



## **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

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<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

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<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.

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