

COMMITTEE ON LOCAL GOVERNMENT
Joint with
COMMITTEE ON WAYS AND MEANS
COMMITTEE ON FINANCE
COMMITTEE ON YOUTH, WOMEN AND FAMILY RELATIONS
COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES
COMMITTEE ON SOCIAL JUSTICE, WELFARE AND
RURAL DEVELOPMENT
COMMITTEE ON JUSTICE AND HUMAN RIGHTS
COMMITTEE ON EDUCATION, ARTS AND CULTURE
WEDNESDAY, SEPTEMBER 22, 2004, 9:00 AM
SENATOR JOSE P. LAUREL ROOM

Senators Present :

Hon. Alfredo S. Lim, *Chairman and Presiding*
Hon. Aquilino Q. Pimentel, Jr., *Vice Chairman*

Resource Persons :

Mr. Erlito Pardo, *Director, Bureau of Local Government, DOF*
Mr. Fidel Ibanez, *Department of Finance*
Mr. Manuel Gerochi, *Undersecretary for Land Management, DENR*
Ms. Neria Andin, *Assistant Director, DENR*
Mr. Manuel M. Bonoan, *Undersecretary, DPWH*
Atty. Jomar Olegario, *Head, Policy Development Group, League of Provinces of the Philippines;*
Atty. Jose Bautista, *League of Cities of the Philippines*
Mr. James Marty Lim, *President, Liga ng mga Barangay*
Mr. Rodolfo Ubales, *Punong Barangay, Santo Cristo, Quezon City*
Atty. Manuel Tomas Neria, *Liga ng mga Barangay*
Atty. Nimrod Camba, *Liga Ng mga Barangay*
Mr. Eduardo Tiongson, *Liga ng mga Barangay*
Atty. Romeo C. Plata, *League of Municipalities of the Philippines*
Atty. Gil Fernandez, *Executive Director, League of Cities of the Philippines.*

AGENDA

Barangay Matters:

Senate Bill No. 136 - An Act authorizing barangays to enter into official contracts with national government agencies and local government units to undertake the delivery of basic services for the purpose of providing employment to barangay residents and for other purposes. *(Introduced by Senator Ejercito Estrada, L.)*

Senate Bill No. 397 - An Act authorizing barangays to enter into official contracts with national government agencies and local government units to undertake the delivery of basic services for the purpose of providing employment to barangay residents and for other purposes. *(Introduced by Senator Osmeña III)*

Senate Bill No. 398 - An Act providing for the automatic retention by the barangay of its share of fifty percent (50%) in the community tax collected by said barangay, amending for the purpose Section 164 of Republic Act 7160, otherwise known as the Local Government Code of 1991, and for other purposes. *(Introduced by Senator Osmeña III)*

<joint with the Committee on Ways and Means>

Senate Bill No. 399 - An Act providing for death, injury, retirement and leave benefits of barangay officials and employees. *(Introduced by Senator Osmeña III)*

<joint with the Committee on Finance>

Senate Bill No. 402 - An Act mandating the payment of regular compensation to elected and other barangay officials, amending for the purpose Republic Act No. 7160, otherwise known as the Local Government Code of 1991. *(Introduced by Senator Osmeña III)*

Senate Bill No. 850 - An Act upgrading the benefits and incentives of barangay tanod brigades amending for the purpose Sec. 393(d) of Republic Act 7160, otherwise known as the Local Government Code of 1991. *(Introduced by Senator Ejercito Estrada, J.)*

<joint with the Committees on Social justice, Welfare and Rural Development; and Finance>

Senate Bill No. 851 - An Act providing for the salaries of barangay officials amending Sec. 393 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991. *(Introduced by Senator Ejercito Estrada, J.)*

Senate Bill No. 853 - An Act increasing the benefits of barangay officials, amending for the purpose Section 393 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991, creating a national barangay benefits augmentation fund, and for other purposes. *(Introduced by Senator Ejercito Estrada, J.)*

<joint with the Committees on Social Welfare and Rural Development; and Finance>

Senate Bill No. 873 - An Act granting hazard pay to all duly-appointed members of barangay tanod brigades during their incumbency, appropriating funds therefor. *(Introduced by Senator Ejercito Estrada, J.)*

<joint with the Committee on Social Justice, Welfare and Rural Development>

Senate Bill No. 979 - An Act establishing a barangay human rights action center in every barangay in the country. *(Introduced by Senator Ejercito Estrada, J.)*

<joint with the Committees on Justice and Human Rights; and Finance>

Internal Revenue Allotment (IRA):

Senate Bill No. 229 - An Act providing for the automatic appropriation of the internal revenue allotment for local government units. *(Introduced by Senator Osmeña III)*

<joint with the Committee on Finance>

Senate Bill No. 230 - An Act increasing the internal revenue allotment (IRA) of local government units (LGU) in providing for its equitable distribution, authorizing its automatic retention, amending for the purpose Sections 284, 285 and 286 of Republic act No. 7160, otherwise known as the Local Government Code of 1991 and for other purposes. *(Introduced by Senator Osmeña III)*

<joint with the Committee on Finance>

Senate Bill No. 863 - An Act amending Section 285 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991, providing for the re-allocation of the internal revenue allotment of local government units. *(Introduced by Senator Ejercito Estrada, J.)*

<joint with the Committee on Finance>

Senate Bill No. 868 - An Act rationalizing the internal revenue allotments of local government units amending for this purpose Republic Act Numbered 7160, otherwise known as the Local Government Code of 1991. *(Introduced by Senator Ejercito Estrada, J.)*

<joint with the Committee on Finance>

Senate Bill No. 872 - An Act making municipal sea water within the fifteen-kilometer radius jurisdiction part of the internal revenue allotment computation for municipalities. *(Introduced by Senator Ejercito Estrada, J.)*

<joint with the Committee on Environment and Natural Resources>

Senate Bill No. 947 - An Act requiring provincial governors, city and municipal mayors, and punong barangay to post and publish within the territorial jurisdiction of their local government units a summary of all income and revenue from both public and private sources and utilization of funds, and for other purposes. *(by Senator Ejercito Estrada, J.)*

Amendments to the Local Government Code of 1991 (R.A. 7160):

Senate Bill No. 194 - An Act amending Republic Act No. 7160, otherwise known as The Local Government Code of 1991, Book 3, title 5, Article 13, Section 483, as amended. *(by Senator Ejercito Estrada, L.)*

Senate Bill No. 481 - An Act amending the Sangguniang Kabataan provisions in Republic Act No. 7160, otherwise known as the Local Government Code of 1991, and for other purposes. *(Introduced by Senator Osmeña III)*

<joint with the Committees on Youth, Women and Family Relations; and Finance>

Senate Bill No. 855 - An Act amending Section 325(a) of Republic Act No. 7160, otherwise known as the Local Government Code of 1991, and for other purposes. *(Introduced by Senator Ejercito Estrada, J.)*

Senate Bill No. 861 - An Act repealing Section 90 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991, prohibiting and limiting the practice of profession by elected local government officials. *(Introduced by Senator Ejercito Estrada, J.)*

Senate Bill No. 864 - An Act expanding the purposes and application of the Special Education Fund (SEF) amending for the purpose Section 272 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991 and for other purposes. *(Introduced by Senator Ejercito Estrada, J.)*

Senate Bill No. 894 - An Act amending Section 140(a) of Republic Act No. 7160, otherwise known as the Local Government Code of 1991, and for other

purposes. *(Introduced by Senator Ejercito Estrada, J.)*
<joint with the Committee on Education, Arts and Culture>

Senate Bill No. 1121 - An Act to strengthen local government units by amending certain provisions of Republic Act No. 7160, otherwise known as the Local Government Code of 1991. *(Introduced by Senator Pimentel)*

Environmental Concerns:

Senate Bill No. 286 - An Act requiring local governments to plant trees along national and local highways within its territorial boundaries and for other purposes. *(Introduced by Senator Osmeña III)*

<joint with the Committees on Environment and Natural Resources; and Finance>

Senate Bill No. 720 - An Act requiring local governments to plant trees along national and local highways within its territorial boundaries and for other purposes. *(Introduced by Senator Villar, Jr.)*

<joint with the Committees on Environment and Natural Resources; and Finance>

CALL TO ORDER AND ORGANIZATIONAL MEETING

The meeting was called to order by the Chairman, Senator Alfredo S. Lim, at 8:52 am. He then read into the record the names of the following senators as regular members of the Committee: Senators Ramon Bong Revilla, Jr., Ramon B. Magsaysay, Jr., Comapanera Pia Cayetano, Manuel B. Villar, Jr., Rodolfo G. Biazon, Richard J. Gordon, Ralph Recto, Juan Ponce Enrile, Jingoy Ejercito Estrada, Panfilo M. Lacson, Manuel “Lito” M. Lapid, and Sergio R. Osmeña III, with Senators Aquilino Q. Pimentel, Jr., Juan Flavio and Francis Pangilinan, as *ex-officio* members.

Upon the motion of Senator Lim, duly seconded by Senator Pimentel, Jr., the Committee adopted the proposed Rules of the Committee on Local Government. He then announced the designation Senator Pimentel as the vice chairman of the Committee.

HIGHLIGHTS

The chairman, upon consultation with the vice chairman, agreed that the public hearing will only focus on bills relating to barangay and the environment, instead of discussing all the 25 bills listed the agenda.

Mr. Bonoan, Undersecretary, DPWH expressed support for Senate Bill No. 136 as this would give the barangays the authority to undertake the delivery of basic services to the countryside.

Senator Pimentel asked if the transfer of funds from the national government to the local government for the maintenance of local roads is feasible through a department order. Mr. Bonoan replied in the affirmative but clarified that the GAA no longer provides funds to the DPWH for maintenance of local roads. He said that if there would be any provisions for maintenance of roads under the responsibility of the local governments, including the barangays, the DPWH would draw up a mechanism by which all the funds could be channeled to the barangays for implementation. He informed the Committee that there are DPWH projects, which are implemented through the local governments by memorandum of agreement.

Senator Lim asked if the conversion of Recto to Carriedo along Rizal Avenue from a motorist passageway to a pedestrian mall was with the approval of the DPWH, Mr. Bonoan replied that this was a unilateral act of the City of Manila and the issue has been brought to the attention of the Department of Justice but there is no decision yet.

Mr. Tiongson asked to be clarified on the meaning of Section 4 of S.B. No. 136, whether or not the barangay should be the one to contract out the project or the barangay would act as the contractor. He cited that there were instances in the past that barangays were given the full privilege of implementing projects by the administration if they have the capability. At present, he said, all projects will have to be coursed through to the municipalities because the barangays have no sufficient funds to undertake the projects. The upper-level LGUs doubt the capability of the barangays to handle such projects, he added.

Senator Lim mentioned that when he was Mayor of Manila, the shares of the barangays were entrusted to them through checks for the projects that they would want to undertake. Mr. Tiongson said that is no longer true nowadays because even special projects have to be coursed through the office of the mayor.

Mr. Marty Lim, President, Liga ng mga Barangay, said the Liga interposes no objection to the intent of the bill, but that he would like some enhancements on the proposed measure particularly on employment and economic activities in the barangay. He said that the problem lies in the capability of barangay officials to engage in such financial activity. At present, many institutions would rather deal with the municipalities or higher local government units, he added.

Senator Pimentel suggested that the observation of Mr. Tiongson be adopted where the barangay would be given the option to either do the project itself if it has the capability or contract it out to other parties if it does not have the capability to do it directly.

The Chairman agreed that the right of first refusal under Section 4 of S.B. No. 136 should be given to the barangay.

Mr. Gil Cruz of the League of Cities said that they support S.B. No. 136 but suggested that the right of first refusal under Section 4 of S.B. No. 136 be deleted.

Senator Pimentel explained that the cities and municipalities have no right at all to intervene in barangay-initiated projects because the local development councils are supposed to do their own thing and all projects must emanate from the barangay. He further stated that the proposed measure would merely enhance the power of the barangay to make sure that no other entity--municipality, city or national government—that would dictate what is good for a particular barangay. He stressed that the barangay has the right of first refusal in determining what is good for the barangay and should not be interfered into by the higher level of local government units.

Senator Lim interjected that the right of first refusal should only be within that particular community to distinguish the projects that would be undertaken by the local officials, governors or mayors. He pointed out that a barangay chairman has to assert his rights under the Local Government Code especially on the projects that should be undertaken.

According to Mr. Cruz, the statement of Mr. Tiongson is the exception rather than the rule. He said that if the proposed measure would pertain to barangay-initiated projects and programs, then they would interpose no objection.

Mr. Bonoan said that the limitation of P500,000 provided for in S.B. No. 136 is an amount that could be managed by a barangay. He proposed the replacement of the phrase “contracting out” with the phrase “implementing unit” so that whatever mode of implementation, whether by contracting or by administration, it would still be the prerogative of the barangay.

Mr. Gerochi said he fully agrees with the essence of S.B. No. 136. He stated that at present the DENR has already been working with the DILG on how to evolve many environmental protection functions to local governments, citing Nueva Vizcaya and Samar as models through a memorandum of co-management agreement. As to S.B. Nos. 286 and 720, he said he also fully agrees with them because it is scientifically proven that trees along the roads absorb many carbon dioxide emissions. He suggested though that a provision be inserted in the proposals making it a requirement that when we plant trees along the roads, the same be done in coordination with DPWH and DENR because of the space site, plantation site and the specie that should be planted.

Senator Pimentel reminded Mr. Bonoan not to cut down trees even if they are for the widening of the roads.

Senator Lim called the attention of the DENR on the quarrying that is going on with Biak na Bato. Mr. Gerochi informed the committee that there is an ongoing study and investigation on that issue and the possibility of canceling permits in that area. He will inform the Committee of the developments of the investigation.

Asked by Senator Pimentel if there is a prohibition against open pit mining, Mr. Gerochi replied that there is no law that prevents the practice of open pit mining because the method really depends on what kind of deposits you are mining.

Mr. Bonoan expressed support for S.B. Nos. 286 and 720 as they would require local governments to plant trees along national roads and local highways. He said the measure would help the DPWH on the environmental aspect of planting trees and on the delineation of the right of ways. He suggested that in the proposed measure the DENR should delineate the right of way where the trees would be planted and the species of trees that would be planted. He said that the DPWH should delineate where fruit bearing trees may be allowed to be planted so the concern of safety could be addressed.

Senator Lim proposed that the trees to be planted should be fruit bearing trees.

Mr. Gerochi said that the choice of what trees to plant is dictated by the soil and climate in the area. He informed the Committee that the issuance of ECC goes with it the requirement for the contractors to plant trees. According to him, DENR has the following priority of trees to be planted namely: flower bearing trees, forest trees and fruit bearing trees.

Senator Pimentel suggested that without any law being passed, the DPWH should require its contractors to plant trees along the sides of the roads.

Mr. Tiongson fully agreed with S.B. No. 286 and 720 but would want consultation with the different sectors, especially the farmers. He noted that trees planted along highways (which usually run along ricefields) would be a breeding place for birds, which could then threaten the harvests. He also pointed out that NAPOCOR should also be consulted because of power line concerns.

Mr. Marty Lim said he finds S. B. Nos. 399 and 402 strange because the intention is to change the term "honorarium" to regular compensation, without taking into account the deductions that would be done if it would be in the form of salary. He opined that if the government would not able to give the barangays the salary that ought to be given to them, the matter should not be discussed because we would just be giving the barangay officials so much expectations and false hopes. He said he prefers bills that would enhance the capability of the barangays rather than offer them something that the national government would not be able to give or sustain.

Senator Pimentel clarified that the proposed measures would just be the starting point. He said that he has gone all over the Philippines and the clamor of the barangay officials was for them to be covered by the GSIS so that they can look forward to some retirement. He said that

government service should not be limited to 5 years or your service as barangay official but should include all your other government service in the aggregate, further emphasizing that the many problems confronting the country today should not deter us from looking forward.

Mr. Lim said that they are not objecting to the bill and he fully accepts the idea of Senator Pimentel as to the future of the bill. He said he just wants a clearer picture of the bill and the realization of it. As to the retirement of the barangay officials, he said they have their own proposal on that matter and they don't want to use the GSIS because a system of automatic deduction would come in. Senator Pimentel concurred with the idea of Mr. Lim that it is not necessary to put the money with the GSIS, suggesting that another system for the barangay would be possible.

Asked by Senator Lim on why the retirement benefits of some barangay members have not been paid, Mr. Lim replied that premiums to the GSIS were not paid by the national government. He narrated that because of limited resources, there is a two-year backlog on the payment of premiums.

Senator Pimentel stressed that under the Local Government Code, the barangay officials are entitled during their incumbency to insurance coverage, which shall include but not limited to temporary and permanent disability, double indemnity, accident insurance, death and burial benefits in accordance with R.A. No. 6942. He noted that while it is true that there is a law mandating such payments, one has still to travel to Manila and undergo a tedious process to be able to get such benefits. He said that there should be a way of compelling GSIS to extend these benefits.

On S. B. No. 399, Mr. Tiongson proposed, for consistency and clarity, changing the words "barangay captain" to "punong barangay" and "barangay councilman" to "barangay kagawad". On Section 3 of the same bill, he proposed the changing of the phrase "arising out of or in the course of employment" to "arising out of or in the performance of their functions and duties as barangay officials".

As regards to S.B. No. 398, Mr. Lim suggested that the collection of Community Tax Certificate be directly undertaken by the barangay because they are in a better position to know what kind of job one is engaged in their barangay. He further said that the barangay would just give the share of the city or municipality as far as the CTC is concerned.

Senator Pimentel commented that when they were working on the 1991 Local Government Code, he wanted to really put more powers to the barangay but there were problems as to the existence of some barangays. At that time, he said it was imprudent for them to just empower the barangay in general without checking and verifying their existence. He agreed with Mr. Lim that the barangay should be given the task of collection but there should be a way by which the Bureau of Local Government Finance of the Department of Finance to calibrate the capability of the barangay. He asked Mr. Pardo, Mr. Ibanez and Mr. Lim to coordinate with each other to rationalize the grant of powers to the barangay in the matter of collecting taxes from the CTC.

On the issue of proper custody and recording of receipts, Mr. Pardo agreed with Senator Pimentel that there is a need to calibrate the capability of barangays in the light of the proposal to give them salaries. He likewise proposed that the barangays should be classified according to income so it would give the DOF the necessary parameters to determine what kind of assistance or to what extent they would devolve some activities. At present, according to him, the barangays are tasked to immediately deposit whatever receipts they have received to government financial institution. However, if there is no GFI in the locality, the LGU could deposit it to a non-GFI. The preferential treatment provided by the Code to GFI was operationalized by COA through a circular and in cases where there are no GFIs, approval of the BSP Monetary Board would be required.

Senator Pimentel commented that there are places where the government financial institution is 50 kilometers away, the possibility for the barangay to deposit the collection in said GFI would be remote. He proposed that if a rural bank operating in a locality has a good standing, the Central Bank should allow them to receive the deposit from the barangay.

Mr. Lim pointed out that for several years now they have been pushing for the classification of all the barangays as to their income, but nothing has happened. He emphasized that the matter of CTC should be solely be given to the barangay. He likewise proposed that some barangays be consolidated to be viable.

Senator Pimentel said that one of the best things that came out in the public hearing is the idea that barangays have to be classified and to be able to do it we must know the exact number of barangay throughout the nation. The 1991 Local Government Code provides that the LGUs could create as many barangays as it wants but it has to take care of its internal revenue. He stated that when we classify a barangay we then could calibrate the powers and the money that they should be entitled to. He asked Mr. Lim to consult the members of the Liga ng mga Barangay on the matter of consolidating barangays. He went on to say that converting the barangay into an economic unit instead of allowing it to remain as a political unit would make a difference in our economic development.

To arrive at a win-win situation, Mr. Lim suggested that there should be incentives to consolidate and there should be a process of consolidation. He fully agreed with the suggestion of Senator Pimentel to make the barangays economically viable rather than political.

Senator Lim proposed that there is a need to enhance the qualifications of barangay officials and put some disqualifications so ex-convict, hoodlums and drunkards would not have a place in the local government units.

On the matter of classifying barangays, Mr. Tiongson recalled that such proposal has long been submitted to DILG but the Department of Finance has rejected such proposal because there are so many barangays and it would be tedious for them to look into how much and what would be the criteria in terms of income.

Mr. Pardo confirmed that the initiative to classify has been proposed years back but the DOF said that if they classify according to income, they have to use the audited financial statement of the Commission on Audit. The problem, according to him, is they don't have the audited financial statement of the barangay.

The Chair proposed that consultation and coordination be done with the DILG and Department of Finance to thresh out all matters related to the measure.

Mr. Lim made the following comments and suggestions:

1. that preparatory recall assembly under the 1991 Local Government Code be retained;
2. letter (d) of section 70 of SB 1121 be likewise retained; and
3. the current IRA share for the SK be retained.

At this juncture, the Chair stated that on the next public hearing a representative from the Sangguniang Kabataan would be invited to shed light on the matter.

Senator Pimentel proposed that a technical working group be created to go over the proposed measures and such group be headed by the Committee Secretary to be assisted by Mr. Terry Dumugho.

The Chair concurred with the proposal of Senator Pimentel and suspended the meeting at 10:52 am.