



LEAGUE OF PROVINCES OF THE PHILIPPINES

POSITION PAPER

SUBMITTED TO THE JOINT SENATE COMMITTEES ON
HEALTH AND DEMOGRAPHY, JUSTICE AND HUMAN RIGHTS,
LOCAL GOVERNMENT, and WAYS AND MEANS

This Position Paper is submitted in response to the invitation of the Hon. Chairperson of the Senate Committee on Health and Demography, Sen. Christopher Lawrence “Bong” N. Go, for the League to give its comments and proposals with regard to the bills filed in the Senate on these matters: the authority of DOH to set hospital bed capacity; public health infrastructure; amendments to RA 11332 or the Notifiable Diseases Act; and, the establishment of quarantine stations.

The League lauds the initiatives of the Honorable Senators to further improve the country’s healthcare system and infrastructure in light of the ongoing public health emergency caused by the Coronavirus Disease (“Covid-19”). These senate bills are thus timely, relevant and very much necessary to address the current crisis and similar health concerns in the future. While the league supports these measures, there is need to balance the same with regard to its impact to our provincial and district hospitals, and the fiscal capacity of LGUs, particularly the provinces, in complying with new mandates, by way of augmenting its funds for these purposes. We urge Congress to simultaneously empower the LGUs and help enhance its provincial and district hospitals as well with the infusion of additional funds, facilities, equipment, supplies and technical manpower as well.

In order, however, to fully achieve the objectives of these bills, the League would like to highlight the crucial role played by the Local Government Units (“LGUs”) in implementing programs and projects that will benefit the public. LGUs must, thus, be engaged in all stages of the policy planning, drafting of implementing rules and guidelines, and more so during the implementation of these healthcare programs and projects. Under the Universal Health Care Law, RA 11223, provinces now play a pivotal role in integrating these province-wide local health systems.

Article X of the 1987 Constitution guarantees local autonomy to our LGUs, wherein the President exercises supervision over LGUs and not control. The principle of subsidiarity must be respected as well wherein inter alia, the provinces supervises its component cities and municipalities and the latter, their component barangays.

I. Senate Bills Authorizing the DOH to Set the Bed Capacity of its Hospitals

Senate Bill Nos. 665,¹ 698,² 863,³ and 1126⁴ primarily aim to authorize the Department of Health (“DOH”) to set and approve the bed capacity and service capability of all DOH hospitals, as well as to appropriate the corresponding funds pursuant thereto. It is stated in these Senate Bills that a statutory amendment is required for DOH hospitals to increase their current bed capacities to address the COVID-19 pandemic. The purpose is to attain the World Health Organization bed capacity standard level of 20 hospital beds per 10,000 population.

Comments:

a. ON THE VALID DELEGATION OF LEGISLATIVE POWER.

All the Senate Bills include a provision which states that the DOH has the authority to adjust and approve the bed capacities in all DOH hospitals by an administrative or department order. A perusal of such provision, specifically Section 3 of each Senate Bill, will give rise to an undue delegation of legislative power granted by Congress in favor of the DOH. It can be recalled that for a valid delegation of legislative power by Congress, the “sufficient standard test” and “completeness test” must be complied with, to wit:

*“Two tests determine the validity of delegation of legislative power: **(1) the completeness test and (2) the sufficient standard test.** A law is complete when it sets forth therein the policy to be executed, carried out or implemented by the delegate. It lays down a sufficient standard when it provides adequate guidelines or limitations in the law to map out the boundaries of the delegate’s authority and prevent the delegation from running riot. To be sufficient, the standard must specify the limits of the delegate’s authority, announce the legislative policy and identify the conditions under which it is to be implemented.”⁵*

¹ An Act Authorizing The DOH To Set And Approve The Bed Capacity Of All DOH Hospitals

² An Act Authorizing The DOH To Set And Approve The Bed Capacity And The Service Capability Of All DOH Retained Hospitals And For Other Purposes

³ An Act Authorizing The DOH To Set And Approve The Bed Capacity Of All DOH Retained Hospitals And For Other Purposes

⁴ An Act Authorizing The DOH To Set And Approve The Bed Capacity And Service Capability Of All DOH Hospitals

⁵ BOCEA v. Teves, G.R. No. 181704, December 6, 2011.

In this case, although these Senate Bills comply with the sufficient standard test, as the policy is to ensure the health of the general public, the completeness test is not complied with since there is a blanket authority given to the DOH in the approval of bed capacities or the increase of service capabilities in view of the absence of guidelines or sufficient boundaries. The DOH can exercise unbridled discretion in the implementation of the law, which should not be the case, as stated in the case of *Eastern Shipping Lines v. POEA*, to wit:

*Under the first test, the law must be complete in all its terms and conditions when it leaves the legislature such that when it reaches the delegate the only thing he will have to do is enforce it.*⁶

Thus, the DOH should only implement the law. But with the blanket authority given to the DOH, it could keep on increasing bed capacity and service capability without any standards given by Congress. We recommend for Congress to put a cap or a ceiling on the maximum number of beds in proportion to the existing bed capacity of the hospital, say for example 20-30% higher, to be determined by Congress, as long as there are set boundaries to avoid undue delegation of legislative authority to DOH.

Granting that the drafting of the Implementing Rules and Regulations is likewise delegated to the DOH, there must be sufficient standards and parameters in the law that will guide the DOH in implementing the same, and with the proper representation with LGUs in its drafting to comply with the prior consultation provision guaranteed for LGUs before any national program or project is implemented.

b. EFFECTS OF INCREASING BED CAPACITY

This increase will require additional manpower in DOH-managed hospitals and this will impact as well the provincial and district hospitals' manpower requirements. Since they can afford to give a higher salary range than the LGU-managed hospitals, there will be a mass exodus of the nurses, medical staff and doctors from the provincial hospitals to the DOH managed hospitals, further aggravating this problem.

It must also be noted that beginning the year 2019, Department of Budget and Management-Local Budget Memorandum ("DBM-LBM)" No. 77-B had

⁶ G.R. No. 76663, October 18, 1988.

discontinued the cost of devolved Personal Services and Provincial/City-Funded hospitals (“CODEPS”), putting a big strain on the resources of these affected LGUs. Said fund was used by provinces and highly-urbanized cities (“HUCs”) as an augmentation fund in addition to the Internal Revenue Allotment (“IRA”), for devolving health where the management of these hospitals and its personnel were transferred to LGUs. In 2019, the aggregate IRA for the eighty-one (81) provinces and municipalities was reduced by P1.356 Billion and P397M, respectively.

CODEPS DISCONTINUED SINCE 2019

It must be noted that beginning 2019, DBM abruptly discontinued the granting of the CODEPS or the Cost of Devolved Personal Services to the provinces and cities for the devolved hospitals along with its manpower.

Under Sec 285 of RA 7160, the provinces get a 23% share from the total IRA although the devolved functions and responsibilities mandated for Provinces, based on a study made by the Social Watch Philippines, there was a huge fiscal gap in the case of provinces since the total cost of devolved functions when the LGCode was implemented in 1993 lodged to provinces reached 41.6%, of which 81.5% is for the cost of devolved health functions to provinces. (See Table below)

*Note: To begin with, for health alone, there was already a

FISCAL GAP

between the

ACTUAL COST OF DEVOLVED HEALTH FUNCTIONS VIS-À-VIS THE TOTAL COST OF DEVOLVED FUNCTIONS (CODEF),

eating up a large chunk of the financial requirements to the detriment of other devolved functions and services as well, esp. for Provinces and Municipalities.

SOCIAL WATCH PHILIPPINES’ 2001 REPORT ON CODEF

Total Cost Of Devolved Functions Averaged By Type And Class Of LGU, 1993 (In Million Pesos)			
LGU	Cost of Devolved Health Functions	Total Cost of Devolved Function (CODEF)	Share of CDHF to Total CODEF
	Total	1993	1993
OVERALL AVE.	8.14	10.83	56.18
PROVINCE	33.90	41.64	81.49
Class 1	38.45	47.68	80.64
Class 2	23.70	29.83	79.18
Class 3	35.30	42.96	82.17
Class 4	32.96	39.31	83.85
Class 5	28.87	33.89	85.19
CITIES	3.18	6.11	52.05
MUNICIPALITIES	1.18	2.30	49.21
Class 1	2.22	3.36	66.07
Class 2	2.07	5.53	58.64
Class 3	1.50	2.78	53.96
Class 4	1.01	2.13	47.42
Class 5	0.57	1.39	41.01

In 2019, P1.355 Billion was reduced in the total allocation for provinces where 70 provinces or 86% suffered a decline from their 2019 indicative IRA share due to DBM LBM 77-B issued on December 2018 and implemented by January 1, 2019 despite the fact the LGUs have already passed their respective local budget ordinances. The discontinuance of the CODEPS had a huge impact in the province's resources meant for the upkeep of its provincial and district hospitals.

CODEPS – Cost of Devolved Personal Services (for Provincial and City-Funded Hospitals)

Comparative LGU's IRA for FY 2019 : DBM Local Budget Memorandum (LBM) 77 and 77-B

LGU Level	LBM 77 May 15, 2018 IRA + CODEPS	LBM 77-B December 21, 2018 IRA Adjustment w/out CODEPS	VARIANCE (Net Effect on IRA)
1. PROVINCES	₱133,725,652,427	₱132,369,733,400	-₱1,355,919,027 ↓
2. CITIES	₱131,911,711,631	₱132,369,733,400	₱458,021,769 ↑
3. MUNICIPALITIES	₱196,074,379,766	₱195,676,997,200	-₱397,382,566 ↓
4. BARANGAYS	₱113,808,836,176	₱115,104,116,000	₱1,295,279,824 ↑
TOTAL, PCMBs	₱575,520,580,000	₱575,520,580,000	₱0
Net IRA Decrease Provinces and Municipalities			-₱1,753,301,593 ↓
Net IRA Increase for Cities and Barangays			₱1,753,301,593 ↑

File: League of Provinces of the Philippines
Source: DBM

And for 2020, CODEPS was subsequently discontinued, thus, Provinces are experiencing a shortfall in their fund allocation for health at a time when the UHC law will be implemented, and more so now that this Covid-19 pandemic is being addressed. Hence, additional funds are needed by Provinces managing provincial and district hospitals.

IRA or NTA

The LGUs' Internal Revenue Allotment (IRA), now referred to as "National Tax Allotment" or NTA pursuant to the Supreme Court decision in *Mandanas v. Ochoa* (GR 199802) and *Garcia v. Ochoa* (GR No. 208488), is on the average only 16% of the total GAA. The National Government will still be implementing this decision that had attained finality on June 10, 2019 by year 2022. By 2022, NTA is estimated to increase from 18% to 24% of the total GAA. What even made it worse is that under Sec. 286, the IRA or NTA of LGUs should be automatically released by the Bureau of Treasury on a "quarterly basis" but it is currently being released on a bi-monthly basis (which has no basis in law).

In the meantime, we are urging Congress to augment the funds of provinces to upgrade the quality and bed capacity as well of its provincial and district hospitals.

c. ON PRIOR CONSULTATION WITH LGUs

All the Senate Bills provide no provision with regard to prior consultations with the Local Government Unit (“LGU”) concerned, which must be done in order to comply with the Principle of Local Autonomy⁷ and the Principle of Subsidiarity.⁸

Prior consultation is necessary as to be consistent with the provisions provided for under Section 27 of the Local Government Code of 1991 (“LGC”), which provides:

Section 27. Prior Consultations Required. - No project or program shall be implemented by government authorities unless the consultations mentioned in Sections 2 (c) and 26 hereof are complied with, and prior approval of the sanggunian concerned is obtained: Provided, That occupants in areas where such projects are to be implemented shall not be evicted unless appropriate relocation sites have been provided, in accordance with the provisions of the Constitution.

This is necessary in order to pursue the state policy of local autonomy, as provided for under the 1987 Philippine Constitution⁹ and the LGC.¹⁰

⁷ Mandanas v. Ochoa, G.R. No. 99802, July 3, 2018.

“The grant of autonomy simply means that Congress will allow the LGUs to perform certain functions and exercise certain powers in order not for them to be overly dependent on the National Government subject to the limitations that the 1987 Constitution or Congress may impose. Local autonomy recognizes the wholeness of the Philippine society in its ethnolinguistic, cultural, and even religious diversities.”

⁸ See Belgica v. Ochoa, G.R. No. 208566, November 19, 2013.

*“The vitalization of local governments will enable their inhabitants to fully exploit their resources and more important, imbue them with a deepened sense of involvement in public affairs as members of the body politic. **This objective could be blunted by undue interference by the national government in purely local affairs which are best resolved by the officials and inhabitants of such political units.** The decision we reach today conforms not only to the letter of the pertinent laws but also to the spirit of the Constitution.”*

⁹ Sec. 25, Art. II of the Constitution.

¹⁰ Sec. 2 of the Local Government Code of 1991.

Prior consultation with the LGU is necessary since the LGUs are in a better position to know and determine if such increase is actually needed or imminent in light of all the circumstances affecting an LGU.

Proposals:

- a. For clarity and to avoid vagueness, it is recommended that Congress set a legislative limitation on the power of the DOH to approve increases in bed capacities of DOH Hospitals, The LPP specifically recommends to impose an approval ceiling of say twenty percent (20%) or 30% of the existing number of beds in each respective DOH hospital.
- b. If no additional funds will be downloaded to provinces for the enhancement of its medical facilities, coupled by a dearth in medical manpower resources, it seems that the other alternative being espoused by DOH would be to re-nationalize these provincial and district hospitals;

But if it will be the will of Congress to further strengthen devolution, which is what the LGUs would strongly recommend, a corresponding transfer of funds from the DOH annual budget be downloaded to the LGUs to capacitate the provincial and city hospitals, its infrastructure, manpower, and financial resources so that LGUs can cope with health emergencies as well such as this covid-19 pandemic.

- c. It is recommended that the LGU be consulted prior to the increase of bed capacities or service capabilities, as to be able to determine if such increase necessitates the use of public funds.

II. Public Health Infrastructure

Senate Bill No. 63¹¹ seeks to address the issue of inadequate public health infrastructures in the Philippines, and the slow progression rate of its increase due to the rapid growth of the nation's population, and lack of funds for such purpose.

¹¹ *An Act Establishing A Priority Infrastructure Plan For Public Health Facilities, And Appropriating Funds Therefor*

Comments:

a. ON COMPOSITION OF INTER-AGENCY COMMITTEE

Sec. 3 of Senate Bill No. 63 established an Inter-Agency Committee (“Committee”) for the monitoring of the implementation of this proposed act. Such committee includes the Secretary of the Department of Health, the Secretary of the Department of Budget and Management, the Secretary of the Department of Public Works and Highways, and the Director General of the National Economic and Development Authority. It must be pointed out that the LGUs do not have any form representation in this committee, which is a violation of the Principle of Local Autonomy and the Principle of Subsidiarity.

Pursuant to the Principle of Subsidiarity, since the LGUs are in the best position to address issues within their locality,¹² then the LGU must be entitled to some form of representation in the Committee, since necessarily, the infrastructures will be built within the LGUs’ respective territorial jurisdictions. Pursuant to Supreme Court pronouncements, the LGUs are in the best position to determine how many infrastructures must be built, and at the same time, how to build the same to best serve their respective constituents.¹³

Proper consultation and coordination must be ensured since this five (5)-year infrastructure plan referred to in the explanatory note of Senate Bill No. 63 must be consistent with the provinces’ Annual Investment Plans (“AIPs”).

b. LGU REPRESENTATION

LGU representation in the Committee is critical also at the Regional level, especially when the Governor chairs the Regional Development Council (“RDC”), which approves the Region’s priority infrastructure projects as well.

Without LGU representation in the Committee, the policy of the State to protect and promote the right to health of all Filipinos and instill health consciousness among them, as expressly stated under The Universal Health Care Act (“UHCA”), will be compromised, since the integration of local health systems into province-wide and city-wide health system, which is essential to achieve such state policy, will not be effectively implemented.

¹² See *Belgica v. Ochoa*, G.R. No. 208566, November 19, 2013.

¹³ *Id.*

c. DOH POLICY

This “centralized approach” has proven to be ineffective specially since LGUs are the frontliners and are more knowledgeable on the local priority issues and concerns of its constituents. If LGUs are merely left to be at the receiving end of the national’s one size fits all instruction for all LGUs, this defeats the very principle of local autonomy enshrined in the 1987 Constitution.

DOH must clarify its policy whether it recommends to Congress to further strengthen the capacity of DOH-managed hospitals and/or to simultaneously empower and capacitate the Provincial and District hospitals as well which are more accessible to the people in the rural areas.

Proposals:

- a. It is recommended that the LGUs be represented in the Inter-Agency Committee, through its respective Leagues, as duly recognized under the Local Government Code¹⁴ for the monitoring of the implementation of this proposed act, as to make the implementation of this Senate Bill more effective.
- b. There must be adequate LGU representation in the drafting of the implementing guidelines, especially at the regional levels, and more so for the province-wide level;
- c. Simultaneously empower the LGUs’ capacity to likewise improve the quality of its provincial and district hospitals for a more efficient and province-wide health management, especially in times of epidemics or pandemics such as this Covid-19.

¹⁴ RA 7160, 1991 Local Government Code, Book III, Title VI. Leagues of LGUs and Elective Officials, Chapter I: Leagues of Local Government Units; Articles I, II, III, and IV for Liga ng mga Barangay, League of Municipalities, League of Cities and League of Provinces, respectively.

III. Amendments to RA 11332, Notifiable Diseases Act

Senate Bill Nos. 1436,¹⁵ 1416,¹⁶ 1528,¹⁷ and 1533¹⁸ aim to propose amendments to several provisions of Republic Act No. 11332, or the Mandatory Reporting of Notifiable Diseases and Health Events of Public Health Concern Act in response to numerous cases of discrimination against frontliners and patients. Said Bills likewise introduce measures such as establishment of sub-national laboratories as well as epidemiology and surveillance units.

Comments:

- a. In Senate Bill 1528, it is proposed that “all provinces, cities and municipalities **shall** establish their own epidemiology and surveillance units (“ESUs”) which shall closely coordinate with ESUs of the DOH. Jurisprudence and statutory construction teach that the word “shall” connotes mandatory character; it indicates a word of command, and one which has always or which must be given a compulsory meaning, and it is generally imperative or mandatory in nature.¹⁹

A review of RA 11332 shows that ESUs are established by DOH, in coordination with the LGUs. However, with the proposed amendment above, there seems to be a distinction between ESUs established by the DOH and ESUs established by LGUs. A question may arise as to the source of funding of the ESUs established by the latter, especially given the mandatory character of the proposed amendment. With an additional responsibility such as this for the LGUs, the appropriate funds necessary to fulfill these obligations must be part and parcel of the proposed legislation. Pursuant to Book I, Title I, Chapter I, Sec. 2 of RA 7160, which reiterates Sec. 3, Article X of the 1987 Constitution

¹⁵ An Act Amending Republic Act No. 11332, Otherwise Known as the Mandatory Reporting of Notifiable Diseases and Health Events of Public Health Concern Act

¹⁶ An Act Amending Republic Act No. 11332, Otherwise Known as the “Mandatory Reporting of Notifiable Diseases and Health Events of Public Health Concern Act”, and for Other Purposes

¹⁷ An Act Amending Republic Act No. 11332, Otherwise Known as the Mandatory Reporting of Notifiable Diseases and Health Events of Public Health Concern Act

¹⁸ An Act Amending Republic Act No. 11332, Otherwise Known as the Mandatory Reporting of Notifiable Diseases and Health Events of Public Health Concern Act, and for Other Purposes

¹⁹ UCPB General Insurance Company, Inc. vs. Hughes Electronic Corporation, G.R. No. 190385, 16 November 2016.

whereby Congress shall x x x “allocate among different LGUs their powers, responsibilities, AND RESOURCES²⁰, x x x”, to wit:

“(a) It is hereby declared the policy of the State that the territorial and political subdivisions of the State shall enjoy genuine and meaningful local autonomy to enable them to attain their fullest development as self-reliant communities and make them more effective partners in the attainment of national goals. Toward this end, the State shall provide for a more responsive and accountable local government structure instituted through a system of decentralization whereby local government units shall be given more powers, authority, responsibilities, AND RESOURCES. The process of decentralization shall proceed from the national government to the local government units.” (underscoring supplied for emphasis).

It is worth mentioning that, on the average, the Internal Revenue share of LGUs nationwide, is a measly 16% of the total General Appropriations Act (“GAA”), and that Provinces only get a measly share of 23% which may not be commensurate to maintain its provincial and district hospitals.

- b. Senate Bill 1528 also penalizes the creating, perpetuating, or spreading of false information, to wit:

“(F) creating, perpetuating, or spreading false information regarding an epidemic or public health emergency on social media and other platforms, such information having no valid or beneficial effect on the population, and are clearly geared to promote chaos, panic, anarchy, fear, or confusion; and those participating in cyber incidents that make use or take advantage of the current crisis situation to prey on the public through scams, phishing, fraudulent emails, or other similar acts;”

This provision may trigger an issue on the protection of free speech as guaranteed by the Constitution. It may be questioned as being vague as well as overbroad. As held in *Disini vs. Secretary of Justice*,²¹ “

“When a penal statute encroaches upon the freedom of speech, a facial challenge grounded on the void-for-vagueness doctrine is acceptable.

²⁰ Sec. 3, Article X, 1987 Constitution.

²¹ G.R. No. 203335, 11 February 2014

x x x

A petitioner may for instance mount a "facial" challenge to the constitutionality of a statute even if he claims no violation of his own rights under the assailed statute where it involves free speech on grounds of overbreadth or vagueness of the statute.

The rationale for this exception is to counter the "chilling effect" on protected speech that comes from statutes violating free speech. A person who does not know whether his speech constitutes a crime under an overbroad or vague law may simply restrain himself from speaking in order to avoid being charged of a crime. The overbroad or vague law thus chills him into silence."

In the case at hand, "false information" is not defined by the Senate Bill nor by RA 11332. Thus, an argument may be presented on the validity of the provision.

Furthermore, the provision punishes "perpetuating or spreading" of false information through social media. This may be compared to the case of *Disini vs Secretary of Justice*²² wherein the Supreme Court struck down as unconstitutional the part of Cybercrime Law which punishes "aiding and abetting" in case of cyber libel. The Court ruled in the wise:

The terms "aiding or abetting" constitute broad sweep that generates chilling effect on those who express themselves through cyberspace posts, comments, and other messages. Hence, Section 5 of the cybercrime law that punishes "aiding or abetting" libel on the cyberspace is a nullity.

Proposal:

- a. So as to address the possible difficulties in establishing ESUs, it is suggested that the term "shall" be replaced with "may".

²² *Id.*

IV. Establishing Quarantine Stations

Senate Bill Nos. 1442,²³ 1408,²⁴ and 1529²⁵ aim to establish additional quarantine stations in response to the continuing emergence of infectious diseases. The measures proposed in these Bills seek to preempt the spread of communicable diseases that pose a significant threat to public health.

Comments:

- a. In Senate Bill No. 1442, it is proposed that “The Secretary of Health, **in consultation with appropriate government agencies**,²⁶ shall promulgate the necessary rules and regulations for the implementation of this Act”

Senate Bill No. 1408 likewise proposes the following:

"SEC. 6. Quarantine CENTERS AND Stations. - The Director of the Bureau shall control, direct and manage all quarantine CENTERS, stations, grounds and anchorages, and designate their boundaries. **With the approval of Secretary of Health, he shall establish such additional quarantine CENTERS, station, grounds and anchorages**²⁷ if, in his judgment, these are necessary to prevent the introduction of diseases of international concern into the country. The Director, in the same manner may also order the closure of nonfunctional quarantine stations, grounds and anchorages."

It bears the stress that the establishment of quarantine facilities necessarily involves the LGUs where such stations will be located. Therefore, so as to harmonize the said Bills with the Local Government Code of 1991 (LGC) and with the Principle of Subsidiarity, it may be appropriate to include in the abovementioned provisions, consultations with the recognized leagues of LGUs. The LGC provides:

²³ An Act Providing for the Establishment and Operation of Additional Quarantine Stations, Grounds and Anchorages in All Strategic Areas Throughout the Country, and Appropriating Funds Therefore

²⁴ An Act Strengthening the Capacity of the Department of Health in the Detection and Containment of Infectious Diseases, Including the Quarantine of Infected Person and Lockdown of Infected Areas, Amending Republic Act No. 9271, and for Other Purposes

²⁵ An Act Requiring the Establishment of Quarantine Facilities in Every Region in the Country, Providing Funds Therefore, and For Other Purposes

²⁶ Emphasis and underscoring supplied.

²⁷ Emphasis and underscoring supplied.

“SECTION 2. Declaration of Policy

(c) It is likewise the policy of the State to require all national agencies and offices to conduct periodic consultations with appropriate local government units, non-governmental and people's organizations, and other concerned sectors of the community before any project or program is implemented in their respective jurisdictions.

x x x

SECTION 26. Duty of National Government Agencies in the Maintenance of Ecological Balance. - It shall be the duty of every national agency or government-owned or -controlled corporation authorizing or involved in the planning and implementation of any project or program that may cause pollution, climatic change, depletion of non-renewable resources, loss of crop land, rangeland, or forest cover, and extinction of animal or plant species, to consult with the local government units, nongovernmental organizations, and other sectors concerned and explain the goals and objectives of project or program, its impact upon the people and the community in terms of environmental or ecological balance, and the measures that will be undertaken to prevent or minimize the adverse effects thereof.

SECTION 27. Prior Consultations Required.- No project or program shall be implemented by government authorities unless the consultations mentioned in Sections 2 (c) and 26 hereof are complied with, and prior approval of the Sanggunian concerned is obtained: Provided, That occupants in areas where such projects are to be implemented shall not be evicted unless appropriate relocation sites have been provided, in accordance with the provisions of the Constitution.”

It is also worth mentioning that Senate Bill No. 1529, which likewise seeks to establish quarantine facilities, has rightly included coordination with LGUs as regards to the establishment of quarantine facilities in every region of the country. Moreover, the said Bill has proposed that “Within sixty (60) days from approval of this Act, the DOH, DPWH, DILG, and DENR, **in consultation with**

relevant stakeholders,²⁸ shall issue the implementing rules and regulations of this Act”

In view of the foregoing, given that LGUs are relevant stakeholders, it is emphasized that they should be consulted not only on matters pertaining to the establishment of quarantine facilities in their respective jurisdiction, but also in the formulation of the implementing rules and regulations of the proposed law.

- b. In Senate Bill No. 1408, the BOQ is given the authority over local government units insofar as it is necessary for proper enforcement of the provisions of the proposed law as well as the power to impose lockdowns on certain areas. The said provision reads:

“Sec. 3. Jurisdiction and Functions of the Bureau - The examination at ports of entry and exit in the Philippines of incoming and outgoing vessels and aircraft, the necessary surveillance over sanitary conditions, as well as over their cargoes, passengers, crews, and all personal effects, issuances of quarantine certificates, bills of health, or other equivalent documents, **LOCKDOWN OF CERTAIN AREAS, AND SUSPENSION OF CLASSES DURING HEALTH EMERGENCIES** shall be vested in and be conducted by the Bureau. This Bureau shall have authority over incoming and outgoing vessels both domestic and foreign, including those of the army and navy, their wharfage and anchorage, and over aircraft and airports **AS WELL AS OVER LOCAL GOVERNMENT UNITS, SCHOOLS AND HOSPITALS** insofar as it is necessary for the proper enforcement of the provisions of this Act.”

It bears to note that this provision may pose a threat to the Local Autonomy granted by the Constitution to the LGUs. The Constitution and the LGC respectively provide:

“SECTION 2. The territorial and political subdivisions shall enjoy local autonomy.”

“SECTION 2. Declaration of Policy. - (a) It is hereby declared the policy of the State that the territorial and political subdivisions of the State shall enjoy genuine and meaningful

²⁸ Emphasis and underscoring supplied.

local autonomy to enable them to attain their fullest development as self-reliant communities and make them more effective partners in the attainment of national goals. Toward this end, the State shall provide for a more responsive and accountable local government structure instituted through a system of decentralization whereby local government units shall be given more powers, authority, responsibilities, and resources. The process of decentralization shall proceed from the national government to the local government units.”

Moreover, the said provision encroaches on the Constitution which provides that the “President of the Philippines shall exercise general supervision over local governments. Provinces with respect to component cities and municipalities, and cities and municipalities with respect to component barangays shall ensure that the acts of their component units are within the scope of their prescribed powers and functions.”²⁹ Thus, allowing the BOQ to have undefined authority over LGUs ultimately contravenes the general supervision principle of the Constitution.

Proposal:

- a. There must be proper coordination with LGUs and they should not be bypassed especially with regard to the establishment of quarantine centers.

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Submitted by:



GOV. PRESBITERO J. VELASCO, JR
National President

²⁹ Sec. 16, Article X of the 1987 Constitution