

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **2832**

HOUSE OF REPRESENTATIVES	
RECEIVED	
DATE:	10 AUG 2016
TIME:	4:55 PM
BY:	<i>pel</i>
REGISTRATION UNIT BILLS AND INDEX SERVICE	

Introduced by AKBAYAN Representative Tomasito S. Villarín

EXPLANATORY NOTE

Every year, the national government goes through the meticulous process of setting its goals and priorities, identifying programs and projects, and putting the required budgetary allocations for the programs and projects it has identified. In the end, the preparation of the government's annual appropriation ensures that its work plan promotes efficiency, generates more revenues for the government, and responds effectively to national development requirements.

All government instrumentalities depend on the allocations made on the approved General Appropriations Act to realize set objectives, programs and projects. Each government instrumentality's efficiency lies in the regular availability of budgetary support to oil its machinery and accomplish its mandate.

The Local Government Code provided the impetus of local governments to chart their own destiny by allowing each local government to identify significant and necessary development initiatives for its respective localities. This is important for the progress and development of its citizenry.

In most cases, however, due to the uncertainty in the releases of allotment, government instrumentalities and local governments all prey to the whimsical exercise of deferment, rescission or even reversion of appropriations. Such frustrates expectations of their respective constituencies, leaving them with false promises of implementing development programs that may never be realized.

This proposed legislation was also filed by Akbayan's representatives during the 16th Congress. Essentially, this bill seeks to ensure that proper limits and procedures are put in place in the exercise of the President's authority to defer, rescind or reserve expenditures that have already been approved by Congress through the General Appropriations Act.

In addition, this proposed law safeguards the the authority of the President so that succumbing to pressures and other influences that negate the very reason for the enactment of the General Appropriations Act is avoided.

In the end, the objective of this proposed legislation is make both the national government and the local government units to work better for the citizenry towards national development.

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

A handwritten signature in black ink, appearing to be 'Tomasito S. Villarin', written in a cursive, stylized script.

TOMASITO S. VILLARIN

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SEVENTEENTH CONGRESS
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House Bill No. **2832**

Introduced by AKBAYAN Representative Tomasito S. Villarin

AN ACT
REGULATING THE POWER OF THE PRESIDENT TO DEFER,
RESCIND, OR RESERVE EXPENDITURE OF APPROPRIATIONS
AUTHORIZED BY CONGRESS

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

SECTION 1. Title.—This Act shall be known as the “*Impoundment Control and Regulation Act of 2016*.”

SECTION 2. Declaration of Policy.—It is the policy of the State to formulate and implement a National Budget that is anchored on a meticulous assessment of the Government’s budgetary requirements based on clearly-defined national priorities, that promotes efficiency and resolve in the Government’s revenue generation efforts, and is truly responsive to the needs of national development. Towards this end, all appropriations, except those which shall be expressly deferred, rescinded, reserved, or provided for otherwise, in the General Appropriations Act, shall be automatically released within the first semester of the year through the issuance of advices of allotment in accordance with approved work and financial plans, and shall be utilized according to the corresponding purposes provided for in the General Appropriations Act. Any other deferral, rescission, or reservation of appropriations in the General Appropriations Act shall be made in accordance with this Act.

SECTION 3. Definition of Terms.—Section 2, Chapter 1, Book VI of Executive Order No. 292 otherwise known as the “*Administrative Code of 1987*,” is hereby amended to read as follows:

“*Section 2. Definition of Terms.*—When used in this Book:

1. “*Appropriation*” refers to an authorization made by law or other legislative enactment, directing payment out of Government funds under specified conditions or for specified purposes.

2. “*Allotment*” refers to an authorization issued by the Department of Budget and Management to an agency, which it allows the agency to incur obligation for specified amounts contained in a legislative appropriation.

3. “*Advice of allotment*” refers to the formal document issued by the Department of Budget and Management which contains the authorizations, conditions, and amount of obligations that an agency can incur pursuant to a legislative appropriation.

4. “*Budget*” refers to a financial plan required to be prepared pursuant to Section 16(1), Article VIII of the Philippine Constitution, reflective of national objectives, strategies and programs.

5. “*Current operating expenditures*” refers to appropriations for the purchase of goods and services for current consumption or for benefits expected to terminate within the fiscal year.

6. “*Capital outlay*” or “*capital expenditures*” refers to an appropriation for the purchase of goods and services, the benefits of which extend beyond the fiscal year and which add to the assets of the Government, including investments in the capital of government-owned or -controlled corporations and their subsidiaries.

7. “*Continuing appropriation*” refers to an appropriation available to support obligations for a specified purpose or project, even when these obligations are incurred beyond the budget year.

8. “*Deferral*” means withholding or delaying the release of appropriated amounts provided for projects or activities.

9. “*Expected result*” means service, product, or benefit that will accrue to the public, estimated in terms of performance measurers or targets.

10. “*Fiscal year*” refers to the period beginning with the first day of January and ending with the thirty-first day of December of each calendar year.

11. The “*Government*” means the National Government, including the Executive, the Legislative and the Judicial branches, and the Constitutional Commissions.

12. “*Department and agency*” and “*department or agency*” include all departments, bureaus, offices, boards, commissions, courts, tribunals, councils, authorities, administrations, centers, institutes, state colleges and universities, and all other establishments and instrumentalities of the National Government as defined in the preceding paragraph.

13. “*Impoundment Resolution*” means a joint resolution of both Houses of Congress expressing approval or disapproval of a rescission, reservation, deferral, or suspension of an appropriation or several appropriation items as proposed by the President.

14. “*Obligation*” refers to an amount committed to be paid by the Government for any lawful act made by an authorized officer for and in behalf of the Government.

15. “*Program*” refers to the functions and activities necessary for the performance of a major purpose for which a government agency is established.

16. “*Project*” means a component of a program covering a homogenous group of

activities which results in the accomplishment of an identifiable output.

17. “Rescission” means cancellation of all or parts of an enacted appropriation which has not yet been spent or obligated.

18. “Reservation” means imposition of reserves on an appropriated amount for government expenditures.

SECTION 4. Section 37 of Chapter 5, Book VI of Executive Order No. 292 otherwise known as the “*Administrative Code of 1987*,” is hereby repealed and replaced with the following provision:

“Section 37. Rescission and Reservation of Appropriation.—Whenever the President determines that all or part of any budget appropriation will not be required to carry out the full objectives or scope of programs for which it is provided, or that such budget appropriation should be rescinded for fiscal policy or other reasons, including the termination of authorized projects or activities, or whenever all or part of any budget appropriation for the current fiscal year is to be reserved from obligation for such fiscal year, the President shall transmit to both Houses of Congress a Special Message specifying:

1. The amount of budget appropriation which the President proposes to be rescinded or which is to be so reserved;

2. Any account, department, agency or instrumentality of the Government to which such budget appropriation is available for obligation, and the specific projects or governmental functions involved;

3. The reasons why the budget appropriation should be rescinded, or is to be so reserved;

4. The estimated fiscal, economic and budgetary effect of the proposed rescission or reservation; and

5. All facts, circumstances and considerations relating to the proposed rescission or reservation including its bearing upon the purposes, programs, activities and projects for which such appropriation is provided.”

SECTION 5. There shall be incorporated into Chapter 5, Book VI of Executive Order No. 292 otherwise known as the “*Administrative Code of 1987*” four (4) new provisions after Section 37, to read as follows:

“Section 37-A. Approval of Rescission or Reservation.—Both Houses of Congress shall act on the proposed rescission or reservation within forty-five (45) calendar days after the receipt of the Special Message from the President made pursuant to Section 37 by issuing a joint Impoundment Resolution, approving or disapproving the proposal: *Provided*, That if the President’s Special Message is received within a period of less than forty-five (45) calendar days before the end of a regular session, the President’s Special Message shall be deemed to have been submitted on the first day of the succeeding regular session of Congress, and the forty-five (45) day period referred to in this Section shall commence on the day after such first day: *Provided, further*, That if Congress does not issue an Impoundment Resolution within the specified period, the proposed rescission or reservation shall be deemed disapproved: *Provided, finally*, That funds corresponding to the rescinded appropriations shall revert to the unappropriated surplus of the general fund and shall not be made available for expenditure for any purpose except as may be provided for in a subsequent law enacted by Congress.

“Section 37-B. Use of Reserves.—When changes in conditions during the year justify the use of the reserved appropriations which have been imposed under this Book, as amended, or the General Appropriations Act, the amount involved shall be allocated back for the use by, and upon the request of, the department, office or agency on whose

appropriation the reserve was originally imposed.

“Section 37-C. Deferral of Releases.—Whenever the President, the Secretary of Budget and Management, the head of any department, agency or instrumentality of the Government proposes to defer the release of a specific appropriation, the President shall transmit to the House of Representatives and the Senate a Special Message specifying:

1. The amount of the appropriation proposed to be deferred;
2. Any account, department, agency or instrumentality of the Government to which such appropriation is available for obligation, and the specific projects or governmental functions involved;
3. The period of time during which the appropriation is proposed to be deferred;
4. The reasons for the proposed deferral, including any legal authority invoked by him to justify the proposed deferral;
5. The estimated fiscal, economic and budgetary effect of the proposed deferral;
6. All facts, circumstances and considerations relating to or bearing upon the proposed deferral and the decision to effect the proposed deferral, including any analysis of such facts, circumstances and considerations in terms of their application to any legal authority and specific elements of legal authority invoked by him to justify such proposed deferral upon the objects, purposes, program, activities and projects for which such appropriation is provided.

A deferral may not be proposed for any period of time extending beyond the end of the fiscal year in which the Special Message proposing the deferral was transmitted to the House of Representatives and the Senate.

“Section 37-D. Approval of Release Deferral.—Both Houses of Congress shall act on the proposed deferral within forty-five (45) calendar days after the receipt of the Special Message from the President made pursuant to Section 37-C: *Provided*, That if the President’s Special Message is received within a period of less than forty-five (45) calendar days before the end of a regular session, the President’s Special Message shall be deemed to have been submitted on the first day of the succeeding regular session of Congress and the forty-five (45) day period referred to in this Section shall commence on the day after such first day: *Provided, further*, That if Congress does not issue an Impoundment Resolution within the specified period, the President shall proceed with the deferral procedures.”

SECTION 6. Section 38 of Chapter 5, Book VI of Executive Order No. 292 otherwise known as the “*Administrative Code of 1987*,” is hereby repealed and replaced with the following provision:

“Section 38. Mode of Transmittal of the Special Message of the President.—The President shall transmit to Congress at any time during the budget year but not later than the fifteenth (15th) day of October of the budget year the Special Message referred to in Section 37 and Section 37-C of this Book, which may include one or more proposals for rescission, reservation, or deferral on one or more appropriation items, through the Committee on Finance of the Senate and the Committee on Appropriations of the House of Representatives.”

SECTION 7. There shall be incorporated into Chapter 5, Book VI of Executive Order No. 292 otherwise known as the “*Administrative Code of 1987*” a new provision after Section 38, to read as follows:

“Section 38-A. Submission of Quarterly Reports.—Within thirty (30) days after the end of each quarter, the Secretary of Budget and Management shall submit to the Committee on Appropriations and the Committee on Finance, of the House of Representatives and

the Senate, respectively, a list of releases made out of reserved and deferred appropriations, and comparative statements showing the annual general appropriations, the annual program of continuing and automatic appropriations, and the corresponding releases of allotments and cash allocations for each department, agency, corporation and fund: *Provided*, That the releases from each lump-sum or special purpose fund shall be supported with schedules indicating the specific departments, agencies, corporations, or entities which received the fund releases and the purpose of such releases. The quarterly reports shall also include a cumulative summary of all appropriations rescinded, deferred, or reserved, including, where applicable, the corresponding Impoundment Resolutions approving such rescissions, deferrals, or reservations.”

SECTION 8. Section 33(6) of Chapter 5, Book VI of Executive Order No. 292 otherwise known as the “*Administrative Code of 1987*” is hereby amended to read as follows:

“Section 33. Allotment of Appropriations.— Authorized appropriations shall be allotted in accordance with the procedure outlined hereunder:

x x x x x x x x x

6. Pursuant to Sections 37, 37-A, 37-B, 37-C, and 37-D of this Book, the Secretary shall have no authority to modify or amend any allotment previously issued. In case he shall find, at any time, that the probable receipts from taxes or other sources of any fund will be less than anticipated and that as a consequence the amount available for the remainder of the term of the appropriations or for any allotment period will be less than the amount estimated or allotted therefor, he shall ~~with the approval of the President and after notice to the department of agency concerned~~ recommend to the President the ~~reduce~~ reduction of the amount or amounts allotted he deems necessary to conform to the

targeted budgetary goals. The President, in turn, shall follow the procedure prescribed in Sections 37, 37-A, 37-B, 37-C, 37-D and 38 of this Book for the approval of requests for authority for the suspension of expenditures of appropriations.”

SECTION 9. There shall be incorporated into Chapter 5, Book VI of Executive Order No. 292 otherwise known as the “*Administrative Code of 1987*” a new provision after Section 50, to read as follows:

“Section 50-A. Penal Provision.—Any violation of Sections 33, 37, and 38, as amended, and Sections 37-A, 37-B, 37-C, 37-D, and 38-A, as incorporated, shall be considered misuse of government funds and illegal expenditures and punished as such in accordance with Sections 80 and 43 of Book VI.”

SECTION 10. Separability Clause.—If any provision of this Act, or any part thereof, is declared unconstitutional, the same shall not affect the validity and effectivity of the other provisions and portions of this Act.

SECTION 11. Repealing Clause.—All laws, decrees, executive orders, letters of instructions, letters of implementation, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed, modified, superseded, or amended accordingly.

SECTION 12. Effectivity Clause.—This Act shall take effect fifteen (15) days after its complete publication in the *Official Gazette* or in at least two (2) national newspapers of general circulation, whichever comes earlier.

Approved,