


FIFTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

SENATE
OFFICE OF THE SECRETARY

10 SEP 28 P1:42

SENATE
S. No. 2544

RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

Pursuant to the principle of local autonomy, the Local Government Code vests the local government units, through their local chief executives, with operational supervision and control over the police force assigned to their respective jurisdictions. In recognition of this, Republic Act No. 6975, as amended by R.A. No. 8551, mandated that local chief executives shall be deputized representatives of the National Police Commission (NAPOLCOM). As deputized representatives of NAPOLCOM, they are given the prerogative to select their own provincial police director and chief of police from among a list of recommendees prepared by the NAPOLCOM. However, just before and after the 2007 national and local elections, conflicts arose between the local chief executives and the NAPOLCOM/PNP. Local chief executives objected to the appointment of an officer-in-charge (OIC) in their jurisdiction, and the manner by which their selectees were being summarily relieved from their assigned post without adequate consultation with them.

Thus, during the Fourteenth Congress, the Senate committees on local government and public order and illegal drugs conducted two public hearings (13 November 2007 and 27 May 2008) to determine the exercise and implementation of the powers of local chief executives under the Local Government Code, in relation to their automatic deputation under the Department of Interior and Local Government Act and the Philippine National Police Reform and Reorganization Act.

On 22 December 2008, these committees, through Senator Gregorio B. Honasan II (public order and illegal drugs) and then Senator Benigno Simeon C. Aquino III (local government), jointly submitted Committee Report No. 242, recommending the following:

1. Provide clear guidelines on the appointment of an OIC. As stated in issue no. 5, while R.A No. 8551 fixed the period of time over which an OIC may hold office, it did not provide for clear-cut rules on the instances that may warrant the appointment of an OIC. Also, state in clear and categorical language if extension for the appointment of an OIC is allowed or not. While the law did not state that the extension of the 30-day period is allowed, it also did not completely prohibit such extension. Extension of the 30-day period within which an OIC may be designated has been openly abused by the PNP and the NAPOLCOM, as the investigation uncovered that as of 14 November 2007 there were 19 police provincial directors and three city chiefs of police who were serving in an OIC capacity.

2. Napolcom Memorandum Circular 2001-005 provided the mechanism on how conflict between the PNP regional director and the governor and the PNP provincial director and the mayor over the appointment of the provincial director and the chief of police may be resolved. This procedure in conflict resolution should be faithfully followed and the local chief executives sufficiently apprised of their rights in case of conflict with the PNP. This should be included in the PNP law itself.

3. While the appointment and designation procedure is sufficiently provided for in R.A Nos. 6975 and 8551 and in NAPOLCOM Memorandum Circulars No. 93-013 and 2001-005, the removal or exit procedure of the designated officers from their local government post does not enjoy the same clarity as the procedure for appointment. Thus, the removal and transfer of provincial police directors and chiefs of police are left to the sole discretion of the PNP and the NAPOLCOM. To put an end to the seemingly absolute discretionary authority of the PNP and the NAPOLCOM over the unilateral transfer and removal of an incumbent provincial police director and chief of police, it is recommended that the two-year tour of duty in the PNP manual be provided for and incorporated in R.A No. 8551. Providing a fixed tour of duty for the provincial police director and the chief of police is not intended to limit the control of the PNP and the NAPOLCOM over the police force. It is intended to harmonize the relations of the local chief executives and the PNP and the NAPOLCOM to ensure that the peace and order condition of the local government units is at the core of this relationship. Also, prior consultation with the local chief executive concerned shall be made mandatory before any personnel action is

undertaken by the PNP and the NAPOLCOM. It is highly irregular that the local chief executives are made part of the selection process of the chief of police and provincial director but are deprived of any participation in the removal process.

The committees also submitted the proposed bill which seeks to amend the Department of Interior and Local Government Act. The proposed amendments reflect the recommendations of the committees.

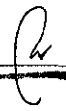
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MIRIAM DEFENSOR SANTIAGO

FIFTEENTH CONGRESS OF THE REPUBLIC)
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SENATE
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Introduced by Senator Miriam Defensor Santiago

1 AN ACT
2 AMENDING SECTION 51(a)(1), SECTION 51(a)(2), SECTION 51(b)(4)(i), AND
3 SECTION 52 OF REPUBLIC ACT NO. 6975, AS AMENDED BY REPUBLIC ACT NO.
4 8551, OTHERWISE KNOWN AS THE "DEPARTMENT OF THE INTERIOR AND
5 LOCAL GOVERNMENT ACT OF 1990"

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

6 SECTION 1. Section 51(a)(1) of Republic Act (R.A.) No. 6975, as amended by R.A. No.
7 8551, is hereby further amended to read as follows:

8 "a) Provincial Governor – (1) Power to Choose the Provincial Director.
9 The provincial governor shall choose the provincial director from a list of three
10 (3) eligibles recommended by the PNP regional director. UPON DUE RECEIPT
11 BY THE GOVERNOR, THE LIST OF THREE (3) ELIGIBLES SHALL NOT
12 BE SUBJECT TO ANY AMENDMENT BY THE PNP REGIONAL
13 DIRECTOR. IN THE EVENT OF A DISAGREEMENT BETWEEN THE
14 GOVERNOR AND THE PNP REGIONAL DIRECTOR, AN OFFICER-IN-
15 CHARGE MAY BE DESIGNATED FOR A PERIOD OF NOT MORE THAN
16 THIRTY (30) DAYS, EXTENDIBLE FOR ANOTHER THIRTY (30) DAYS.
17 THEREAFTER, NO FURTHER EXTENSION OF THE TERM SHALL BE
18 ALLOWED: *PROVIDED, FURTHER*, THAT THE PROVINCIAL PEACE AND
19 ORDER COUNCIL MAY, THROUGH THE GOVERNOR, RECOMMEND
20 THE RECALL OR REASSIGNMENT OF THE PROVINCIAL POLICE
21 DIRECTOR WHEN, IN ITS PERCEPTION, THE LATTER HAS BEEN
22 INEFFECTIVE IN COMBATING CRIME OR MAINTAINING PEACE AND
23 ORDER IN THE PROVINCE: *PROVIDED, FINALLY*, THAT SUCH RELIEF
24 SHALL BE BASED ON DULY ESTABLISHED GUIDELINES BY THE

1 NATIONAL POLICE COMMISSION (NAPOLCOM): *PROVIDED,*
2 *HOWEVER,* THAT NO RECALL OR REASSIGNMENT INITIATED BY THE
3 PNP SHALL BE EFFECTIVE WITHOUT CONSULTATION WITH THE
4 GOVERNOR CONCERNED.”

5 SECTION 2. A new sub-item after Section 51(a)(2) shall be incorporated to read as
6 follows:

7 “(3) IN CASE OF CONFLICT BETWEEN THE PNP REGIONAL
8 DIRECTOR AND THE PROVINCIAL GOVERNOR, EITHER OF THEM MAY
9 REFER THE MATTER TO THE NAPOLCOM REGIONAL DIRECTOR WHO
10 SHALL RESOLVE THE MATTER WITHIN FIVE (5) WORKING DAYS
11 FROM RECEIPT THEREOF. THE DECISION OF THE NAPOLCOM
12 REGIONAL DIRECTOR SHALL BE FINAL AND EXECUTORY UNLESS
13 APPEALED TO THE COMMISSION EN BANC WHICH SHALL RESOLVE
14 THE MATTER WITH FINALITY AND ORDER THE IMPLEMENTATION
15 WITHIN TEN (10) WORKING DAYS FROM ACQUISITION OF
16 JURISDICTION OVER THE ISSUE. A MOTION FOR
17 RECONSIDERATION/REVIEW OF THE EN BANC DECISION SHALL NOT
18 BE ALLOWED.”

19 SECTION 3. Section 51(b)(4)(i) of R.A. No. 6975, as amended by R.A. No. 8551, is
20 hereby amended to read as follows:

21 “(4) Other Powers. In addition to the aforementioned powers, city and
22 municipal mayors shall have the following authority over the PNP units in their
23 respective jurisdictions:

24 (i) Authority to choose the chief of police from a list of five (5) eligibles
25 recommended by the provincial police director, preferably from the same
26 province, city or municipality. UPON DUE RECEIPT BY THE CITY OR
27 MUNICIPAL MAYOR, THE LIST OF FIVE (5) ELIGIBLES SHALL NOT BE
28 SUBJECT TO ANY AMENDMENT BY THE PROVINCIAL POLICE

1 DIRECTOR. IN THE EVENT OF A DISAGREEMENT BETWEEN THE CITY
2 OR MUNICIPAL MAYOR AND THE PROVINCIAL POLICE DIRECTOR,
3 AN OFFICER-IN-CHARGE MAY BE DESIGNATED FOR A PERIOD OF
4 NOT MORE THAN THIRTY DAYS (30) EXTENDIBLE FOR ANOTHER
5 THIRTY (30) DAYS. THEREAFTER, NO FURTHER EXTENSION OF THE
6 TERM SHALL BE ALLOWED: *PROVIDED, FURTHER,* THAT THE LOCAL
7 PEACE AND ORDER COUNCIL MAY, THROUGH THE CITY OR
8 MUNICIPAL MAYOR, RECOMMEND THE RECALL OR REASSIGNMENT
9 OF THE CHIEF OF POLICE WHEN, IN ITS PERCEPTION, THE LATTER
10 HAS BEEN INEFFECTIVE IN COMBATING CRIME OR MAINTAINING
11 PEACE AND ORDER IN THE CITY OR MUNICIPALITY: *PROVIDED,*
12 *FINALLY,* THAT SUCH RELIEF SHALL BE BASED ON DULY
13 ESTABLISHED GUIDELINES BY THE NAPOLCOM: *PROVIDED,*
14 *HOWEVER,* THAT NO RECALL OR REASSIGNMENT INITIATED BY THE
15 PNP SHALL BE EFFECTIVE WITHOUT CONSULTATION WITH THE CITY
16 OR MUNICIPAL MAYOR CONCERNED;”

17 SECTION 4. A new sub-item after Section 51(b)(4)(iii) shall be incorporated to read as
18 follows:

19 “(IV) IN CASE OF CONFLICT BETWEEN THE PNP REGIONAL
20 DIRECTOR AND THE MAYOR, EITHER OF THEM MAY REFER THE
21 MATTER TO THE NAPOLCOM REGIONAL DIRECTOR THROUGH THE
22 PNP REGIONAL DIRECTOR WHO SHALL RENDER A DECISION WITHIN
23 FIVE (5) WORKING DAYS FROM RECEIPT THEREOF. THE DECISION OF
24 THE NAPOLCOM REGIONAL DIRECTOR SHALL BE FINAL UNLESS AN
25 APPEAL IS SUBMITTED TO THE COMMISSION EN BANC WHICH
26 SHALL RESOLVE THE MATTER WITHIN TEN (10) WORKING DAYS
27 FROM ACQUISITION OF JURISDICTION OVER THE ISSUE. NO MOTION

1 FOR RECONSIDERATION/REVIEW OF THE EN BANC DECISION SHALL
2 BE ALLOWED.”

3 SECTION 5. Section 52 of R.A. No. 6975, as amended by R.A No. 8551, is hereby
4 amended to read as follows:

5 “SEC. 52. Suspension or Withdrawal of Deputation. - Unless reversed by
6 the President, the Commission may, after MANDATORY consultation with the
7 provincial governor and congressman concerned, suspend or withdraw the
8 deputation of any local executive for any of the following grounds:

9 (a) Frequent unauthorized absences;

10 (b) Abuse of authority;

11 (c) Providing material support to criminal elements; or

12 (d) Engaging in acts inimical to national security or which negate the
13 effectiveness of the peace and order campaign.

14 Upon good cause shown, the President may, directly or through the
15 Commission, *motu proprio* restore such deputation withdrawn from any local
16 executive.”

17 SECTION 6. A new section SECTION 53-A shall be incorporated after Section 53 to
18 read as follows:

19 “SECTION 53-A. TERM OF OFFICE OF CHIEF OF POLICE AND
20 PROVINCIAL POLICE DIRECTOR. – A DULY SELECTED CHIEF OF
21 POLICE AND PROVINCIAL DIRECTOR SHALL HAVE A FIXED TOUR OF
22 DUTY OF TWO (2) YEARS WITHOUT RE-APPOINTMENT OR TERM
23 EXTENSION BUT WITHOUT PREJUDICE TO EARLY REMOVAL OR
24 TRANSFER OF ASSIGNMENT PURSUANT TO THE PROVISION OF
25 SECTION 51(a)(1) and (b)(4)(i).”

26 SECTION 7. *Separability Clause*. – If any provision of this Act shall be declared
27 unconstitutional, any other provision not affected thereby shall remain in full force and effect.

1 SECTION 8. *Repealing Clause.* – All laws, decrees, orders, rules and regulations, or
2 parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

3 SECTION 9. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication
4 in at least two (2) newspapers of general circulation.

Approved,