

RELEVANT PROVISIONS OF LOCAL GOVERNMENT CODE*

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A. CONSTITUTIONAL PROVISIONS

The constitutional basis in the enactment of the Local Government Code of 1991.

Article X of the 1987 Philippine Constitution LOCAL GOVERNMENT

Section 1. The territorial and political subdivisions of the Republic of the Philippines are the provinces, cities, municipalities, and barangays. There shall be autonomous regions in Muslim Mindanao and the Cordilleras as hereinafter provided.

Section 2. The territorial and political subdivisions shall enjoy local autonomy.

Section 3. The Congress shall enact a local government code which shall provide for a more responsive and accountable local government structure instituted through a system of decentralization with effective mechanisms of recall, initiative, and referendum, allocate among the different local government units their powers, responsibilities, and resources, and provide for the qualifications, election, appointment and removal, term, salaries, powers and functions and duties of local officials, and all other matters relating to the organization and operation of the local units.

Section 4. The President of the Philippines shall exercise general supervision over local governments. Provinces with respect to component cities and municipalities, and cities and municipalities with respect to component barangays, shall ensure that the acts of their component units are within the scope of their prescribed powers and functions.

Section 5. Each local government unit shall have the power to create its own sources of revenues and to levy taxes, fees and charges subject to such guidelines and limitations as the Congress may provide, consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local governments.

Section 6. Local government units shall have a just share, as determined by law, in the national taxes which shall be automatically released to them.

Section 7. Local governments shall be entitled to an equitable share in the proceeds of the utilization and development of the national wealth within their respective areas, in the manner provided by law, including sharing the same with the inhabitants by way of direct benefits.

B. The MAJOR FEATURES of Republic Act No. 7160 otherwise known as the Local Government Code of 1991

A. Sec. 17 of LGC of 1991, Basic Services and Facilities. -

- a. Local government units shall endeavor to be self-reliant and shall continue exercising the powers and discharging the duties and functions currently vested upon them. They shall also discharge the functions and responsibilities of national agencies and offices devolved to them pursuant to this Code. Local government units shall likewise exercise such other powers and discharge such other functions and responsibilities as are necessary, appropriate, or incidental to efficient and effective provision of the basic services and facilities enumerated herein.

Devolved Basic Services

On Health and Social Services:

1. include the implementation of programs and projects on primary health care, maternal and child care, and communicable and non-communicable disease control services;
2. Health services which access to secondary and tertiary health services;
3. Purchase of medicines, medical supplies, and equipment needed to carry out the services
4. Social welfare services which include programs and projects on child and youth welfare, family and community welfare, women's welfare, welfare of the elderly and disabled persons;

On Environmental Management:

1. Solid waste disposal system;
2. Services or facilities related to general hygiene and sanitation;
3. Implementation of community-based forestry projects which include integrated social forestry programs and similar projects;
4. Management and control of communal forests;

On Agriculture:

1. Inter -Barangay irrigation system;
2. Water and soil resource utilization and conservation projects;
3. Enforcement of fishery laws in municipal waters including the conservation of mangroves;

On Infrastructure:

1. Maintenance and Rehabilitation of the following;
 - a. roads and bridges
 - b. school buildings and other facilities for public elementary and secondary schools;
 - c. clinics, health centers and other health facilities
 - d. small water impounding projects
 - e. fish ports; artesian wells, spring development, rainwater collectors and water supply systems;
 - f. seawalls, dikes, drainage and sewerage, and flood control;
 - g. traffic signals and road signs; and similar facilities;

On Tourism:

- a. Tourism facilities and other tourist attractions,
2. Acquisition of equipment
3. Regulation and supervision of business concessions,
4. Security services for such facilities

Devolved Regulatory Functions

- ***Inspection of food products*** such as meat, fruits, poultry, milk, fish, vegetables and other foodstuffs
 - ***Adoption of quarantine regulations***
 - ***Enforcement of the National Building Code***
 - ***Regulations of tricycle operations***
 - ***Regulation of the real estate trade***
 - ***Licensing of cockpits***
- B. It granted the local government units the power to develop their own organizational structure staffing pattern and appoint officials wholly paid by the local governments;***

Section 76. of LGC of 1991

Organizational Structure and Staffing Pattern.

Every local government unit shall design and implement its own organizational structure and staffing pattern taking into consideration its service requirements and financial capability, subject to the minimum standards and guidelines prescribed by the Civil Service Commission.

Sec. 447. of LGC of 1991

Powers, Duties, Functions and Compensation. -

- a. The Sangguniang Bayan, as the legislative body of the municipality, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the municipality and its inhabitants pursuant to section 16 of this Code and in the proper exercise of the corporate powers of the municipality as provided for under section 22 of this Code, and shall:

(i) Review all ordinances approved by the Sangguniang Barangay and executive orders issued by the Punong Barangay to determine whether these are within the scope of the prescribed powers of the sanggunian and of the Punong Barangay;

(vii) Subject to the provisions of this Code and pertinent laws, determine the powers and duties of officials and employees of the municipality;

(viii) Determine the positions and the salaries, wages, allowances and other emoluments and benefits of officials and employees paid wholly or mainly from municipal funds and provide for expenditures necessary for the proper conduct of programs, projects, services, and activities of the municipal government;

C. It increased the share of the local government units in the share in the internal revenue taxes as well as taxes in the utilization and development of national wealth;

Article X, Section 6 of the 1987 Philippine Constitution

Local government units shall have a just share, as determined by law, in the national taxes which shall be automatically released to them.

Section 284 of the LGC of 1991

Allotment of Internal Revenue Taxes. - Local government units shall have a share in the national internal revenue taxes based on the collection of the third fiscal year preceding the current fiscal year as follows:

- a. On the first year of the effectivity of this Code, thirty percent (30%);
- b. On the second year, thirty-five percent (35%); and
- c. On the third year and thereafter, forty percent (40%).

Provided, That in the event that the national government incurs an unmanageable public sector deficit, the President of the Philippines is hereby authorized, upon the recommendation of Secretary of Finance, Secretary of Interior and Local Government and Secretary of Budget and Management, and subject to consultation with the presiding officers of both Houses of Congress and the presidents of the liga, to make the necessary adjustments in the internal revenue allotment of local government units but in no case shall the allotment be less than thirty percent (30%) of the collection of

national internal revenue taxes of the third fiscal year preceding the current fiscal year: Provided, further That in the first year of the effectivity of this Code, the local government units shall, in addition to the thirty percent (30%) internal revenue allotment which shall include the cost of devolved functions for essential public services, be entitled to receive the amount equivalent to the cost of devolved personal services.

Section 285 of the LGC of 1991

Allocation to Local Government Units. - The share of local government units in the internal revenue allotment shall be allocated in the following manner:

- a. Provinces - Twenty-three percent (23%);
- b. Cities - Twenty-three percent (23%);
- c. Municipalities - Thirty-four percent (34%); and
- d. Barangays - Twenty percent (20%)

Provided, however, That the share of each province, city, and municipality shall be determined on the basis of the following formula:

- a. Population - Fifty percent (50%);
- b. Land Area - Twenty-five percent (25%); and
- c. Equal sharing - Twenty-five percent (25%)

Provided, further, That the share of each Barangay with a population of not less than one hundred (100) inhabitants shall not be less than Eighty thousand pesos (P=80,000.00) per annum chargeable against the twenty percent (20%) share of the Barangay from the internal revenue allotment, and the balance to be allocated on the basis of the following formula:

- a. On the first year of the effectivity of this Code:
 1. Population - Forty percent (40%); and
 2. Equal Sharing - Sixty percent (60%)
- b. On the second year:
 1. Population - Fifty percent (50%); and
 2. Equal Sharing - Fifty percent (50%)
- c. On the third year and thereafter:
 1. Population - Sixty percent (60%); and

2. Equal Sharing - Forty percent (40%)

Provided, finally, That the fiscal requirements of barangays created by local government units after the effectivity of this Code shall be the responsibility of the local government unit concerned.

Section 290 of the LGC of 1991

Amount of Share of Local Government Units. - Local government units shall, in addition to the internal revenue allotment, have a share of forty percent (40%) of the gross collection derived by the national government from the preceding fiscal year from mining taxes, royalties, forestry and fishery charges, and such other taxes, fees, or charges, including related surcharges, interests, or fines, and from its share in any co-production, joint venture or production sharing agreement in the utilization and development of the national wealth within their territorial jurisdiction.

SOURCES OF REVENUE

National Government

- Internal Revenue Allotment
- Share from taxes, fees and charges collected from the development and utilization of national wealth
- Other grants and Subsidies
- Debt Relief Program

Locally Generated

- Real Property Taxes
- Business Taxes
- Other Local Taxes
- Regulatory Fees
- Operation of Local Economic Enterprises
- Tolls and Users Charges

Other Sources

- Sales/Lease of Assets
- Credits
- BOT-BT Scheme

Legal Basis

Section 18, Power to Generate and Apply Resources. Local government units shall have the power and authority to establish an organization that shall be responsible for the efficient and effective implementation of their development plans, program objectives and priorities; to create their own sources of revenue and to levy taxes, fees, and charges (xxx)

Selected LGUs Internal Revenue Allotment Share CY 2006

Province	Population	Land Area	IRA Share
Laguna	1,965,872	1,823.55	791,252,905.78
Batanes	16,467	219.01	132,703,381.03

City	Population	Land Area	IRA Share
Quezon City (NCR)	2,173,831	171.71	1,750,639,987.74
Trece Martires (Cavite)	41,653	39.10	124,485,655.50

Municipality	Population	Land Area	IRA Share
San Pedro (Laguna)	231,403	24.05	139,620,315.36
Lazi (Siquijor)	18,314	70.64	22,932,105.36

Barangay	Population	IRA Share
Alitao (Tayabas, Quezon)	19	249,141.00
Barangay 176, Bagong Silang, Caloocan	188,419	38,422,773.00

D. The Code encouraged active and direct participation of civil society, non-governmental organizations and the private sector in the process of local governance by making them formal members of several local special bodies such as local development councils;

Section 34 of the LGC of 1991

Role of People's and Nongovernmental Organizations. - Local government units shall promote the establishment and operation of people's and nongovernmental organizations to become active partners in the pursuit of local autonomy.

E. The Local Government Code of 1991 provided the policy context for the emergence of entrepreneurial local governments by encouraging LGUs to enter into joint ventures and partnerships with the private sector such as build-operate-transfer arrangement and bond flotation.

Section 35 of the LGC of 1991

Linkages with People's and Non-Governmental Organizations. - Local government units may enter into joint ventures and such other cooperative arrangements with people's and nongovernmental organizations to engage in the delivery of certain basic services, capability-building and livelihood projects, and to develop local enterprises designed to improve productivity and income, diversify agriculture, spur rural industrialization, promote ecological balance, and enhance the economic and social well-being of the people.

F. Credit Financing

THE ISSUES/ CONCERNS

- (a) The inadequacy of the internal revenue shares of the local government units to meet the budgetary requirements of the devolved function, programs and projects;
- (b) The continued lack of budgetary support from the national government for the full implementation of devolved tertiary health services;
- (c) The interference of national government in personnel and fiscal management of eth local government units;
- (d) The need to further broaden the tax base of the local government units; and
- (e) The need to devolve more power functions and programs.