



## POSITION PAPER OF THE LEAGUE OF CITIES OF THE PHILIPPINES ON THE CITYHOOD BILLS

The League of Cities of the Philippines ("League" for brevity), by way of Position Paper, respectfully manifests its **continuing opposition** to House Bill No. 4149 and Senate Bill Nos. 233 and 643, and further states that:

1. The League previously submitted its Position Paper<sup>1</sup> to House Bill No. 257 entitled, "An Act Exempting from Population and Land Area Requirements the Conversion of a Municipality into a Component City if it has a Locally Generated Average Annual Income of at least Two Hundred Fifty Million Pesos (P250,000,000), Amending for the Purpose Section 450 of Republic Act No. 7160, as amended, which was subsequently substituted by House Bill No. 4149.
2. The League expressed its opposition to the said Bill on the strong basis that the present statutory requirements for conversion are sufficient and that the same complement each other as indicators to become a sustainable city.
3. Subject for deliberation on the floor are Bills amending the statutory requirements for conversion as set forth in the Local Government Code of 1991, as amended.

*House Bill No. 4149 – "An Act Exempting from Population and Land Area Requirements the Conversion of a Municipality into a Component City if it has a Locally Generated Average Annual Income of at least Two Hundred Fifty Million Pesos (P250,000,00), Amending for the Purpose Section 450 of Republic Act No. 7160, as amended.";*

*Senate Bill No. 233 – "An Act Exempting from the Population and Land Area Requirements the Conversion of a Municipality into a Component City if it has a Locally Generated Income of at Least Two Hundred Fifty Million Pesos*

<sup>1</sup> Official Position Paper on House Bill No. 4149. 21 November 2016. Annex A



*(P250,000,000), Amending for the Purpose Section 450 of Republic Act 7160, As Amended, otherwise known as the Local Government Code of 1991"*

4. The foregoing Bills seek to further amend Section 450 of the Local Government Code by allowing the conversion of a municipality into a component city if it has an average annual income of at least Two Hundred Fifty Million (P250,000,000) for the last two (2) consecutive years based on 2012 Constant Prices, as certified by the Department of Finance. This is without regard to its land area and population, exempting a municipality from the Twin Requirements of conversion.
5. The League welcomes the conversion of municipalities into cities because cityhood is their natural course toward economic development. However, the League reiterates its stance against artificially hastening such a process through unfounded interventions and outright disregard to general rules on the creation and conversion of local government units.

**The Bills disregard the spirit behind the law on verifiable indicators of creation and conversion of local government units**

6. It is a basic principle in economics that land, labor and capital are essential factors for production. This provides economic wisdom in putting population and land area requirement for the conversion of local government units in the Local Government Code.
7. It was contended by the proponents of the Bills that income is the most controlling among the requirements for conversion. The League is inclined to agree but with reservation due to the fact that the extent of the effect of income is dependent on population and land where gains of economic development physically manifest.
8. Time and again, the League has manifested that while it is true that income requirement is a verifiable indicator of the viability and capability of the local government units in handling its affairs, the same cannot stand on its own. It is well established that land area and/or population must complement the income, hence, equally important criteria for conversion.





9. Further, to exempt the financially viable municipalities from the requirements would render nugatory the spirit behind the statutory distinctions between a city and municipality. By removing the physical requirements, it begs the question on what constitutes a city?

**The statutory requirements are sufficient and generally attainable**

10. A remarkable growth of 143% in the number of municipalities converted into component cities in less than three decades indicates that the requirements are feasible and benchmarks are generally attainable. In fact, the number of cities ballooned from sixty (60) in the year 1991 to 145 in the year 2015.<sup>2</sup> Moreover, the law only requires compliance with either land OR population requirement.

**There is no compelling reason that warrants an exemption to the general rule on requirements for conversion**

11. It is well settled that the primordial reason for converting a municipality into a city is the economic viability. The conclusion that income is equivalent to economic viability is a sweeping generalization.
12. The League underscores that economic viability does not only relate to income or finances but it also relates to the careful management of resources with regard to territory, people and services.
13. The League stresses that the capability of a municipality to generate a high income is not enough to veer away from the established general rule absent careful scrutiny and peremptory cause that warrant the exemption.

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<sup>2</sup> Table 1 Conversion Rate of Municipalities into Cities. Annex B



**Legislative proposals on Special Assistance Fund and Equalization Fund as accommodation to address the gaps in Cityhood Bills**

14. Since the league has manifested its opposition to the measures in the past deliberations, legislative proposals are crafted to accommodate the gaps anticipated as a result of the Cityhood Bills pending in Congress. These proposals will form part of the proposed measures with the objective of providing assistance to capital towns belonging to provinces without cities.

- I. *Special Assistance Fund is hereby granted to the capital towns/municipalities of cityless provinces for a period of six (6) years from the effectivity of this act. This fund shall augment the locally generated income of the concerned municipalities, until the latter have attained or surpassed two hundred fifty million (P250,000,000.00) income threshold necessary for their conversion into component cities as provided under the preceding section.*
- II. *Equalization Fund, equivalent to the projected decrease of the Internal Revenue Allotment (IRA) share of existing cities as a result of the creation of additional cities under this Act, is hereby allocated in the General Appropriations Act. This fund shall be appropriately adjusted based on the number of additional cities to be created thereafter. This fund shall be distributed to all cities to finance their programs and projects, and to hasten their development.*





15. The League expresses its concerns<sup>3</sup> about the sustainability of the special assistance fund. There are at least twenty-seven (27) capital towns that would have shared this fund. The League respectfully requests the proponent to further elaborate on these areas, which hopefully would help establish the financial feasibility of the proposed fund.
16. The provision for Equalization Fund is aimed at mitigating such negative impacts of additional cities consequent to converting capital towns of provinces without cities. However, this does not address the debilitating impacts of this mad rush conversion to smaller or poorer cities.
17. Should the pending cityhood bills become law, the League foresees the need for establishing a 'buffer fund' in order not to hamper the continued economic growth and service delivery of its member cities. The League recommends defining the origin and computation of the Equalization Fund early at this stage to ensure its place in the General Appropriations Act. Without a clear funding source, it may yet result in unfunded mandates imposed on existing cities and capital towns, which defeats the purpose of the fund as defined in the legislative proposal.
18. Lastly, while the intent of the proposed legislative provisions is commendable, the addendums look past the issues inherent to the pending cityhood bills, as previously raised by the League, particularly the relaxation of the land area and population requirement in favor of a larger income threshold. The League also expresses its qualms on the sustainability and efficient use of these funds.
19. Hence, it is humbly submitted that Congress should thoroughly study, and consider the repercussions that will result from the relaxation of the statutory requirements.

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<sup>3</sup> Discussion Paper on Legislative Proposals on Special Assistance Fund and Equalization Fund. Annex C



## Official Position Paper of the League of Cities of the Philippines on *Bigger Pie, Bigger Slice* Bills

The League of Cities of the Philippines (League) **supports** the Bills which broaden the share of the Local Government Units (LGUs) in the Internal Revenue Allotment (IRA). The measures significantly empower the LGUs in the fulfillment of its mandates by allocating more resources and financial capacity.

Senate Bill No. 110<sup>1</sup> seeks to expand the source of funds from the current *national internal revenue taxes*, as provided for by Section 284 of the Local Government Code, to *national taxes* in compliance with the Constitutional mandate that local government units shall have a just share in the national taxes which shall be automatically released to them. It further provides for the increase of the share in the national taxes by ten percent (10%) or from forty percent (40%) to fifty percent (50%).

Senate Bill Nos. 810 and 843<sup>2</sup> seek to increase the Internal Revenue Allotment (IRA) of local government units from forty percent (40%) to fifty percent (50%) thereby strengthening the local government participation.

### DISCUSSION

#### Expansion of the source of funds of the LGUs is more in keeping with the spirit and intent of the Constitution

The source of the share of the LGUs as provided in the Local Government Code is exclusive on the national internal revenue taxes only which is contrary to what the Constitution mandates. The use of the term national internal revenue taxes in the LGC has therefore reduced local government revenues

The Constitution is explicit as to the source of the share of the local government units. It provides that "*Local government units shall have a just share, as determined by law, in the **national taxes** which shall be automatically released to them.*" National taxes are derived from all taxes imposed and collected by the national government, of whatever kind or nature, and from whatever source. As opposed to local taxes which are imposed by the local government units usually in the form of property tax, national taxes are wider in scope. The amount of local taxes varies from one jurisdiction to the other. Collections by the Bureau of Internal

<sup>1</sup> Senate Bill No. 110. Full Text attached as Annex A

<sup>2</sup> Senate Bill Nos. 810 and 843. Text attached as Annex B.





Revenue (BIR) of all internal revenue taxes, value added taxes, and excise and tariff taxes on imported goods, as well as the collections by the Bureau of Customs (BOC) of customs duties also cover national taxes.

On the other hand, Section 284 of the Local Government Code (LGC) provides “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.” National internal revenue tax<sup>3</sup> is composed of the following taxes, fees and charges: 1) Income Tax; 2) Estate and donor’s taxes; 3) Value Added Tax; 4) Other percentage tax; 5) Excise taxes; 6) Documentary stamp taxes; and 7) Other taxes as are or hereafter may be imposed and collected by the Bureau of Internal Revenue.

The League maintains that while the Local Government Code is the law setting forth the standards for local government units, the Constitutional provision granting LGUs share from the national taxes is clear, plain and has no room for interpretation. It is a well-settled principle of constitutional construction that the language employed in the Constitution must be given their ordinary meaning except where technical terms are employed. As much as possible, the words of the Constitution should be understood in the sense they have in common use. What it says according to the text of the provision to be construed compels acceptance and negates the power of the courts to alter it, based on the postulate that the framers and the people mean what they say. *Verba legis non est recedendum* – from the words of a statute there should be no departure.

### **The creation and expansion of LGU shares address the proliferation of unfunded mandates**

Fiscal decentralization, among others, is an overarching objective of the LGC. Local government units (LGUs) have been guaranteed a portion of the general taxes through the Internal Revenue Allotment or IRA, which they can use to fund some of the major functions devolved to them.

The genuine exercise of local autonomy, however, is still hampered with the imposition of unfunded mandates on LGUs. Since the enactment of the LGC up to 2015, at least 134 laws did not receive funding or remained underfunded. An overwhelming 105 or 78 percent of these laws concern local governments. Based on the report of the Congressional Policy and Budget Research Department (CPBRD), the total funding requirement to implement these laws amounted to

<sup>3</sup> Section 21, Republic Act No. 8424. National Internal Revenue Code





P367.3 billion of which P242.1 billion, resulting in a funding deficiency of P125.2 billion. Considering that there are unfunded laws with 'unquantifiable' funding requirements, this is highly a conservative estimate.

Time and again, the League submits that the presence of unfunded mandates stands as an utter irony to the country's decentralization policy and a huge obstacle to the achievement of its goals. They 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. If this were not unsettling enough, depriving LGUs of resources as afforded to them by law is an infringement of local autonomy as a constitutional principle. In 2000, the Supreme Court<sup>4</sup> ruled unconstitutional Administrative Order No. 372, s. 1997, which reduces the share of LGUs in the IRA as part of the administration's austerity measures. The high court declared that the order "effectively encroaches on the fiscal autonomy of local governments" and that even if the cuts were aimed at sparing the country from a possible economic disaster, "laudable purposes must be carried out by legal methods."

### CONCLUSION

The enactment of Local Government Code of 1991 promotes the basic tenets of decentralization; however, it is not without flaws. As mentioned, Section 284 does not reflect the true intent and spirit of the Constitution where local government units shall have a just share in the national taxes in keeping with the Constitutional mandate to ensure autonomy of the local government units. Hence, Section 284 must be amended to conform to the Constitutional provision. While the present law essentially reduces the share of the LGUs in the national taxes, the foregoing bills if enacted into law will address the current issue on unfunded mandates and will also result to faster development and progress in the countryside.

Moreover, the League foresees that financially empowering LGUs will strengthen the foundation of a federal system. The economics of a local government unit will either make or break the federal states within the federal republic. The measures will prepare us for a stronger federation under one country.

<sup>4</sup> Pimentel v Aguirre. G.R. No. 132988. July 19, 2000





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LCP Resolution on Charter Change  
January 2018


WHEREAS, the League strongly believes that the country is at a critical juncture to effect and realize genuine change;

NOW THEREFORE, BE IT RESOLVED, as it is hereby resolved that the League of Cities of the Philippines urgently appeals to both Houses of Congress to revise the Constitution through a Constituent Assembly;


RESOLVED FURTHER, that the League supports the inclusion of transitory provisions that guarantee a smooth transition from unitary to federal form of government as warranted by law and democratic principles.

ADOPTED by way of REFERENDUM on 24<sup>th</sup> day of January 2018.

CERTIFIED TRUE AND CORRECT BY:

  
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Secretary General

ATTESTED BY:

  
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