



SENATE

'19 JUL 25 A11 :13

S. No. 782

RECEIVED BY: _____

Introduced by **SENATOR LEILA M. DE LIMA**

**AN ACT
TO PROTECT THE INDEPENDENCE OF OUR JUSTICE INSTITUTIONS**

EXPLANATORY NOTE

The concept of the independence of the three branches of government extends from the notion that the powers of government must be divided to avoid concentration of these powers in any one branch; the division, it is hoped, would avoid any single branch from lording its power over the other branches or the citizenry. To achieve this purpose, the divided power must be wielded by co-equal branches of government that are equally capable of independent action in exercising their respective mandates; lack of independence would result in the inability of one branch of government to check the arbitrary or self-interest assertions of another or others.¹

Now, more than ever, when the temptation of corruption abounds and politicians exert more and more pressure against our court officials, we need to affirm our commitment to provide for a strong and independent judicial system. Ours is a rule of law and we enforce it by strengthening our judicial institutions.

The discretionary allowance to national government officials stationed in local government units (LGUs) has been, in many situations, used by local governments to exercise political patronage over such officials. This is especially dangerous to judges and public prosecutors because they may be placed in a position in which they have to rule on or prosecute a case against said LGUs or their officials. The prosecution service and the judiciary also serve as checks against LGUs. Thus, as against these

¹ *In Re: COA Opinion on the Computation of the Appraised Value of the Properties Purchased by the Retired Chief/Associate Justices of the Supreme Court.* A.M. No. 11-7-10-SC. 31 July 2012

political units, the judiciary and the prosecution service must maintain their integrity and independence.

An unintended effect also of the discretionary allowance to the judges and public prosecutors is that qualified candidates tend to prioritize more affluent LGUs who provide more allowance. The less fortunate LGUs tend to have a hard time attracting judges and public prosecutors.

This bill removes the authority from the LGUs to provide discretionary allowances to judges and public prosecutors. To offset the lost income, a Justice System Independence Allowance shall be given to the judges and public prosecutors stationed in the LGUs. This bill also requires the Supreme Court and the Department of Justice to prepare a plan to transfer out their offices from buildings or facilities owned by LGUs to prevent any possible conflict with the said LGUs as regards their occupancy.

Approval of this measure is earnestly sought.


LEILA M. DE LIMA

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

1 Section 1. *Short Title.* – This Act shall be known as the “*Justice Institutions*
2 *Independence Protection Act*”.

3 Sec. 2. *Declaration of Policy.* – It shall be a declared policy of the State to
4 uphold the integrity and independence of the judiciary, national prosecution service,
5 and the public attorney’s office. It shall further be a policy of the State to isolate the
6 said offices from any sources of undue influence and prevent any appearance of
7 patronage politics. To this end, the State shall prevent the grant of any benefit from
8 any one, including local government units, to the said offices.

9 Sec. 3. *Covered Officials.* – For purposes of this Act, covered officials shall
10 include employees from the judiciary and the National Prosecution Service.

11 Sec. 4. *Removal of Discretionary Authority of the Local Government Units to*
12 *Grant Allowances to Judges and Prosecutors.* – The discretionary authority of the
13 local government unit (LGU) councils to provide for additional allowances to judges
14 and prosecutors are hereby revoked. Accordingly, Republic Act No. 7160, otherwise
15 known as the Local Government Code (LGC), Sec. 447 (a)(1)(xi), Sec. 458 (a)(1)(xi),
16 and Sec. 468 (a)(1)(xi) thereof, shall be amended to read as follows:

17 Section 447. *Powers, Duties, Functions and*
18 *Compensation.* –

1 (a) The sangguniang bayan, as the legislative body of the
2 municipality, shall enact ordinances, approve resolutions
3 and appropriate funds for the general welfare of the
4 municipality and its inhabitants pursuant to Section 16 of
5 this Code and in the proper exercise of the corporate
6 powers of the municipality as provided for under Section
7 22 of this Code, and shall:

8 (1) Approve ordinances and pass resolutions necessary
9 for an efficient and effective municipal government,
10 and in this connection shall:

11 x x x

12 (xi) When the finances of the municipal government
13 allow, provide for additional allowances and other
14 benefits to [~~judges,—prosecutors,~~] public
15 elementary and high school teachers, and other
16 national government officials stationed in or
17 assigned to the municipality;

18 x x x

19 Section 458. *Powers, Duties, Functions and*
20 *Compensation.* –

21 (a) The sangguniang panlungsod, as the legislative body of the
22 city, shall enact ordinances, approve resolutions and
23 appropriate funds for the general welfare of the city and
24 its inhabitants pursuant to Section 16 of this Code and in
25 the proper exercise of the corporate powers of the city as
26 provided for under Section 22 of this Code, and shall:

27 (1) Approve ordinances and pass resolutions necessary
28 for an efficient and effective city government, and in
29 this connection shall:

30 x x x

31 (xi) When the finances of the city government allow,
32 provide for additional allowances and other

1 benefits to [~~judges,—prosecutors,~~] public
2 elementary and high school teachers, and other
3 national government officials stationed in or
4 assigned to the city;

5 x x x

6 Section 468. Powers, Duties, Functions and
7 Compensation. –

8 (b) The sangguniang panlalawigan, as the legislative body of
9 the province, shall enact ordinances, approve resolutions
10 and appropriate funds for the general welfare of the
11 province and its inhabitants pursuant to Section 16 of this
12 Code and in the proper exercise of the corporate powers
13 of the province as provided for under Section 22 of this
14 Code, and shall:

15 (1) Approve ordinances and pass resolutions necessary
16 for an efficient and effective provincial government,
17 and in this connection shall:

18 x x x

19 (i) When the finances of the provincial government
20 allow, provide for additional allowances and other
21 benefits to [~~judges,—prosecutors,~~] public
22 elementary and high school teachers, and other
23 national government officials stationed in or
24 assigned to the province;

25 Sec. 5. *Justice Institution Independence Allowance.* – The covered officials
26 shall be entitled to a Justice Institution Independence Allowance of ten percent (10%)
27 of their basic monthly salary.

28 Sec. 6. *Exemption from Tax.* – The Justice Institution Independence
29 Allowance for covered officials shall not be subject to tax and nothing in this Act shall
30 be construed as to diminish, in any manner, any benefit granted by existing laws,
31 rules and regulations, local ordinances and other issuances especially favorable to
32 said covered officials.

1 Sec. 7. *Comprehensive Office.* – The Supreme Court and the Department of
2 Justice, within one (1) year from effectivity of this Act, shall prepare a comprehensive
3 plan to transfer their offices out of any building or facility owned by local government
4 units.

5 Sec. 8. *Implementing Rules and Regulations.* – The Department of Budget
6 and Management, in consultation with the Supreme Court and Department of
7 Justice shall, within sixty (60) days after the effectivity of this Act, issue the
8 implementing rules and regulations of this Act.

9 Sec. 9. *Appropriations.* – Such amounts as may be necessary to implement
10 this Act for the current year shall be charged against the savings of the Supreme
11 Court and the Department of Justice. Thereafter, the National Government shall
12 appropriate annually and include in the General Appropriations Act the amount
13 corresponding to the total annual cost of the allowances under this Act.

14 Sec. 10. *Separability Clause.* – If any provision of this Act is declared
15 unconstitutional or invalid, other parts or provisions hereof not affected shall
16 continue to be in full force and effect.

17 Sec. 11. *Repealing Clause.* – All laws, executive orders, presidential decrees,
18 presidential proclamations, letters of instruction, rules and regulations or parts
19 thereof which are inconsistent with the provisions of this Act are hereby repealed or
20 modified accordingly.

21 Sec. 12. *Effectivity Clause.* – This Act shall take effect fifteen (15) days
22 following its publication in the Official Gazette or in two (2) newspapers of general
23 circulation in the Philippines.

Approved,