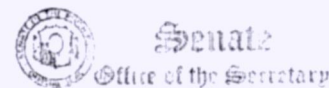


SENATE
S. No. 626



'19 JUL 18 P 3:46

Introduced by SENATOR LEILA M. DE LIMA

RECEIVED

AN ACT
AMENDING SECTIONS 74 AND 75 OF REPUBLIC ACT NO. 7160, ALSO
KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991

EXPLANATORY NOTE

Article X, Section 3 of the Constitution provides that:

“Section 3. The Congress shall enact a local government code which shall provide for a more responsive and accountable local government structure instituted through a system of decentralization with effective mechanisms of recall, initiative, and referendum...xxx”

In response to this mandate, Congress enacted Republic Act No. 7160 or the Local Government Code (LGC) effective 01 January 1992.

Section 69 of the LGC specifically provides for the power of recall, a mode of removal of local elective officials, “for loss of confidence” which may be exercised by registered voters of a local government unit (LGU).

Article X, Section 8 of the Constitution further provides that:

“Section 8. The term of office of elective local officials, except barangay officials, which shall be determined by law, shall be three years and no such official shall serve for more than three consecutive terms. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of his service for the full term for which he was elected.”

The LGC similarly provides for a provision on three-term limit under Section 43 (b) of the LGC, viz:


“(b) No local elective official shall serve for more than three (3) consecutive terms in the same position. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of service for the full term for which the elective official concerned was elected.”

In *Borja v. Comelec*¹, the Supreme Court pointed out that in the consideration of the term limits under Article X, Section 8 of the Constitution, Constitutional Commission members were “as much concerned with preserving the freedom of choice of the people as they were preventing the monopolization of political power.”

However, LGC provisions on the power of recall provided another way for local officials to immediately return to power after reaching the term limits provided in the Constitution. This is by way of a recall election, where the local executive who already reached a three-term limit can immediately run for the same office in a recall election, without barely a term having lapsed between his last term and the recall election where he is running as a candidate.

A recall election can thus be considered as a circumvention of the term limits mandated by the Constitution. In order to fully uphold the mandated three-term limit for local officials, this bill amends Section 74 of the LGC and prohibits three-term elected officials from running in a recall election for the same position during the term immediately following the end of their three terms.

Moreover, the people’s sovereign will to remove a local government official for loss of confidence became largely dependent on the availability of contingency funds that the Commission on Elections may or may not have in its annual budget appropriations following Section 75 of the LGC. Thus, it is hereby added that line item appropriation for the conduct and supervision of recall elections under the Commission’s budget program category may be used to answer for all expenses incidental to recall elections, which shall be borne by the Commission on Elections pursuant to the powers and functions conferred upon it under Section 2, Article IX-C of the 1987 Constitution.


LEILA M. DE LIMA

¹ G.R. No. 133495. (September 3, 1998)

SENATE
S. No. 626



Senate
Office of the Secretary

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AN ACT
AMENDING SECTIONS 74 AND 75 OF REPUBLIC ACT NO. 7160, ALSO
KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991

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

1 Section 1. Section 74 of the Republic Act No. 7160, also known as the Local
2 Government Code of the Philippines, as amended, is hereby further amended to read
3 as follows:

4 “Section 74. Limitations on Recall. –

5 (a) Any elective local official may be the subject of a recall
6 election only once during his term of office for loss of
7 confidence.

8 (b) No recall shall take place within one (1) year from the date
9 of the official’s assumption to office or one (1) year immediately
10 preceding a regular local election.

11 **(C) NO LOCAL ELECTIVE OFFICIAL WHO HAS**
12 **ALREADY SERVED THREE (3) CONSECUTIVE**
13 **TERMS MAY RUN FOR THE SAME OFFICE IN**
14 **RECALL ELECTIONS HELD IMMEDIATELY**
15 **FOLLOWING THE END OF HIS/HER THIRD**
16 **CONSECUTIVE TERM.”**

1 Section 2. Section 75 of the Republic Act No. 7160, also known as the Local
2 Government Code of the Philippines, as amended, is hereby further amended to read
3 as follows:

4 “Section 75. *Expenses Incident to Recall Elections.* – All
5 expenses incident to recall elections shall be borne by the
6 COMELEC. For this purpose, there shall be included in the
7 annual General Appropriations Act a contingency fund [~~at the~~
8 ~~disposal of the COMELEC for the conduct of recall elections~~] **OR**
9 **A LINE ITEM APPROPRIATION FOR THE CONDUCT**
10 **AND SUPERVISION OF RECALL ELECTIONS UNDER**
11 **THE PROGRAM CATEGORY OF ITS ANNUAL BUDGET**
12 at the disposal of the COMELEC for the conduct of recall
13 elections.”

14 Sec. 3. *Repealing Clause.* - All laws, executive orders, presidential decrees,
15 presidential proclamations, letters of instruction, rules and regulations or parts
16 thereof inconsistent with the provisions of this Act are hereby repealed or modified
17 accordingly.

18 Sec. 4. *Effectivity.* - This Act shall take effect upon its approval fifteen (15) days
19 following its publication in the Official Gazette or in at least two (2) newspapers of
20 general circulation in the Philippines.

 Approved,