



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

DILG 13 Legal Opinion No. 2016-034
October 28, 2016

EDGAR N. PLAZA
Member of the Sangguniang Bayan
San Francisco, Surigao del Norte

Dear SB Member Plaza:

This refers to your request for the presence of our Legal Officer to shed light on the determination of majority votes and quorum in the Sangguniang Bayan. This stemmed from perceived seemingly contradicting opinions of this Office and that of our Central Office. In view of equally important matters to be attended to by our personnel, we deemed it more appropriate and convenient to issue our legal opinion on the matter.

At the outset, let us emphasize that the legal opinions are not contradicting each other. In fact, they are parts of a whole, so to speak.

In DILG Opinion No. 13 s. 2010 dated 09 February 2010 (Please see attached.) signed by the DILG-Undersecretary for Local Government, Hon. Austere A. Panadero, the terms "quorum", "simple majority", and "qualified majority" were discussed, to wit:

"For the sanggunian to officially transact business, there should be a quorum. A quorum is defined by Section 53 of the Local Government Code of 1991 as referring to the presence of the majority of all the members of the sanggunian who have been duly elected and qualified. Relative thereto, generally, ordinary measures require for its enactment only the approval of a simple majority of the sanggunian members present, there being a quorum. These pertain to the normal transactions of the sanggunian which are approved by the sanggunian through a vote of simple majority of those present. On the other hand, there are certain measures where the Local Government requires for its approval the vote of majority of all members who were duly elected and qualified. This is what we call approval by the qualified majority of the sanggunian. In this case, the approval is to be voted not just by the majority of those present in session there being a quorum but by the majority of all members of the sanggunian duly elected and qualified regardless of whether all of them were present or not in a particular session, there being a quorum." (Emphasis supplied)

There are specific measures which require simple majority or qualified majority.

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For example, an Appropriation Ordinance as discussed in the above cited DILG Opinion only requires a simple majority.

On the other hand, an ordinance or resolution authorizing or directing the payment of money or creating a liability requires the qualified majority, viz:

“Section 442 (a) (2) (iii) of the Local Government Code of 1991.

Subject to the provisions of Book II of this Code and upon the majority vote of all the members of the sangguniang bayan, authorize the municipal mayor to negotiate and contract loans and other forms of indebtedness;”

“Article 107, 2nd sentence of paragraph (g) of the Implementing Rules and Regulations of the Local Government Code of 1991.

(g) xxx Any ordinance or resolution authorizing or directing the payment of money or creating liability, shall require the affirmative vote of a majority of all the sanggunian members for its passage.”

We note that DILG Legal Opinion No. 21, S. 2015 dated 03 July 2015 was issued specifically to answer the question on the required number of votes to pass a resolution authorizing the mayor to negotiate and enter into contract with the Development Bank of the Philippines to obtain loan. Thus, the query was properly answered stating the requirement in Section 442 (a) (2) (iii) of the Local Government Code of 1991 and that “this majority vote is popularly known as the qualified majority”. To emphasize, an affirmative vote of the qualified majority is required in negotiating or contracting loans and other indebtedness.

Thus, the question left to be answered is: Is the approval or amendment of the Internal Rules of the Sangguniang Bayan authorizing or directing payment of money or creating a liability? The answer is a clear NO.

Thus, we reiterate firmly that the vote of the simple majority is required for the sanggunian to transact usual business such as approving motions, resolutions and ordinances unless there are specific provisions of law stating otherwise.

For your guidance, we have quoted hereunder the specific provisions of the Local Government Code of 1991 requiring specific number of votes:

“SECTION 54. Approval of Ordinances. – (a) Every ordinance enacted by the sangguniang panlalawigan, sangguniang panlungsod, or sangguniang bayan shall be

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presented to the provincial governor or city or municipal mayor, as the case may be. If the local chief executive concerned approves the same, he shall affix his signature on each and every page thereof; otherwise, he shall veto it and return the same with his objections to the sanggunian, which may proceed to reconsider the same. The sanggunian concerned may override the veto of the local chief executive by two-thirds (2/3) vote of all its members, thereby making the ordinance or resolution effective for all legal intents and purposes.

SECTION 55. Veto Power of the Local Chief Executive. – (a) The local chief executive may veto any ordinance of the sangguniang panlalawigan, sangguniang panlungsod, or sangguniang bayan on the ground that it is ultra vires or prejudicial to the public welfare, stating his reasons therefor in writing.

(b) The local chief executive, except the punong barangay, shall have the power to veto any particular item or items of an appropriations ordinance, an ordinance or resolution adopting a local development plan and public investment program, or an ordinance directing the payment of money or creating liability. In such a case, the veto shall not affect the item or items which are not objected to. The vetoed item or items shall not take effect unless the sanggunian overrides the veto in the manner herein provided; otherwise, the item or items in the appropriations ordinance of the previous year corresponding to those vetoed, if any, shall be deemed reenacted.

(c) The local chief executive may veto an ordinance or resolution only once. The sanggunian may override the veto of the local chief executive by two-thirds (2/3) vote of all its members, thereby making the ordinance effective even without the approval of the local chief executive concerned. (Emphasis ours)

We hope to have clarified the matter and satisfactorily addressed your concern.

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: John Reyl L. Mosquito
Provincial Director
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Roberto Reyna Jr.
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