

COMMITTEE ON NATIONAL DEFENSE AND SECURITY
Joint with
COMMITTEE ON CONSTITUTIONAL AMENDMENTS
REVISION OF CODES AND LAWS

Thursday, November 18, 2004
Senator Geronima T. Pecson Room
9:00 a.m. – 10:58 a.m.

Members Present: Senators Biazon (Chairman and Presiding), Enrile and Flavier

Guests/Resource Persons: VADM Ariston B. Delos Reyes, *Vice Chief of Staff, Armed Forces of the Philippines (AFP)*; Commo Carlos L. Agustin, *President, National Defense College of the Philippines*; RADM Mateo Mayuga, *AFP, Deputy Chief of Staff for Personnel, J1*; Commodore Emilio C. Marayag, *Asst. Deputy Chief of Staff for Personnel, J1, AFP*;

AGENDA:

S. No. 758 – *“AN ACT AMENDING THE ADMINISTRATIVE CODE OF 1987 PROHIBITING COMMISSIONED OFFICERS OF A REGULAR COMPONENT OF THE ARMED FORCES OF THE PHILIPPINES WITHIN SIX YEARS AFTER RELIEF FROM ACTIVE DUTY FROM BEING APPOINTED AS MEMBERS OF THE CABINET”*(Introduced by Sen. Villar, Jr.)

S. No. 1290 – *“AN ACT AMENDING THE ADMINISTRATIVE CODE OF 1987 BY PROHIBITING A PERSON FROM BEING APPOINTED AS THE SECRETARY OF THE DEPARTMENT OF NATIONAL DEFENSE WITHIN THREE (3) YEARS AFTER RETIREMENT FROM ACTIVE DUTY AS A COMMISSIONED OFFICER OF A REGULAR COMPONENT OF THE ARMED FORCES OF THE PHILIPPINES (AFP)”*(Introduced by Sen. Biazon)

S. NO. 1852 – *“AN ACT AMENDING SECTION 42 CHAPTER 7 SUBTITLE II TITLE VII OF EXECUTIVE ORDER NO. 292, AS AMENDED, OTHERWISE KNOWN AS THE ADMINISTRATIVE CODE OF 1987”*
(Introduced by Sen. Gordon)

HIGHLIGHTS

The Committees on National Defense and Security and on Constitutional Amendments, Revision of Codes and Laws, chaired by Senators Biazon and Gordon, respectively, held a joint public hearing on the three bills (SB Nos. 758; 1290 and 1852) which seek to prohibit the appointment of a retired Chief of Staff of the Armed Forces of the Philippines within a given period of time as secretary of the Defense department or any cabinet post. The hearing was held on November 18, 2004 at the Senator Pecson Room, Senate of the Philippines, GSIS Bldg., Pasay City.

At the outset, Senator Biazon cited the differences in the features of the three bills as follows:

- 1) SB No. 758 (authored by Senator Villar) proposes the restriction, which is six years from retirement of any military officer, to apply on all cabinet positions;
- 2) SB No. 1290 (authored by Senator Biazon) proposes a three-year restriction on any military officer only for the position of Secretary of the Defense department; and
- 3) SB No. 1852 (authored by Senator Gordon) proposes a three-year restriction only on the Chief of Staff as Secretary of the Defense department.

According to him, the prohibition to appoint a retired AFP Chief of Staff within a given period to the position of Secretary of the Defense department would avoid controversies arising from appointments and assignments within the AFP.

He also stated that one of the recommendations of the Feliciano Commission which investigated the Oakwood mutiny of 27 July 2003 batted for the appointment of a civilian to the position of Secretary of the Defense department.

Retired Commodore Carlos Agustin, president of the National Defense College of the Philippines (NDCP) and representative of Defense Secretary Avelino Cruz, asked that he be given time to submit to the Committee a written position paper which would be reflective of the stand of the Defense department.

Expressing his personal view, he said that the bills tend to focus against certain class of citizens.

At this juncture, Senator Flavio Quinsion noted the statement of Commodore Agustin describing Senator Gordon's bill as more acceptable.

The Chair put on record the position paper submitted by Presidential Adviser Carolina Hernandez regarding S. B. Nos. 758 and 1290.

Presidential Adviser Carolina Hernandez expressed opposition to the passage of S. B. Nos. 758 and 1290, both of which prescribe a period to qualify a former commissioned officers of the AFP to a cabinet post.

She explained that her opposition to these legislative measures was in consonance with the recommendation of the Davide and Feliciano Commissions, the two bodies tasked to investigate the failed December 1989 coup and the July 2003 Oakwood meeting, respectively, that appointment for Secretary of National Defense should come from "civilian with capability, integrity and leadership".

She pointed out that the interpretation of "civilian" by the Feliciano Commission does not include retired military officers, adding that no amount of time is sufficient to "de-militarize" former members of the AFP.

As regards the role of the Secretary of the Department of National Defense in relation with the AFP, Commodore Agustin opined that the Defense Secretary is part of the AFP chain of command in the aspect of administration, but not in the area of operation.

Vice Admiral Ariston De los Reyes, Vice Chief of Staff of the AFP for his part, said that the AFP would concur with SB No. 1290 but would not fully concur on SB No. 1852 because of discriminatory provisions, particularly regarding prohibition of the retired Chief of Staff of the AFP from being appointed as Secretary of the Defense department.

He also said that the AFP would not concur with SB No. 758 for the following reasons:

- 1) the prohibition to reenter public service within six years would be too much of a respite that would result in stagnation and would also be a waste of potential individual's remaining productive years; and
- 2) the influence over military officers would have little implication or relevance to a former military officer's occupation of a cabinet post other than that of Secretary of the Defense Department.

He also considered the Secretary of the Defense department as part of the AFP chain of command based on EO 292.

Commodore Emilio Marayag, Deputy Chief of Staff (J-1) of the AFP, expressed concurrence to SB 1290 but not on SB 1852 which he described as discriminatory.

He also mentioned of a study on the US military personnel which categorized their active service under three stages, namely: the warrior stage, the manager's stage, and the diplomat's or politician's stage which is the time they are demilitarized.

Senator Enrile, for his part, said that he would not support any law that would discriminate against the military, adding that a Department could be run badly if handled by a corrupt person.

Moreover, he pointed out that the AFP Chief of Staff is given the command function and also serves as direct security adviser to the President while the Secretary of the Defense department is not included in the AFP chain of command.

He further explained that civilian supremacy is shown with the President representing the sovereign will of the people and also as commander-in-chief of the AFP.

At this juncture, Senator Biazon said that the Committee would consider including into its records the discussions on the same subject matter in the previous Congress. He also reminded concerned resource persons to submit written position papers to the Committee for consideration in the preparation of its report.

The meeting was adjourned at 10:58 a.m.