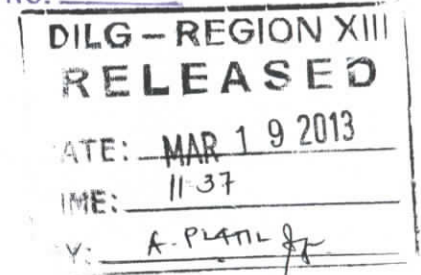




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DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT  
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DILG-13 OPINION NO. 6  
March 19, 2013



Hon. RONALD N. TIMOGAN  
Municipal Vice Mayor  
Nasipit, Agusan del Norte

Dear Vice Mayor Timogan:

This refers to your letter pertaining to the augmentation of the budget of the Sangguniang Bayan of your municipality. You mentioned that the Sanggunian passed Municipal Resolution No. 001, Series of 2013 approving the augmentation of an existing item from the savings of another within the budget for the Office of the Sangguniang Bayan. The Sanggunian submitted the resolution to the municipal mayor but fifteen (15) days had passed, the mayor did not act on it. Thus the following queries:

- 1) Whether it is mandatory for the said resolution to be approved or signed by the municipal mayor considering that the items involved is already appropriated under the office the sangguniang bayan; and
- 2) If the answer in No. 1 is in affirmative, is the power of the municipal mayor in this case is discretionary or ministerial for the same consideration that the times involved is already appropriated under the Office of the Sangguniang Bayan.

Before answering your queries, there is a need to revisit the Local Government Code of 1991 (R.A. No. 7160) regarding the augmentation of budget. Section 336 of the Code states:

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. (underlining supplied)

Section 336 of the Code provides the clearest proof that savings are "unappropriated surplus." The last sentence contains the rule peculiar to savings, *i.e.* it recognizes the nature of savings as unappropriated surplus which cannot fall under the first and second sentences that deal exclusively with appropriated funds. Being unappropriated surplus, it is necessary that savings have to be appropriated anew, so to speak, before they can be utilized; hence, the requirement for an ordinance.

Therefore and without dealing your queries, we believed that an ordinance is proper legislative document that the sanggunian should enact to augment its budget pursuant to Section 336 of the Code, not a resolution. The failure of the mayor to act on the resolution within ten (10) days could not cure the defect.

We hope to have clarified you on this matter.

Very truly yours,

  
LILIBETH A. FAMACION, CESO IV  
OIC - Regional Director X

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

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