



October 30, 2014

HON. RODRIGO L. RAFAEL, CE
Municipal Mayor
Natividad, Pangasinan



Dear Mayor Rafael:

This pertains to your letter request seeking clarification on the following issues, to wit:

1. Can the Sangguniang Bayan issue an Executive Order transferring the appropriations for trainings, office supplies, membership dues to another MOE?
2. Can the Sangguniang Bayan implement projects?
3. Can the Sangguniang Bayan give donations out of the SB Funds?
4. Can the SB use their other MOE appropriation to give out donations?

Before dwelling on the issues, may we first invite your attention on the provisions of RA 7160 otherwise known as the Local Government Code of 1991 particularly on Sections 336 and 444 which states that:

Section 336. Use of Appropriated Funds and Savings. - Funds shall be available exclusively for the specific purpose for which they have been appropriated. No ordinance shall be passed authorizing any transfer of appropriations from one item to another. However, the local chief executive or the presiding officer of the Sanggunian concerned may, by ordinance, be authorized to augment any item in the approved annual budget for their respective offices from savings in other items within the same expense class of their respective appropriations.

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Section 444. The Chief Executive: Powers, Duties, Functions and Compensation. -

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- (2) Enforce all laws and ordinances relative to the governance of the municipality and the exercise of its corporate powers provided for under Section 22 of this Code implement all approved policies, programs, projects, services and activities of the municipality xxx



On the first issue, the answer is in the negative. The Sangguniang Bayan has no power to transfer appropriations already approved thru appropriation ordinance. Any alteration, modification or changes in the appropriation ordinance shall be done in the process provided by law. It is mandated by Section 336 that *"Funds shall be available exclusively for the specific purpose for which they have been appropriated. And that no ordinance shall be passed authorizing any transfer of appropriations from one item to another."* The only exception to such provision of law is that the Mayor or the Presiding Officer of the Sanggunian is duly authorized, by way of an ordinance to augment any item in the approved annual budget for their respective offices from savings in other items within the same expense class of their respective appropriations.

In short, the augmentation should be done by way of an ordinance, not an executive order. And that there must be savings in other items in the approved annual budget within the same expense class. Absence of such, no augmentation shall become valid. And the Sanggunian cannot augment or transfer any item in the approved appropriation by mere executive ordinance since the law requires an ordinance.

On the second issue, the answer is in the negative. Again, this office reiterates that the Office of the Municipal Mayor has the bounded duty to implement all approved policies, programs, projects, services and activities of the municipality. Also, it is the duty of the Municipal Mayor to enforce all laws and ordinances relative to the operation of the municipality.

The local Sanggunian does not have the power to implement programs or projects of the municipality nor enforce the law or ordinance for the operation thereof. The local Sanggunian has the power to pass, enact, amend and repeal ordinances and resolutions which shall be implemented by the Local Executives.

Allowing the Sangguniang Bayan to implement law would obliterate the separation of powers between the Local Legislative and the Local Executive. And it would also affect the principle of Check and Balances being maintain among the separate department of the municipal government.

On the third and fourth issues, the same shall be discussed simultaneously.

The SB fund is appropriated to an item included in the approved annual budget. Hence, it cannot be used to any purpose other than those declared in the approved annual budget. To do so would require the passage of an ordinance authorizing such act. It cannot be done arbitrarily because it would amount to blatant violation of the provisions of the Local Government Code of 1991. The law requires that any transfer or augmentation or use of savings in the approved annual budget would require the passage of an ordinance as provided for in Section 336 of RA 7160 and as discussed earlier.

The same is true with the use of Maintenance and Other Operating Expenses (MOOE) since the amount appropriated therein should be utilized for the very purpose approved in the appropriation ordinance. To use otherwise would necessarily require the passage of



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another ordinance which would authorize the Presiding Officer of the SB in augmenting or using MOOEs to another purpose.

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

Warm regards.

JULIE J. DAQUIOAG, Ph. D., CESO IV
Officer-in-Charge

By:


VICTORIA H. RAMOS, CESO V
OIC- Asst. Regional Director

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