



Republic of the Philippines
Department of the Interior and Local Government
Region 13 (Caraga)

DILG 13 Legal Opinion No. 2016-031
September 19, 2016

RONILYN N. BORJA
Municipal Vice Mayor
Presiding Officer of the Sangguniang Bayan
Municipality of Buenavista
Agusan del Norte

Dear Hon. Borja:

This refers to Sanggunian Resolution No. 30-2016 entitled "TO SOLICIT OPINION (S) FROM THE DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT, REGIONAL OFFICE, BUTUAN CITY, AS TO THE PROPER INTERPRETATION OF SECTION 80 OF RA 7160, OTHERWISE KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991. Specifically, these questions are sought to be answered:

1. Whether or not a Sanggunian Resolution is necessary to establish a Personnel Selection Board whenever the local chief executive decides to fill major vacancy in his department?
2. Whether or not the word "whenever" denotes as to what is called statutory construction as "everytime" a major vacancy occurs in the office of the local chief executive and he decides to fill said vacant position?

Let us invite you to read with us Section 80 of the Local Government Code:

Section 80. Public Notice of Vacancy; Personnel Selection Board. -

(a) Whenever a local executive decides to fill a vacant career position, there shall be posted notices of the vacancy in at least three (3) conspicuous public places in the local government unit concerned for a period of not less than fifteen (15) days.

(b) There shall be established in every province, city or municipality a personnel selection board to assist the local chief executive in the judicious and objective selection or personnel for employment as well as for promotion, and in the formulation of such policies as would contribute to employee welfare.

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(c) The personnel selection board shall be headed by the local chief executive, and its members shall be determined by resolution of the sanggunian concerned. A representative of the Civil Service Commission, if any, and the personnel officer of the local government unit concerned shall be ex officio members of the board.

Based on the above provision, the term “whenever” is contained in paragraph (a), which refers to the posting of notices.

Paragraph (b), on the other hand, is what mandates the establishment of the Personnel Selection Board without the word “whenever”. In connection with Paragraph (b), Paragraph (c) already mandates who the head of the board and the ex officio members are. The regular members, however, shall be determined by the sanggunian through a resolution.

A resolution is a mere expression of the opinion or sentiment of the local legislative body on matters relating to proprietary function and to private concerns and is temporary in character. Taking paragraphs (b) and (c) together, we can logically deduce that a resolution establishing a Personnel Selection Board is a sentiment of each particular sanggunian body, such that each sanggunian body may have different sentiments. Simply put, the Sanggunian who assumed office noon of June 30, 2016 may need to establish through a resolution a Personnel Selection Board who shall serve from noon of June 30, 2016 to noon of June 30, 2019, unless the same sanggunian passes another resolution amending or repealing the resolution.

In view of the foregoing, we opine that once a Personnel Selection Board (PSB) is established for a term, the same PSB assists the local chief executive in the judicious and objective selection or personnel for employment as well as for promotion, and in the formulation of such policies as would contribute to employee welfare for the whole term unless a new resolution supersedes the previous one. It may not be necessary to establish a new PSB through a new resolution every time there is a need to fill a vacancy.

We hope to have satisfactorily addressed your concerns.

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This opinion is rendered without prejudice to any contrary opinion of competent higher authorities and the courts.

Very truly yours,

(SGD) LILIBETH A. FAMACION, CESO III
Regional Director

cc: Romeo A. Solis
Provincial Director
DILG-Agusan del Norte

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