



REPUBLIC OF THE PHILIPPINES

Department of Budget and Management
Malacañang, Manila

LEGAL OPINION NO. I-B-2001-05

SUBJECT : Local Government Budgeting – Annual Budget

ISSUES : Whether or not the appropriations for MOOE-Other Services and Capital Outlays (CO) under the Office of the Sangguniang Bayan (SB), are valid and legal considering that the amount approved for MOOE-Other Services was increased vis-à-vis the Executive Budget and that the amount appropriated for CO is a new Item not found in the Executive Budget.

FACTS : In letter dated 13 August 2001, Mayor Alma A. Dayrit, Municipal Mayor of the Municipal Government of Cabatuan, Isabela, requested opinion on the legality of the appropriations in the FY 2001 Annual Budget of the said Municipality. Mayor Dayrit represented the following facts:

"In the Executive Budget submitted to the Sangguniang Bayan for Appropriation item 1.2 MOOE particularly on Other Services is P200,000.00. The Sangguniang Bayan approved P400,000.00 and appropriated P100,000.00 in their Capital Outlay. The P300,000.00 additional appropriation did not affect the total estimate because the Sangguniang Bayan slashed from the other items in the Executive Budget without referring to the LCE or the LFC. The items were vetoed but overridden, the fact that said appropriations is under their office, the review of the Sangguniang Panlalawigan is likewise silent."

In her veto message, Mayor Dayrit invoked Article 415 of the Rules and Regulations Implementing (IRR) the Local Government Code of 1991 (R.A. No. 7160), to wit:

"ART. 415. Budget Authorization. (a) *Legislative Authorization of the Budget-On or before the end of the fiscal year, the sanggunian concerned shall enact, through an ordinance, the annual budget of the LGU for the ensuing fiscal year on the basis of estimates of income and expenditures submitted by local chief executive.*

X X X."

OPINION : The DBM is without jurisdiction to categorically declare local appropriations to be invalid or illegal. Be that as it may, an explanation of the rule on this budgetary issue may be presented for the guidance of the parties.

Article 415 of the IRR of R.A. No. 7160 prohibits the local sanggunian from increasing the proposed amount in the executive budget and the inclusion of new items, except to provide for statutory and contractual obligations.

As regards the prohibition on the increase in the executive budget, the prohibited increase pertains to the total overall amount of the executive budget and not the individual items of appropriation. By analogy, the doctrine enunciated in the case of Andres Sarmiento, et. al. vs. The Treasurer of the Philippines, et. al., (G.R. Nos. 125680 and 126313, September 04, 2001) supports this opinion, where the Supreme Court ruled that under Section 25(1), Article VI of the Constitution, Congress is enjoined from increasing the total budget for the operation of the Government as recommended by the President, not the individual items of appropriations.

Records of the 1986 Constitutional Commission reveals that the purpose of the provision is to avoid the possibility of a big budget deficit if Congress were given an unbridled hand in passing upon the appropriations recommended by the President as specified in the budget. The Constitutional prohibition against such increase is an assurance that the expected income of the government will be sufficient for the operational expenses of its different agencies and projects specified in the appropriations law.

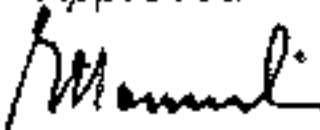
On the other hand, new items of appropriations not found in the Executive Budget, particularly the appropriations for CO under the Office of the SB amounting to P100,000.00 in this case, is prohibited under Article 415 of R.A. No. 7160.

REFERENCE: Memorandum of the Secretary dated 29 October 2001 to DBM RO-II

Recommended:


JANET B. ABUEL
Director, LLS

Approved:


EMILIA T. BONCODIN
Secretary