

J. Y. Interpretation No.264 (July 27, 1990) *

ISSUE: Is it unconstitutional for the Legislative Yuan to propose increased spending in a budgetary bill?

RELEVANT LAWS:

Article 70 of the Constitution (憲法第七十條) .

KEYWORDS:

the Legislative Yuan (立法院) , the Executive Yuan (行政院) , expenditures in the budgetary bill (預算案支出) .**

HOLDING: Article 70 of the Constitution provides, “The Legislative Yuan shall not make proposals for an increase in the expenditures in the budgetary bill presented by the Executive Yuan.” The intent behind this Article is to curtail the government’s haphazard augmentation of the budget, which increases the people’s burden. The Legislative Yuan’s Resolution of the Twenty-sixth Meeting of the Eighty-fourth Assembly states: “We request the Executive Yuan to grant the military, civil, and teaching personnel

解釋文：憲法第七十條規定：「立法院對於行政院所提預算案，不得為增加支出之提議」，旨在防止政府預算膨脹，致增人民之負擔。立法院第八十四會期第二十六次會議決議：「請行政院在本（七十九）年度再加發半個月公教人員年終工作獎金，以激勵士氣，其預算再行追加」，係就預算案為增加支出之提議，與上述憲法規定牴觸，自不生效力。

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a year-end bonus in the amount of half of their monthly pay in the current year (79) in order to boost their morale. The budget shall be consequently augmented.” The Resolution is indeed a proposal for an increase in the expenditures in the budgetary bill, which violates Article 70 of the Constitution, and shall thus be declared null and void.

REASONING: In accordance with the Constitution, the Executive Yuan shall present the budgetary bill to the Legislative Yuan, which has the power to decide upon it by resolution. Such arrangement is intended to separate the powers of presentation and approval of the budgetary bill so that the Executive Yuan, while setting the national budget, can take into consideration the country’s finances, economic condition, and the annual administrative needs. It is by the power vested in the Legislative Yuan by the people that the Legislative Yuan fulfills its role of supervising the government’s finances, ultimately ensuring reasonable government expenditure and staunching unnecessary spending. In the spirit of the Con-

解釋理由書：按憲法規定，行政院應提出預算案，由立法院議決之，旨在劃分預算案之提案權與議決權，使行政院在編製政府預算時能兼顧全國財政、經濟狀況與年度施政計畫之需要，並為謀求政府用度合理，避免浪費起見，委由代表人民之立法院議決之，以發揮其監督政府財政之功能。為貫徹上述意旨，憲法第七十條明文規定：「立法院對於行政院所提預算案，不得為增加支出之提議」，以防止政府預算膨脹，致增人民之負擔。立法院第八十四會期第二十六次會議決議：「請行政院在本（七十九）年度再加發半個月公教人員年終工作獎金，以激勵士氣，其預算再行追加」，乃對於行政院所提預算案為增加支出之提議，雖係以委員提案方式作成，實質上仍與前述憲法規定牴

stitution, Article 70 of the Constitution provides, “The Legislative Yuan shall not make proposals for an increase in the expenditures in the budgetary bill presented by the Executive Yuan.” The intent behind the Article is to curtail the government’s haphazard augmentation of the budget, which increases the people’s burden. The Legislative Yuan’s Resolution of the Twenty-sixth Meeting of the Eighty-fourth Assembly states: “We request the Executive Yuan to grant the military, civil, and teaching personnel a year-end bonus in the amount of half of their monthly pay in the current year (79) in order to boost their morale. The budget shall be consequently augmented.” The Resolution is indeed a proposal for an increase in the expenditures in the budgetary bill. Even though the proposal was floated as a motion of the legislators, it is substantially in conflict with Article 70 of the Constitution, and shall thus be declared null and void.

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