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SENATE
S. B. No. **1515**

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Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Constitution, Article 2, Section 25, provides:

The State shall ensure the autonomy of local governments.

A local government unit is a political subdivision of the State, which is constituted by law and possessed of substantial control over its own affairs. Remaining to an intra sovereign subdivision of one sovereign nation, but not intended, however, to be an "*imperium in imperio*," the local government unit is autonomous in the sense that it is given more powers, authority, responsibilities and resources (*Alvarez vs. Guingona, Jr.*, 252 SCRA 695 [1996]).

Unfortunately, the free exercise of such autonomy is hampered with the imposition, in the absence of full consideration by Congress, of unfounded mandates on local government units.

These unfounded mandates displace other essential local government priorities, impose contradictory and inconsistent requirements, and compound the fiscal difficulties of local government units to render basic services to the people.

Hence, this bill seeks to curb the practice of imposing unfounded mandates on local government units in order to allow them to efficiently manage local affairs.

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO

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S. B. No. 1515

BY: C

Introduced by Senator Miriam Defensor Santiago

AN ACT
CURBING THE PRACTICE OF IMPOSING UNFUNDED MANDATES ON LOCAL
GOVERNMENT UNITS

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 “Unfunded Mandate Reform Act.”

SECTION 2. *Purposes.* – The purposes of this Act are :

- (1) to strengthen the partnership between the national government and local government units;
- (2) to end the imposition, in the absence of full consideration by Congress, of mandantes on local government units in a manner that may displace other essential local government priorities.

SECTION 3. *Limitation on Application.* – This Act shall not apply to any provision in an statute or proposed or final regulation that —

- (1) enforces constitutional rights of the individuals;
- (2) establishes or enforces any statutory rights that prohibit discrimination on the basis of age, race, religion, gender, or handicapped or disability status;
- (3) requires compliance with accounting and auditing procedures with respect to grants or other money or property provided by the Government;
- (4) provides for emergency assistance or relief at the request of any local government, or any official of such a government;

(5) is necessary for the national security or the ratification or implementation of international treaty obligations;

(6) the President designates as emergency legislation and that the Congress so designates in statute;

(7) pertains to Social Security.

SECTION 4. *Establishment of an Advisory Council.* – There shall be established an advisory council, to be created under the Office of the President.

(1) IN GENERAL – The task force shall —

(A) oversee the implementation of this Act;

(B) investigate and review the role of unfunded mandates in the intergovernmental relations and their impact on local objectives and responsibilities, and their impact on the competitive balance between the national government, local government units, and the private sector and consider views of and the impact on working men and women on those same matters;

(C) investigate and review the role of unfunded mandates imposed on local governments, the private sector, and individuals;

(D) investigate and review the role of unfunded local mandates imposed on the private sector and individuals; and

(E) make recommendations to the President and the Congress regarding—

(i) allowing flexibility for local government units in complying with specific unfunded mandates for which terms of compliance are unnecessarily rigid or complex;

(ii) reconciling any two (2) or more unfunded mandates which impose contradictory or inconsistent requirements;

(iii) terminating unfunded mandates which are duplicative, obsolete, or lacking in practical utility;

(iv) suspending on a temporary basis, unfunded mandates which are not vital to public health and safety and which compound the fiscal

difficulties of local government units, including recommendations for triggering such suspension;

(v) consolidating or simplifying unfunded mandates or the planning or reporting requirements of such mandates, in order to reduce duplication and facilitate compliance by local government units with those mandates;

(vi) establishing procedures that, in cases in which a piece of legislation would require a mandate on local government units, the same shall not increase local government unit burdens; and

(vii) establishing the general rule that Congress shall not impose mandates on local government units without providing adequate funding to comply with such mandates; and

Each recommendation under paragraph (5) shall, to the extent practicable, identify the specific unfunded mandates to which the recommendation applies.

(F) assist Congress in its consideration of proposed legislation establishing or revising programs containing mandates affecting local government units, and the private sector by —

(i) providing for the development of information about the nature and size of mandates in proposed legislation; and

(ii) establishing a mechanism to bring such information to the attention of the Senate and House of Representatives before the Senate and House of Representatives votes on proposed legislation.

(G) promote informed and deliberate decisions by Congress on the appropriateness of mandates in any particular instance;

(H) establish a point-of-order vote on the consideration in the Senate and House of Representatives of legislation containing significant mandates;

(I) assist agencies in their consideration of proposed regulations affecting local government units by —

(i) requiring that agencies develop a process to enable the elected and other officials of local governments to provide input when agencies are developing regulations; and

(iii) requiring that agencies prepare and consider better estimates of the budgetary impact of regulations containing mandates upon local government units before adopting such regulations;

(2) CRITERIA —

(A) IN GENERAL — The Advisory Commission shall establish criteria for making recommendations under subsection (1).

(B) ISSUANCE OF PROPOSED CRITERIA — The Advisory Commission shall issue proposed criteria under this subsection not later than sixty (60) days after the date of the enactment of this Act, and thereafter provide a period of thirty (30) days for submission by the public of comments on the proposed criteria.

(C) FINAL CRITERIA — Not later than forty five (45) days after the date of issuance of proposed criteria, the Advisory Commission shall —

(i) consider comments on the proposed criteria received under paragraph (4);

(ii) adopt and incorporate in final criteria any recommendations submitted in those comments that the Advisory Commission determines will aid the Advisory Commission in carrying out its duties under this section; and

(iii) issue final criteria under this subsection.

(3) PRELIMINARY REPORT —

(A) IN GENERAL — Not later than nine (9) months after the date of enactment of this, the Advisory Commission shall —

(i) prepare and publish a preliminary report on its activities under this Act, including preliminary recommendations pursuant to subsection (1);

(ii) provides copies of the preliminary report to the public upon request.

(B) PUBLIC HEARINGS – The Advisory Commission shall hold public hearings on the preliminary recommendations contained in the preliminary report of the Advisory Commission under this subsection.

(4) FINAL REPORT – Not later than three (3) months after the date of the publication of the preliminary report under subsection (3), the Advisory Commission shall submit to the Congress a final report on the findings, conclusions, and recommendations of the Advisory Commission under this section.

(5) PRIORITY TO MANDATES THAT ARE SUBJECT OF JUDICIAL PROCEEDINGS – In carrying out this section, the Advisory Commission shall give the highest priority to immediately investigating, reviewing and making recommendations regarding unfunded mandates that are the subject of judicial proceedings, if any.

SECTION 5. *Membership* –

(1) NUMBER AND APPOINTMENT – The Commission shall be composed of six (6) members, four (4) of which, to be appointed by the President as follows:

(A) two (2) representatives from local government units;

(B) two (2) members from among institutions in education or academia in the fields of economics and/or public administration.

(2) The Secretary of Finance and the Secretary of Budget and Management shall automatically be members of the commission in *ex officio* capacity.

SECTION 6. *Powers of the Commission*. –

(1) HEARINGS AND SESSIONS – The Commission may, for the purpose of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as it considers appropriate. It may administer oaths or affirmations to witnesses appearing before it.

(2) OBTAINING OFFICIAL DATA – The Commission may secure directly from any department or agency information necessary to enable it to carry out this Act. Upon

request of the Commission, the head of that department or agency shall furnish that information to the Commission.

(3) **MAILS** – The Commission may use mails in the same manner and under the same conditions as other departments and agencies of the government.

(4) **CONTRACT AUTHORITY** – To the extent provided in advance in appropriations Acts, the Commission may contract with and compensate government and private agencies or persons for the purpose of conducting research or surveys necessary to enable the Commission to carry out its duties under this Act.

(5) **EXPERTS AND CONSULTANTS** – The Advisory Commission may procure temporary and intermittent services of experts or consultants subject to existing civil service rules and regulations.

(6) **ADMINISTRATIVE SUPPORT SERVICES** – The Advisory Commission is authorized to hire personnel to provide administrative support services. The secretariat shall be headed by an executive director, who shall be appointed by the Commissioners.

SECTION 7. *Separability Clause.* - If any provision, or part hereof, is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SECTION 8. *Repealing Clause.* - Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to, or inconsistent with, the provision of this Act is hereby repealed, modified, or amended accordingly.

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

Approved.