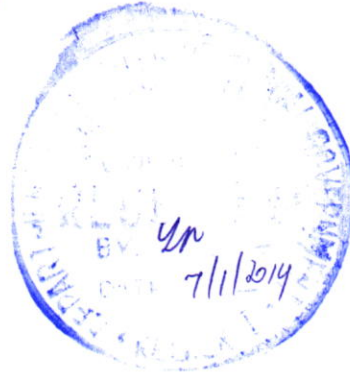




June 30, 2014

HON. ALFONSO C. BINCE, JR.
Provincial Board Member
Province of Pangasinan



Dear BM Bince:

This has reference to your request for legal opinion on whether indeed a Sangguniang member (Panlalawigan or Bayan) can still receive his salaries and other emoluments even without attending any regular or special sessions and absent for more than four (4) consecutive sessions without any justifiable reason?

Before dwelling on the issue, may we first invite your attention to Sections 447 (b) and section 468 (b) of the Local Government Code of 1991, to wit:

Section 447. Powers, Duties, Functions and Compensation.

(b) The members of the sangguniang bayan shall receive a minimum monthly compensation corresponding to Salary Grade twenty-four (24) as prescribed under R.A. No. 6758 and the implementing guidelines issued pursuant thereto: Provided, That, in municipalities in Metropolitan Manila Area and other metropolitan political subdivisions, members of the sangguniang bayan shall receive a minimum monthly compensation corresponding to Salary grade twenty-five (25).

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Section 468. Powers, Duties, Functions and Compensation.

(b) The members of the sangguniang bayan shall receive a minimum monthly compensation corresponding to Salary Grade twenty-four (24) as prescribed under R.A. No. 6758 and the implementing guidelines issued pursuant thereto: Provided, That, in municipalities in Metropolitan Manila Area and other metropolitan political subdivisions, members of the sangguniang bayan shall receive a minimum monthly compensation corresponding to Salary grade twenty-five (25).

We answer on the affirmative.

Based on Sections 447 (b) and 468 (b) of the Local Government Code of 1991, Sanggunian Bayan members and Sangguniang Panlalawigan members shall receive their monthly compensation equivalent to Salary Grade Twenty-Four (24) of RA 6758. As compared to the Sangguniang Barangay members, Sangguniang Bayan/Panlalawigan



members are entitled to salaries. The Sangguniang Barangay members are not entitled to salaries but only honorarium. (*DILG Opinion No. 2, series 2010, January 6, 2010*).

So, the grant of salaries of the members of the Sanggunian Bayan/Panlalawigan is not based on their attendance to session. It is because attendance to session is not the only function of members of the Sanggunian Bayan/Panlalawigan. They pass, enact, amend and review ordinances and resolutions necessary for an efficient and effective municipal or provincial government. They attend committee or public hearings which they are a member. They also approve the annual and supplemental budgets of the municipal or provincial government and appropriate funds in connection thereof. They review the ordinances and resolutions of barangays within their jurisdiction.

Hence, a Sangguniang Bayan/Panlalawigan member can still receive his/her salary and other emoluments even non-attendance to sessions.

With respect to the absences incurred by any member of the Sanggunian Bayan/Panlalawigan, please take note the provisions of the Local Government Code of 1991 particularly Section 50 (b)(5) which reads: "*The Internal Rules of Procedure. Xxx (b)the rules of procedure shall provided for the following xxx (5)the discipline of members for disorderly behavior and absences without justifiable cause for four (4) consecutive sessions, for which they may be censured, reprimanded, or excluded from the session, suspended for not more than sixty (60) days, or expelled: Provided, That the penalty of suspension or expulsion shall require the concurrence of at least two-thirds (2/3) vote of all the sanggunian members: Provided, further, That a member convicted by final judgment to imprisonment of at least one (1) year for any crime involving moral turpitude shall be automatically expelled from the sanggunian; and*"

Hence, based on the above-mentioned provision of the law, when a Sanggunian Bayan/Panlalawigan is absent in session without justifiable cause, it is not his/her salary that will suffer but he/she can be censured, reprimanded, or excluded from the session, suspended for not more than sixty (60) days, or expelled as mentioned in their Internal Rules of Procedure. However, if the internal rules of procedure does not provide for such case, then, he/she can be charged for dereliction of duty and/or misconduct in office based on Section 60 of the Local Government Code of 1991.

We hope to have enlightened you on the issues at hand. Our opinion, however, is without prejudice to any ruling or opinion rendered by any competent tribunal or authority.

Warm regards.

ARD JULIE J. DAQUIOAG, CESO IV
Officer-in-Charge

Legat/rsa