

Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO TRANSITION AUTHORITY
Cotabato City

BTA Parliament Bill No. 46

Introduced by : <<Name>>

**“AN ACT DEFINING THE POWER OF APPOINTMENT IN THE
BANGSAMORO AUTONOMOUS REGION IN MUSLIM MINDANAO AND
FOR OTHER PURPOSES.”**

EXPLANATORY NOTE

The passage of Republic Act No. 11054, otherwise known as the Bangsamoro Organic Law, which puts in place a parliamentary form of government in the Bangsamoro Autonomous Region, is the perfect indication that democracy is alive in the Republic of the Philippines.

The defining characteristic of the Bangsamoro parliamentary system, which is considered *sui generis* in a country practicing a unitary form of government, is the merging of the executive and legislative functions. The legislative function is conducted through a unicameral, one-chamber parliament composed of members accountable to the people they represent. The Chief Minister and the cabinet members compose the executive department, who primarily carry out the executive duties and functions.

Many executive and/or administrative duties and functions cannot be delegated in the absence of any statutory provision expressly or impliedly permitting the delegation. In the case of the power of appointment to an office, which is plainly an executive or administrative act, it is clear that the Chief Minister exercises such power under Article VII, Section 32 (b) and (c) of the Bangsamoro Organic Law, particularly that:

“Section 32. Powers, Duties, and Functions of the Chief Minister. - The Chief Minister shall exercise the following powers, duties, and functions:

(a) head of the Bangsamoro Government;

(b) Appoint heads of ministries, agencies, bureaus, and offices of the Bangsamoro Government or other officers of Bangsamoro-owned or controlled corporations or entities with original charters;

(c) Appoint other officers in the Bangsamoro Government, as may be provided by the Parliament;

x x x; and

*(h) Exercise such other powers and functions inherent to the office.”
(Emphasis supplied)*

The power to appoint granted by law to the Chief Minister under item (b) is specific, while that under item (c) necessitates a parliamentary act. Concomitantly, for the purpose of ensuring an effective and efficient organization by way of the selection and appointment of officials and personnel in the various ministries, offices, bureaus, boards, commissions, agencies in the Bangsamoro Autonomous Region in Muslim Mindanao, and even in the Bangsamoro Parliament, and in keeping with the above-mentioned characteristic of a parliamentary form of government, there is a need to pass a law defining the power of appointment of the Chief Minister, the Speaker of the Bangsamoro Parliament, and the heads of offices named therein.

It is worth mentioning that this draft legislation is patterned after Muslim Mindanao Autonomy Act No. 16, entitled “An Act Defining the Power of Appointment in the Autonomous Region in Muslim Mindanao and for Other Purposes”.

This Bill seeks to put to rest all challenges to the power of the Chief Minister, the Speaker of Parliament, and Heads of Offices, to appoint officials and personnel in the Bangsamoro Autonomous Region in Muslim Mindanao. Absent this, the default appointing authority is the Chief of Minister, who will be unduly burdened with the enormous task of exercising his discretion in the selection and appointment of each and every government new-hire, as well as the voluminous appointment papers that need to be signed.

In view of the foregoing, the passage of the Bill is earnestly requested.

Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO TRANSITION AUTHORITY
Cotabato City

BTA Parliament Bill No. 46

Introduced by : <<Name>>

**AN ACT DEFINING THE POWER OF APPOINTMENT IN THE
BANGSAMORO AUTONOMOUS REGION IN MUSLIM MINDANAO AND
FOR OTHER PURPOSES.**

BE IT ENACTED by the Bangsamoro Transition Authority in Parliament assembled, as follows:

SEC. 1. Title. - This act shall be known as "An Act Defining the Power of Appointment in the Bangsamoro Autonomous Region in Muslim Mindanao."

SEC. 2. Purpose. - The purpose of this Act is to ensure an effective and efficient organization by way of the selection and appointment of officials and personnel of the various ministries, offices, bureaus, boards, commissions, and agencies, in the Bangsamoro Autonomous Region in Muslim Mindanao.

SEC. 3. Definition of Terms. -

- (1) **"Power of Appointment"** - refers to the authority exercised by the official concerned as authorized by pertinent provisions of Republic Act (R.A.) No. 11054, regional laws, Civil Service laws, rules and regulations, and other pertinent laws.
- (2) **"Heads of Office"** - refer to heads of Ministries, Offices, Commissions, Boards, and Agencies, in the Bangsamoro Autonomous Region in Muslim Mindanao, vested with the power to appoint, as may be provided for by law.

SEC. 4. Appointing Authority.- For purposes of this Act and in consonance with the provisions of Article VII, Section 32 of R.A. No. 11054, the following are the appointing authorities:

Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
Bangsamoro Transition Authority Parliament
OFFICE OF THE SECRETARY GENERAL

RECEIVED

By: NORIA Y. TAHA

Signature: 

Date: 02-18-2020

Time: 4:15 PM

- (a) The Chief Minister shall be the appointing authority of heads of ministries, offices, commissions, boards, agencies, bureaus, and offices of the Bangsamoro Government, or other offices of Bangsamoro-owned or controlled corporations or entities with original charters.
- (b) The Chief Minister shall likewise be the appointing authority of the deputy ministers, directors or their equivalents, and all positions with a salary grade of 25 and above, unless otherwise expressly provided for by law.
- (c) The Speaker of Parliament shall exercise administrative supervision over the legislative personnel, staff, and secretariat of the Bangsamoro Parliament, and shall be the appointing authority to coterminous and contractual positions, as well as contracts of service thereat; Provided, that the appointment of officials and personnel of the Bangsamoro Parliament holding career positions with a salary grade of 25 and above, shall be made by the Chief Minister.
- (d) The Heads of Offices, including the Speaker of Parliament, shall appoint officials and employees to positions with a salary grade of 24 and below in their respective agencies or offices, in consultation with the Office of the Chief Minister.

SEC. 5. Repealing Clause. – All laws, executive orders, rules and regulations which are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 6. Separability Clause. – In the event that any provision of this Act is declared to be unconstitutional or invalid, other provisions thereof that are not affected thereby shall continue to be in force and effect.

SEC. 7. Effectivity.- This Act shall take effect fifteen (15) days after its publication in a newspaper of general circulation in the Bangsamoro Autonomous Region in Muslim Mindanao.

APPROVED:

ATTY. PANGALIAN M. BALINDONG
Speaker of the Parliament

This Act was finally passed into law on _____, 2019
Gregorian Calendar and _____th day of _____, 1439, Hijra Calendar.

PROF. RABY ANGKAL
Secretary-General

APPROVED:

AHOD BALAWAG EBRAHIM
Interim Chief Minister
Date: _____