

EIGHTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
*Third Regular Session* )

SENATE  
S. No. 2434

'21 OCT 11 P3:08

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Introduced by Senator Francis "Tol" N. Tolentino

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**AN ACT**  
**AMENDING SECTION 17, CHAPTER V, TITLE I, BOOK III AND SECTION 27,**  
**CHAPTER V, TITLE I (A), BOOK V OF EXECUTIVE ORDER NO. 292 OR THE**  
**ADMINISTRATIVE CODE OF 1987**

**EXPLANATORY NOTE**

The Blue Ribbon Committee Hearings on the 2020 Commission on Audit (COA) Report on the Department of Health (DOH) and other issues related to the utilization of the national budget related to the fight against the Covid-19 pandemic revealed gaps in the law, not only in the procurement process, but also in the powers and authority that a person designated as an Officer-in-Charge (OIC) may exercise.

Executive Order 292 (EO 292) or the Administrative Code of 1987 provides that appointments in civil service positions may either be permanent or temporary. The President has the power to issue temporary designations or appointments under specific circumstances such as when "the officer regularly appointed to the office is unable to perform his duties by reason of illness, absence, or any other cause . . . or there exists a vacancy".<sup>1</sup>

The Administrative Code, however, does not expressly define the limitations in the powers and authority that an OIC may exercise, except that the temporary appointment cannot exceed beyond twelve (12) months. This is defined instead in Section 13 (c) of the Civil Service Commission (CSC) Memorandum Circular No. 24, series of 2017, or the Omnibus Rules on Appointments and Other Human Resource Actions which provides:

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<sup>1</sup> Section 17, Chapter V, Title I, Book III of the Administrative Code of 1987

Officials designated as Officer-in-Charge (OIC) enjoy limited powers which are confined to functions of administration and ensuring that the office continues its usual activities. The OIC may not be deemed to possess the power to appoint employees as the same involves the exercise of discretion which is beyond the power of an OIC, unless the designation order issued by the proper appointing officer/authority expressly includes the power to issue appointment.

Since OICs are only designated to ensure that the day-to-day operations of the office will not be hampered, and they lack the authority to exercise discretionary powers, it is incumbent upon the appointing authority to immediately fill the position with permanent appointments and not to allow temporary appointees to hold the position for a long period of time to ensure efficiency in government operations.

Thus, this measure aims to expressly define and limit the powers and functions that a temporary appointee or an OIC may exercise, and to ensure that only persons holding permanent appointments to career positions can be designated as such since an OIC only holds the position until a permanent appointee is appointed.

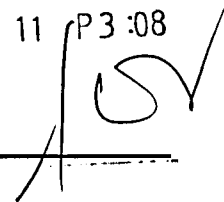


**FRANCIS "TOL" N. TOLENTINO**

EIGHTEENTH CONGRESS OF THE )  
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OFFICE OF THE CLERK  
SENATE

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

1       **SEC. 1.** Section 17, Chapter V, Title I, Book III of Executive Order No. 292 or  
2 the Administrative Code of 1987 is hereby amended to read as follows:

3  
4       **Section 17.** Power to Issue Temporary Designation. –

5  
6       (1) The President may temporarily designate an officer already in the  
7 government service ~~or any other competent person to perform the~~  
8 ~~functions of an office in the executive branch,~~ appointment to which  
9 is vested in him by law, when: (a) the officer regularly appointed to  
10 the office is unable to perform his duties by reason of illness, absence  
11 or any other cause; or (b) there exists a vacancy;

12  
13       (2) The person designated shall ~~receive the compensation attached to~~  
14 ~~the position, unless he is already in the government service in which~~  
15 ~~case he shall receive only such additional compensation as, with his~~  
16 existing salary, shall not exceed the salary authorized by law for the  
17 position filled. The compensation hereby authorized shall be paid out  
18 of the funds appropriated for the office or agency concerned.

19  
20       (3) In no case shall a temporary designation exceed ~~one (1) year~~ **SIX**  
21 **(6) MONTHS. IN CASE OF VACANCY, THE PRESIDENT IS**  
22 **MANDATED TO FILL THE POSITION WITH A PERMANENT**  
23 **APPOINTMENT WITHIN THE SAID PERIOD.**  
24

1           **SEC. 2.** Section 27, Chapter V, Title I, Subtitle A, Book V of Executive Order No.  
2 292 or the Administrative Code of 1987 is hereby amended to read as follows:

3  
4           **Section 27. *Employment Status*** - Appointment in the career service  
5 shall be permanent or temporary.  
6

7           x x x  
8

9           (2) Temporary appointment.—In the absence of appropriate eligibles  
10 and it becomes necessary in the public interest to fill a vacancy, a  
11 temporary appointment shall be issued to a person who meets all the  
12 requirements for the position to which he is being appointed except the  
13 appropriate civil service eligibility: Provided, That such temporary  
14 appointment shall not exceed twelve **SIX (6)** months, but the  
15 appointee may be replaced sooner if a qualified civil service eligible  
16 becomes available; **PROVIDED FURTHER, THAT ON OR BEFORE**  
17 **THE EXPIRATION OF THE SIX-MONTH PERIOD FROM THE**  
18 **TIME OF VACANCY, A PERSON ISSUED WITH A PERMANENT**  
19 **APPOINTMENT SHALL FILL THE SAID VACANCY;**  
20

21 **A PERSON DESIGNATED AS AN OFFICER-IN-CHARGE (OIC)**  
22 **SHALL EXERCISE LIMITED POWERS WHICH ARE CONFINED**  
23 **ONLY TO FUNCTIONS OF ADMINISTRATION AND ENSURING**  
24 **THAT THE OFFICE CONTINUES ITS USUAL ACTIVITIES. SUCH**  
25 **APPOINTMENT SHALL NOT EXCEED SIX (6) MONTHS. THE OIC**  
26 **SHALL NOT BE DEEMED TO POSSESS POWERS INVOLVING THE**  
27 **EXERCISE OF DISCRETION TO ENTER INTO ANY LONG-TERM**  
28 **AND/OR HIGH-VALUE CONTRACTS OR AGREEMENTS. SUCH**  
29 **CONTRACTS OR AGREEMENTS SHALL BE DEEMED VOID AB**  
30 **INITIO AND THE OIC CAN BE HELD ADMINISTRATIVELY AND**  
31 **CRIMINALLY LIABLE.**  
32

33           **SEC. 3. *Separability Clause.*** – If any provision or part of this Act is declared  
34 unconstitutional or invalid, the remaining parts or provisions not affected thereby shall  
35 remain in full force and effect.  
36

37           **SEC. 4 *Repealing Clause.*** – All laws, decrees, orders, rules and regulations,  
38 and issuances inconsistent with the provisions of this Act are repealed, amended, or  
39 modified accordingly.  
40

41           **SEC. 5. *Effectivity.*** – This Act shall take effect fifteen (15) days after its  
42 publication in the *Official Gazette* or in a newspaper of general circulation.  
43

44           Approved,