
Initiative to Reform Administrative Laws

Mexico - Legal Flash

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On March 24th, 2023, the Federal Executive Branch submitted a Bill to the Chamber of Deputies to amend, add and repeal several administrative provisions.

The Bill seeks to amend 23 federal administrative laws, including the Federal Public Administration Act (*Ley Orgánica de la Administración Pública Federal*), the Federal Administrative Procedure Act (*Ley Federal de Procedimiento Administrativo*), the Federal Contentious Administrative Procedure Act (*Ley Federal de Procedimiento Contencioso Administrativo*), the Public Works and Related Services Act (*Ley de Obras Públicas y Servicios Relacionados con las Mismas*) and the Expropriation Act (*Ley de Expropiación*), all in a bid to strengthen the State's authority and the Federal Government's capacity to implement and enforce public policies.

We provide information on the obligations and relevant aspects stemming from the publication of this Bill below:



Legislative procedure

As it is a bill aimed at reforming federal laws, the ordinary legislative procedure will apply, under which approval by a simple majority in both chambers of the Congress of the Union will be sufficient for the bill to be passed.

Key points of the bill

The bill is organized in three main sections that seek to strengthen the State's authority and the Federal Government's capacity to implement and enforce public policies.

Rectification of corruption

The bill seeks to reform the Federal Contentious Administrative Procedure Act to include a broader definition of the principle of harmfulness, so that not only decisions favorable to individuals can be annulled but also acts derived from agreement by silence (*afirmativa ficta*) or that adversely affect the Federal Public Administration or harm the public interest. Furthermore, the bill seeks to include the concept of invalidity proceedings in the Federal Administrative Procedure Act, which may be brought *ex officio* or at the request of an interested party, to retroactively terminate the effects of an administrative act, i.e., from its origin and, if the act has been completed or has effects that cannot be reversed, to initiate the corresponding civil, criminal and administrative liability proceedings.

Prevention of acts detrimental to the public interest or adversely affecting public finances

In this section of the bill, the Federal Executive proposes to reform several administrative concepts:

- › **Revocation:** It is proposed to amend the Federal Administrative Procedure Act by establishing grounds for revoking concessions, permits, authorizations or licenses based on supervening events that affect the public, general or social interest, or that cause some type of economic, social, environmental or any other type of imbalance, unless the terms of the administrative act may be amended to reflect those circumstances.
- › **Administrative Prerogatives Clause:** It is proposed to amend the Public Works and Related Services Act to establish the obligation to include early termination clauses for reasons of public interest (*cláusulas exorbitantes*) in the administrative agreements entered into under that law.



- › **Compensation:** Amendments are proposed to the General National Assets Act (*Ley General de Bienes Nacionales*), the Expropriation Act, the Federal Government Financial Accountability Act (*Ley Federal de Responsabilidad Patrimonial del Estado*) and the Federal Administrative Procedure Act aimed at establishing a regulatory framework for compensation, among others. For example, the bill proposes to add a provision to the Federal Administrative Procedure Act to establish certain circumstances in which the Mexican State will not be liable for the payment of damages.
- › **Public Tenders:** The bill proposes to amend the Public Sector Procurement, Leasing and Services Act (*Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público*) to broaden the circumstances under which an open international public tender may be carried out, thus avoiding the need to first carry out a national public tender.
- › **Republican Austerity:** Amendments to several acts are proposed to increase the restriction periods for hiring former civil servants from 4 to 10 years. The bill also seeks to reduce civil servants' salaries.

Reinforcement of the Federal Public Administration

The bill envisages the creation and incorporation of procedures and principles to expedite the actions of the Federal Public Administration in different areas:

- › **Integration and Reintegration:** It is proposed to create these concepts so that the Federal Executive Branch can transfer financial and material resources, originally assigned to decentralized agencies, trusts or semi-public bodies, to the entities of the Federal Public Administration.
- › **Recovery of Real Estate:** An amendment to the General National Assets Act is proposed to introduce an expedited procedure for the administrative recovery of assets subject to the federal public domain system.
- › **Administrative Trust:** This proposal involves incorporating the principle of administrative trust into the public sector when carrying out works and services, to guarantee the efficiency of civil service activities.



Transitional provisions and entry into force

The First Transitional Provision of the bill establishes that it will enter into force the day after it is published in the Official Gazette (*Diario Oficial de la Federación*), while the Fourth Transitional Provision establishes that any ongoing administrative acts at the time the bill enters into force will continue to be processed in accordance with the legislation in force when they were initiated.

Protection measures

Based on a preliminary analysis, if the bill enters into force, we believe that human rights violations may arise, among others, which would allow petitions to be filed against the bill or its implementation, on a case-by-case basis. However, the legislative process must be concluded before we can establish the implications of the bill in each case, and the possible alternatives to challenge it.



For further information on the contents of this document, please get in touch with your usual contact at Cuatrecasas. If you do not have one, please contact one of the following lawyers who are experts in this field.

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