
- (d) Functions of provincial treasurers, specifically as agent of the Philippine National Bank under Section 2089

- (e) Duties of elective members, specifically their performance of ministerial duties under Section 2098;
- (f) Minutes of meetings of provincial boards under Section 2100;
- (g) Purchase or maintenance of draft animals for breeding purposes under Section 2105 (b);
- (h) Powers enumerated in Section 2106, except letters (a) and (f);
- (i) Conventions of mayors under Section 2108;
- (j) Deposit of surplus funds under Section 2110;
- (k) Disestablishment of the Exhibition Fund under Section 2112;
- (l) Providing and maintaining wharves, piers and docks under Section 2113 (b);
- (m) Subsidizing or acquiring, operating and maintaining means of water transportation under Sections 2113 (c) and 2115;
- (n) Expenditures from the Non-Christian Inhabitants' Fund under Section 2114;
- (o) Loans from municipal funds for permanent public works and school purposes under Section 2117;
- (p) Restriction upon limit of disbursement under Section 2122;
- (q) Designation of provincial toll roads, bridges and ferries and fixing their rates under Section 2131;
- (r) Collection and application of tolls under Section 2132;
- (s) Establishment of a sub provincial treasury under Section 2141;
- (t) Settling of municipal boundary disputes within the same province only under Section 2167;
- (u) Fixing of salaries of officials in capital of a province under Section 2184;
- (v) Additional compensation for treasurer under Section 2186;
- (w) Passing by provincial board on legality of municipal proceedings under Section 2233.

II. The following actions by municipal officials or municipal councils, as provided for in the pertinent sections of the Revised Administrative Code shall take effect without the need of approval or direction from any official of the national government: Provided, That such actions shall be subject to approval or direction by the Provincial Board:

- (a) Authority to close thoroughfare under Section 2246;
- (b) Aid to national and provincial charitable institutions under Section 2248;
- (c) Appropriations for exhibition purposes under Section 2293;
- (d) Letting of municipal ferry, market or slaughterhouse to highest bidder under Section 2319.

III. The provincial, city and municipal budgets shall become effective upon the approval of the same by the respective provincial boards, city councils or municipal boards of municipalities, if the same were approved in compliance with the provisions of Republic Act Numbered Twenty-two hundred and sixty-four, and for this purpose the provisions of Republic Act Numbered Forty-four hundred and seventy-seven inconsistent with the provisions of this section or of Republic Act Numbered Twenty-two hundred and sixty-four are hereby repealed or modified accordingly.

All special funds except the road and bridge fund and the public permanent improvement funds of the local governments are hereby abolished and all moneys accruing to the local treasuries by operation of existing laws which are hereby classified as local income shall be consolidated into one general fund and shall be available for local purposes upon appropriation by the local legislative bodies: Provided, That the appropriations for the operation and maintenance of schools, for health and sanitation, and for maintenance, repair and construction of roads and bridges shall not be less than the amounts received from tuition fees, municipal aids for health and sanitation purposes and the manufactured oils allotment and motor vehicle allotment, respectively: Provided, further, That national aids and proceeds from loans and bond issues and other contributions for specific purposes shall be appropriated and spent only for the purpose for which the same have been obtained.

IV. The pertinent sections of the charters of cities are hereby amended so as to declare the actions of city officials, or city boards or councils similar to those actions enumerated above effective without the need of approval or direction from any official of the national government.

SEC. 12. Duties and Powers of Local Chief Executives Not to be Subject to Direction or Review by any National Official.—The following duties and powers of the provincial governors, city mayors, and other local chief executives, where they are authorized by law shall not be subject to direction or review by any national official:

- (a) Initiation of any appropriate criminal action or proceeding to draw the attention of the proper superior officer to the dereliction of the official or employee involved ;
 - (b) Approval of commutation of vacation, sick and maternity leaves and of trips outside the city or province of employee appointed by him, under Section 286 of the Revised Administrative Code;
 - (c) Authorizing payment of medical attendance, necessary transportation, subsistence, hospital fees of injured employees appointed by him and absence in such cases shall not be charged against any leave credit, under Section 699 of the Revised Administrative Code;
 - (d) Approval of the commutation of the transportation allowances of chiefs of offices upon authority of the board or councils as authorized by law; and
- Attendance in national conventions or similar meetings of local chief executives as provided by law.

SEC. 13. Increase in Regular Allotment.—The allotment share of provinces and cities as provided for in the penultimate paragraph of Section eight, Commonwealth Act Numbered Five hundred eighty-six, as amended by Republic Act Numbered Seven hundred eighty-one, is hereby increased from ten to thirteen per centum and the allotment share of municipalities exclusive of cities as provided for in the same Code is hereby increased from two to four per centum, provisions of existing laws to the contrary notwithstanding. The basis of the allotment shall be the collections during the preceding fiscal year, to be distributed among provinces, cities and municipalities as follows: (a) seventy per centum on the basis of population as shown by the latest official census, and (b) thirty per centum in proportion to the land area.

SEC. 14. Retention, Release and Adjustment of Regular Internal Revenue Allotment.—Within five days after the end of each month, the treasury field cashiers to whom all collection agents shall remit all their collections in each province shall retain from the internal revenue collections accruing to the General Fund and remit to the Provincial Treasurer an amount equivalent to one-twelfth of the predetermined annual internal revenue regular allotment of the province and municipalities under it, and to the city treasurer an amount equivalent to one-twelfth of the predetermined annual internal revenue regular allotment of the city: Provided, That in provinces where there are no treasury field cashiers, such personnel shall be appointed. In case collections are remitted directly to the National Treasurer, as in Manila and suburbs, he shall remit the corresponding share to the city or provincial treasurer concerned within the same period. The allotment of municipalities within each province shall be distributed by the Provincial Treasurer concerned within five days after receipt thereof.

Within ten days after the end of each month, the city or provincial treasurer shall render a report to the Commissioner of Internal Revenue showing the corresponding amount received by the city or the respective amounts retained by the province and released to the municipalities for the preceding month.

In cases where the monthly collections are not sufficient to cover the regular allotment of a province, city or municipality, the corresponding balances shall be released by the Bureau of Internal Revenue within thirty days after the expiration of every quarter to the Provincial Treasurer concerned in case of a province or municipality, and to the city treasurer, in case of a city. The corresponding balance for municipalities shall be released by the Provincial Treasurer concerned within five days after receipt thereof.

The Secretary of Finance shall promulgate the rules and regulations for the proper implementation of this section.

SEC. 15. Apportionment of Income Tax Withheld from Wages.—The net proceeds in every fiscal year representing the gross collection of income tax withheld from wages under Supplement (A) of Title two of the National Internal Revenue Code, as amended by Republic Act Numbered Five hundred ninety, minus the refund thereof authorized in the same fiscal year, shall, for purposes of the excess income tax allotments, be credited equally among municipalities.

SEC. 16. Release of Share of Provinces, Cities and Municipalities from the Highway Special Fund.—Within thirty days after the end of every quarter, all shares of provinces, cities and municipalities from the Highway Special Fund, to which they are entitled under Republic Act Numbered Nine hundred seventeen, shall be released by the Bureau of Public Highways to the respective local treasurers: Provided, That the provinces and cities shall continue to appropriate the counterpart funds and no releases shall be made unless counterpart funds are provided by the local government where required: Provided, further, That the same shall not be used for purposes other than those for which such funds were released: Provided, still further, That no road shall be declared as a national aid road by the provincial board and city or municipal board or council unless it shall form part of the integrated national road system: Provided, finally, That the Secretary of Public Works and Communications shall prescribe standards in the construction and improvement of road and highway projects.

SEC. 17. Release of Other Funds.—Within ten days after the end of each month, the share of provinces and cities from the gross receipts of sweepstakes, horse races and lotteries, as provided in Republic Act Numbered Eleven hundred sixty-nine, shall be released to the provincial and city treasurers.

It shall be unlawful for any public officer or employee concerned to withhold, or cause the withholding of any fund apportionable under this section.

SEC. 18. Creation of Position of Provincial Engineer and City Public Works Supervisor.—To enable the provincial governments to administer directly public works and public highways projects which are financed out of local funds, the positions of Provincial Engineer and City Public Works Supervisor may be created and such officials shall be appointed in such manner as is provided for under Section four of this Act: Provided, That the present Public Works District Engineer and Highway District Engineer shall continue to undertake public works and public highways projects financed out of national funds: And provided, further, That the functions hitherto performed by the District Engineer or District Highway Engineer, in undertaking public works and public highways projects financed out of local funds shall be transferred to local engineer.

SEC. 19. Creation of positions of Provincial Attorney and City Legal Officer.—To enable the provincial and city governments to avail themselves of the full time and trusted services of legal officers, the positions of provincial attorney and city legal officer may be created and such officials shall be appointed in such manner as is provided for under Section four of this Act. For this purpose the functions hitherto performed by the provincial and city

fiscals in serving as legal adviser and legal officer for civil cases of the province and city shall be transferred to the provincial attorney and city legal officer, respectively.

SEC. 20. Creation of Municipality or Municipal District.—A municipality or municipal district shall be created and its boundaries modified only by an Act of Congress. For this purpose, Section sixty-eight of the Revised Administrative Code, as amended is hereby repealed.

SEC. 21. Joint Local Government Reform Commission.—There is hereby created a Joint Local Government Reform Commission to be composed of three Senators, two should be from the majority party and one from the minority party, to be designated by the President of the Senate; three Congressmen, two should be from the majority party and one from the minority party, to be designated by the Speaker of the House of Representatives; and three other members to be appointed by the President of the Philippines. The members shall elect a chairman from among themselves. The Commission shall have the following duties and responsibilities:

(a) To conduct continuing studies on the appropriate role of local governments as autonomous agencies in the administration of governmental services; and

(b) To prepare a local government code to consist of a Provincial Government Law, a Municipal Government Law, a Barrio Law and a uniform charter for Chartered Cities to be submitted to Congress.

The Commission shall be assisted by a Technical Staff which shall be headed by an Executive Director and an Assistant Executive Director. All personnel shall be appointed by the Chairman subject to Civil Service Law, rules and regulations.

The amount of two hundred and fifty thousand pesos or such amount thereof as may be necessary is hereby appropriated from any fund of the national treasury not otherwise appropriated for the operation of the Commission during the fiscal year ending June thirty, nineteen hundred sixty-eight. Such sums as may be necessary for the operating expenses of the commission in succeeding fiscal years shall be included in the annual general appropriations Act.

SEC. 22. Penalties.— (a) Any public officer committing any act or omission in violation of Sections six, eight, fourteen, sixteen, seventeen and twenty-three of this Act shall be punished with imprisonment of not less than six months nor more than one year or a fine of not less than one nor more than two thousand pesos or both at the discretion of the Court. (b) Any public officer violating any provision of Section four and Section twenty-three of this Act shall be punished with the same penalty prescribed above: Provided, That said violation proven in a proper administrative proceeding constitute misconduct in office and shall be sufficient cause for suspension or dis-missal of a public officer even if no criminal prosecution is instituted against him: Provided, finally, That he shall also suffer perpetual disqualification to hold any public office.

SEC. 23. Rights, Benefits and Privileges Maintained.— Nothing in this Act shall be construed as depriving any government official or employee of his right to continue to hold office or withdrawing or reducing his benefits and privileges as provided for under existing law.

Implied power of a province, a city or municipality shall be liberally construed in its favor. Any fair and reasonable doubt as to the existence of the power should be interpreted in favor of local government and it shall be presumed to exist. The general welfare clause shall be liberally interpreted in case of doubt so as to give more power to local governments in promoting the economic condition, social welfare and material progress of the people in the community.

SEC. 24. Separability Clause.—If, for any reason, any section or provision of this Act shall be held to be unconstitutional or invalid, no other section or provision of this Act shall be affected thereby.

SEC. 25. Repealing Clause.—All laws and parts of law, including Republic Act Numbered Forty hundred and ninety-two and pertinent portions of city charters, which are inconsistent with the provisions of this Act are hereby repealed and/or modified accordingly: Provided, That rights already acquired and existing at the time of its passage shall not in any way be abridged, modified or affected: And provided, further, That nothing herein contained shall be construed as depriving all province, city, municipality or municipal district of any power at present enjoyed or already exercised or done by it or as diminishing its right autonomy.

Vested rights existing at the time of the promulgation of this law arising out of a contract between a province, city or municipality on one hand and a third party on the other, shall be governed by the original terms and provisions of the same, and in no case should this Act be interpreted to infringe existing rights.

SEC. 26. Effectivity.—This Act shall take effect upon its approval except Section four which shall take effect on January first, nineteen hundred and sixty-eight, and Sections thirteen, fourteen, fifteen and sixteen which shall take effect on July first, nineteen hundred and sixty-eight.

Approved, September 12, 1967,

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