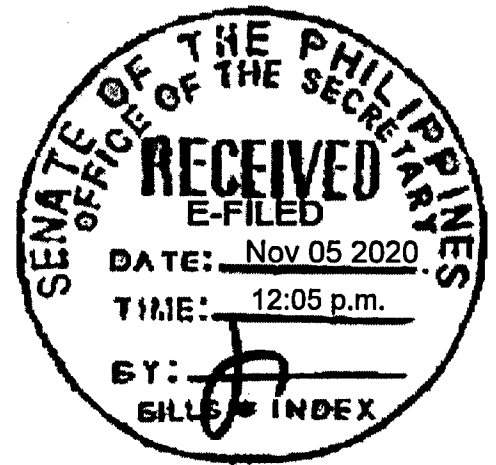


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



SENATE
S. No. 1897

Introduced by SENATOR LEILA M. DE LIMA

AN ACT
APPROPRIATING ADDITIONAL BUDGETARY SUPPORT TO LOCAL
GOVERNMENT UNITS BY REALIGNING THE METROPOLITAN
MANILA DEVELOPMENT AUTHORITY'S SHARE IN THE INTERNAL
REVENUE ALLOTMENT (IRA), AMENDING FOR THIS PURPOSE
ARTICLE 10 OF REPUBLIC ACT NO. 7924, OTHERWISE KNOWN AS
"AN ACT CREATING THE METROPOLITAN MANILA DEVELOPMENT
AUTHORITY, DEFINING ITS POWERS AND FUNCTIONS, PROVIDING
FUNDING THEREFOR AND FOR OTHER PURPOSES", TO
FAITHFULLY COMPLY WITH THE CONSTITUTIONAL MANDATE TO
ENSURE THE AUTONOMY OF LOCAL GOVERNMENTS

EXPLANATORY NOTE

The emergence of political decentralization in the developing world can be attributed to the need of national governments to grant citizens or their elected representatives more power in public decision-making. While it is often associated with pluralistic politics and representative government, it can also support democratization by granting citizens, or their local representatives, more influence in the formulation and implementation of policies. As such, political decentralization often requires constitutional or statutory reforms, the development of pluralistic political parties, the strengthening of legislatures, creation of local political units, and the encouragement of effective public interest groups.¹ In essence, political decentralization aims to serve as a bridge that brings a government closer to the people.

Decentralization in the Philippines can be traced back all the way to the first Philippine Republic from 1898 to 1902 with attempts to reorganize the country's provinces and municipalities. The subsequent American occupation and the

¹ World Bank Group. (n.d.) *Political Decentralization*. Retrieved October 29, 2020, from <http://www1.worldbank.org/publicsector/decentralization/political.htm>

Commonwealth Era would emphasize government centralization up until 1946. Political decentralization would be revived from 1946 to 1972 with the eventual passage of several laws promoting local autonomy.²

Political decentralization suffered under the Martial Law regime which sought to concentrate decision-making powers in the hands of then-President Ferdinand Marcos despite the enactment of pro-decentralization laws and policies during his prolonged term, such as Batas Pambansa (B.P.) Blg. 337 (Local Government Code). Furthermore, control powers – including Presidential power to appoint and replace local government officials – were vested in the central government which effectively reined in local autonomy.³

The nation's emergence towards a post-dictatorship world following the 1986 EDSA Revolution signified a renewed commitment towards the restoration of democratic principles and the strengthening of democratic practices by reemphasizing decentralization and promoting local autonomy in governance. Commitment to these principles were enshrined in the 1987 Constitution, which mandates that the State shall “ensure the autonomy of local governments.”⁴ The same constitution also mandated Congress to enact a Local Government Code “which shall provide for a more responsive and accountable local government structure instituted through a system of decentralization .”⁵ Said provision was carried through and fulfilled four years later with the enactment of Republic Act (R.A.) No. 7160, otherwise known as the “Local Government Code of 1991”, which advocated to create in local government units (LGUs) among themselves self-reliant communities so that they may become more effective partners in the attainment of national goals.⁶

In the spirit of promoting local autonomy, the 1987 Constitution vested LGUs with the power to generate their own revenues via local taxes, fees and revenues. The principle of equity was also upheld as LGUs were guaranteed a “just share” in national taxes. This principle was reaffirmed in the Local Government Code of 1991.

² Brillantes, A. B., Jr. (April 1987). *Decentralization in the Philippines: An Overview*. Retrieved October 29, 2020 from https://pssc.org.ph/wp-content/pssc-archives/Philippine%20Journal%20of%20Public%20Administration/1987/Num%202/05_Decentralization%20in%20the%20Philippines_An%20Overview.pdf

³ *Ibid*.

⁴ Article II, Section 25. (Constitution)

⁵ Article X, Section 3. (Constitution)

⁶ Title 1, Chapter 1, Section 2. (R.A. No. 7160)

However, legislators had limited the internal revenue allotment (IRA) of LGUs to national internal revenue taxes. This was eventually challenged in *Mandanas v. Executive Secretary Ochoa*,⁷ claiming it omitted other sources of revenues, such as franchise fees and customs duties, which the national government withheld from LGUs. Six years later, the Supreme Court emphasized the importance of the fiscal autonomy of LGUs as an implement of decentralization, to wit:

One of the key features of the 1987 Constitution is its push towards decentralization of government and local autonomy. Local autonomy has two facets, the administrative and the fiscal. Fiscal autonomy means that local governments have the power to create their own sources of revenue in addition to their equitable share in the national taxes released by the National Government, as well as the power to allocate their resources in accordance with their own priorities.¹ **Such autonomy is as indispensable to the viability of the policy of decentralization as the other.**⁸ (Emphasis supplied)

The SC then ruled in favor of the Mandanas petition and determined that the “just share” of LGUs shall be sourced from “all national taxes and not only national internal revenue taxes”.⁹ As a result of this decision, LGUs are expected to receive their adjusted IRA by 2022.

This victory for LGUs cannot be fully enjoyed because review of *status quo* implementation of the IRA would reveal that even the Metropolitan Manila Development Authority (MMDA) get a slice in the limited pie – thus significantly reducing the share of each LGU from the scarce resources available.

This bill proposes the MMDA’s share of the IRA be removed from its Charter in order to guarantee that LGUs shall receive their equitable share of national taxes. Excising the IRA from MMDA’s funding is well within reason as they will still have other sources of revenue as enumerated in the very charter that created it, and also

⁷ G.R. No. 199802. (April 10, 2019)

⁸ *Ibid.*

⁹ Buan, L. (4 July 2018). *Supreme Court: LGU shares shall be sourced from all national taxes*. Retrieved October 29, 2020, from <https://www.rappler.com/nation/supreme-court-decision-lgu-shares-all-national-taxes>

because they already receive an annual budget appropriation as an attached office under the Office of the President. Moreover, a thorough review of the Local Government Code of 1991 sheds light into the nature of IRA – and why it must be reserved exclusively to LGUs. It is clear under Title III, Chapter 1, Section 284 of said Code, which the Supreme Court expounded on, to wit:

Implementing the constitutional mandate for decentralization and local autonomy, Congress enacted Republic Act No. 7160, otherwise known as the Local Government Code (LGC), in order to guarantee the fiscal autonomy of the LGUs by specifically providing that:

SECTION 284. Allotment of Internal Revenue Taxes. - Local government units shall have a share in the national internal revenue taxes based on the collection of the third fiscal year preceding the current fiscal year xxx.¹⁰

This section on the allotment of IRA only speaks of LGUs – and nowhere in the provision does it contemplate the same and equal share to be also granted to the MMDA. The law is neither vague nor silent. In fact, the aforementioned provision unambiguously reserves this right to LGUs, making no mention of the same grant to the MMDA. There could only be one reason why – the MMDA is not an LGU. The Supreme Court in *MMDA v. Bel-Air*¹¹ has already explained what an LGU is, and the character of the MMDA, to wit:

[L]ocal government is a "political subdivision of a nation or state which is constituted by law and has substantial control of local affairs." The Local Government Code of 1991 defines a local government unit as a "body politic and corporate" — one endowed with powers as a political subdivision of the National Government and as a corporate entity representing the

¹⁰ *Supra* Note 7.

¹¹ G.R. No. 135962. (March 27, 2000)

inhabitants of its territory. Local government units are the provinces, cities, municipalities and barangays.

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It will be noted that the powers of the MMDA are limited to the following acts: formulation, coordination, regulation, implementation, preparation, management, monitoring, setting of policies, installation of a system and administration. *There is no syllable in R.A. No. 7924 that grants the MMDA police power, let alone legislative power. Even the Metro Manila Council has not been delegated any legislative power.* Unlike the legislative bodies of the local government units, there is no provision in R.A. No. 7924 that empowers the MMDA or its Council to "enact ordinances, approve resolutions appropriate funds for the general welfare" of the inhabitants of Metro Manila. The MMDA is, as termed in the charter itself, "development authority." It is an agency created for the purpose of laying down policies and coordinating with the various national government agencies, people's organizations, non-governmental organizations and the private sector for the efficient and expeditious delivery of basic services in the vast metropolitan area. *All its functions are administrative in nature* and these are actually summed up in the charter itself, viz: (Emphasis supplied)

Sec. 2. *Creation of the Metropolitan Manila Development Authority. —*

The MMDA shall perform *planning, monitoring and coordinative functions*, and in the process exercise *regulatory and supervisory authority* over the delivery of metro-

wide services within Metro Manila,
without diminution of the autonomy
of the local government units
concerning purely local matters.

It can be gleaned from the foregoing that the MMDA seems to have been receiving its share of the IRA, which should be reserved exclusively in the LGUs by virtue of the devolution under the Constitution. Granting the MMDA with an IRA diminishes the constitutionally guaranteed right of LGUs of their just share of national taxes, and undermines the principles of equity and local autonomy espoused by political decentralization and enshrined in the 1987 Constitution. As an office tasked with administrative functions, MMDA's funds should be confined to appropriations that are the same as those given to other administrative agencies in the government. The IRA should be reserved for LGUs as defined by law.

This is not to undermine the contributions of the MMDA in managing the National Capital Region. It is respectfully submitted that the funds that MMDA requires to effectively carry out their mandate must be duly appropriated. However, to award this agency with its own share of IRA would be to perpetuate a legal anomaly that should be duly corrected by legislation.

Any provision on a power of a local government unit shall be liberally interpreted in its favor, and in case of doubt, any question thereon shall be resolved in favor of the devolution of powers and of the Local Government Unit.¹² This rule of interpretation cannot make it any clearer – the provisions of the Local Government Code of 1991 should never be interpreted in such a manner as to prejudice the powers it has granted to LGUs. The provisions on the IRA should, therefore, be interpreted to favor the LGUs – never to cause a reduction of such grants.

It is the aim of this measure to rectify what may have been a legislative oversight when the MMDA was granted a share in the IRA under Section 10 of Republic Act No. 7924, otherwise known as “An Act Creating the Metropolitan Manila Development Authority, Defining Its Powers and Functions, Providing Funding Therefor and for Other Purposes”, which reads in part:

¹² Nachura, Antonio. *Outline Reviewer in Political Law*. (Philippines: Rex Book Store, Inc., 2014). p. 584.

Sec. 10 Sources of Funds and the Operating Budget of
MMDA. –

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The MMDA shall continue to receive the Internal Revenue
Allotment (IRA) currently allocated to the present MMA.

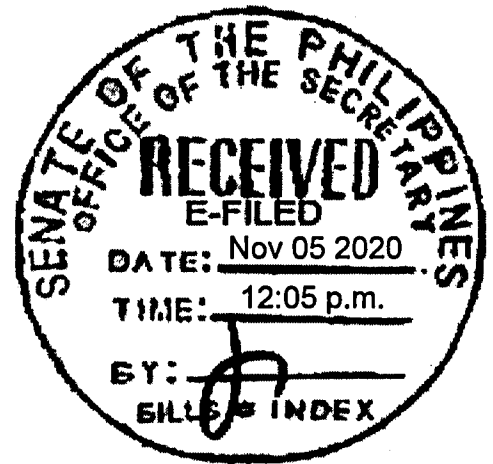
Metropolitan Manila Commission (MMC), the forerunner of the MMDA, “possessed greater powers” which were not bestowed on the MMDA. Hence, it could only mean that the MMDA should not be made to enjoy grants that it is otherwise not entitled to. The very wording of the Local Government Code of 1991 should have guided the MMDA charter – its existence and functions should, as the Supreme Court has already declared, never amount to a diminution of the autonomy of the local government units.¹³

In view of the foregoing, immediate passage of this bill is earnestly sought


WEILA M. DE LIMA

¹³ *Ibid.*

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

1 SECTION 1. – *Declaration of Policy.* – It is hereby declared the policy of the
2 State to ensure the autonomy of local governments. The State shall thus continue to
3 espouse for decentralization so that local governments shall enjoy genuine and
4 meaningful local autonomy to enable them to attain their fullest development as self-
5 reliant communities and make them more effective partners in the attainment of
6 national goals. Towards this end, the State shall ensure that the implementation of
7 programs and enforcement of laws should always be without diminution of the
8 autonomy of the local government units.

9 Sec 2. Article 10 Republic Act No. 7924, otherwise known as "An Act Creating
10 the Metropolitan Manila Development Authority, Defining its Powers and Functions,
11 Providing Funding Therefor and for Other Purposes" shall be amended as follows:

1 Sec. 10. Sources of Funds and the Operating Budget of
2 MMDA. - To carry out the purposes of this Act, the amount of
3 One billion pesos (P1 ,000,000,000) is hereby authorized to
4 the appropriated for the initial operation of the MMDA.
5 Thereafter, the annual expenditures including capital outlays
6 of the MMDA shall be provided in the general Appropriations
7 Act.

8
9 ~~[The MMDA shall continue to receive the Internal Revenue~~
10 ~~Allotment (IRA) currently allocated to the present MMA.]~~

11
12 xxx

13 Sec. 3. *Repealing Clause.* – All laws, decrees, letters of instruction,
14 resolutions, orders or parts thereof which are inconsistent with the provisions of this
15 Act are hereby repealed, modified or amended accordingly.

16 Sec. 4. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
17 publication in the Official Gazette or in two (2) newspapers of general circulation.

 Approved,