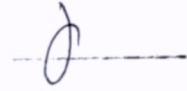


SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)

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SENATE
P.S. Res. No. 1016

RECEIVED



Introduced by Senator Grace Poe

RESOLUTION

DIRECTING THE SENATE COMMITTEES ON FINANCE AND LOCAL GOVERNMENT, TO REVIEW, IN AID OF LEGISLATION, THE REVENUE BASE FOR DETERMINING THE "JUST SHARE IN THE NATIONAL TAXES" OF LOCAL GOVERNMENT UNITS, TAKING INTO ACCOUNT RECENT SUPREME COURT DECISIONS ON THE SAME, AND CONSIDERING THAT SUCH REVENUES ARE ESSENTIAL FOR LOCAL GOVERNMENT UNITS TO FULFILL THEIR MANDATES UNDER THE *LOCAL GOVERNMENT CODE*.

1 WHEREAS, Article II, Section 25 of the 1987 Philippine Constitution directs the
2 State to ensure the autonomy of local governments;

3 WHEREAS, the above provision in the Declaration of Principles and State
4 Policies of the Constitution is further substantiated in a separate Article X, of which
5 Section 6 in particular states that "Local government units shall have a just share, as
6 determined by law, **in the national taxes** which shall be automatically released to
7 them."¹

8 WHEREAS, the above cited provisions make it clear that fiscal autonomy is an
9 essential component of the local government autonomy envisioned in our
10 Fundamental Law;

11 WHEREAS, Article X, Section 6 of the Constitution pertaining to the just share
12 of local government in the national taxes is codified in Section 284, Title III of R.A.
13 No. 7160, otherwise known as the "*Local Government Code*", which reads as
14 follows:

¹ *Emphasis supplied.*

1 "Section 284. Allotment of Internal Revenue Taxes. - Local government units
2 shall have a share in the national internal revenue taxes based on the collection
3 of the third fiscal year preceding the current fiscal year as follows:

4 (a) On the first year of the effectivity of this Code, thirty percent (30%);

5
6 (b) On the second year, thirty-five percent (35%); and

7
8 (c) On the third year and thereafter, forty percent (40%).
9

10
11 *Provided*, That in the event that the national government incurs an
12 unmanageable public sector deficit, the President of the Philippines is hereby
13 authorized, upon the recommendation of Secretary of Finance, Secretary of
14 Interior and Local Government and Secretary of Budget and Management, and
15 subject to consultation with the presiding officers of both Houses of Congress
16 and the presidents of the *liga*, to make the necessary adjustments in the internal
17 revenue allotment of local government units but in no case shall the allotment be
18 less than thirty percent (30%) of the collection of national internal revenue taxes
19 of the third fiscal year preceding the current fiscal year: *Provided, further*, That in
20 the first year of the effectivity of this Code, the local government units shall, in
21 addition to the thirty percent (30%) internal revenue allotment which shall
22 include the cost of devolved functions for essential public services, be entitled to
23 receive the amount equivalent to the cost of devolved personal services."
24

25 WHEREAS, the Supreme Court, in the case of *Mandanas v Executive Secretary*
26 (G.R. No. 199802) ruled that Section 284 of the Local Government Code deviates
27 from the plain language of Section 6 of Article X of the 1987 Constitution:
28

29 "x x x The phrase *national internal revenue taxes* engrafted in Section 284 is
30 undoubtedly more restrictive than the term *national taxes* written in Section
31 6. As such, Congress has actually departed from the letter of the 1987
32 Constitution stating that *national taxes* should be the base from which the
33 *just share* of the LGU comes. Such departure is impermissible. *Verbal legis*
34 *non est recedendum* (from the words of a statute there should be no
35 departure). Equally impermissible is that Congress has also thereby curtailed
36 the guarantee of fiscal autonomy in favour of the LGUs under the 1987
37 Constitution x x x Section 284 has effectively deprived the LGUs from deriving
38 their *just share* from *other* national taxes, like the custom duties."²
39

40 WHEREAS, pursuant to the above *ratio*, the court mandated the following:
41

² Underscoring supplied.

1 1. That the phrase "internal revenue" appearing in Section 284 of R.A. No.
2 7160 is unconstitutional, and shall be deleted from the concerned
3 provisions of the Local Government Code and its implementing rules and
4 regulations;

5
6 2. Ordered the Department of Finance, Department of Budget and
7 Management, the Bureau of Internal Revenue, the Bureau of Customs,
8 and the Bureau of the Treasury, to include ALL COLLECTIONS OF
9 NATIONAL TAXES in computing the base of the just share of the Local
10 Government Units;

11 WHEREAS, if the decision in *Mandanas* is complied with, LGUs would stand to
12 gain an additional Php 644 billion in internal revenue allotment³;

13 WHEREAS, presently, the DBM has yet to implement the Supreme Court's
14 directive in the *Mandanas* ruling, and have appealed for a review of the decision,
15 stating that the decision would "compromise projects" under the *Build Build Build*
16 program⁴;

17 WHEREAS, a decision on the DBM's appeal may take several years,
18 considering that courts dispose of cases at a rate of less than one per year⁵;

19 WHEREAS, many Filipinos are calling for better local government services, the
20 improvement of which can only be improved with true fiscal autonomy;

21 WHEREAS, compliance with the *Mandanas* ruling is one way to further
22 decentralize government services;

23 NOW THEREFOR BE IT RESOLVED, as it is hereby resolved by the Senate of
24 the Philippines, to direct the Senate Committees on Finance and Local Government,
25 to review, in aid of legislation, the revenue base for determining the "just share in
26 the national taxes" of Local Government Units, taking into account recent Supreme

³ Buan, L. "Supreme Court: LGU shares shall be sourced from all national taxes" *Rappler* (04 July, 2018). Retrieved from <https://www.rappler.com/nation/206467-supreme-court-decision-lgu-shares-all-national-taxes>

⁴ Rey, A. "DBM to appeal Supreme Court ruling on tax share of local gov't units" *Rappler* (25 July, 2018). Retrieved from <https://www.rappler.com/nation/208151-department-budget-management-to-appeal-ruling-local-government-tax-share>

⁵ Albert, J.R.G. "The Philippine Criminal Justice System: Do we have enough judges to act on filed cases?" Retrieved from http://nap.psa.gov.ph/beyondthenumbers/2013/06132013_jrga_courts.asp

1 Court decisions on the same, and considering that such revenues are essential for
2 local government units to fulfil their mandates under the *Local Government Code*.

3

4 Adopted,

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8

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GRACE POE