

REPUBLIKA NG PILIPINAS
SANGGUNIANG PANLUNGSOD
LUNGSOD NG ORMOC



EXCERPT FROM THE MINUTES OF THE REGULAR SESSION OF THE TWELFTH
SANGGUNIANG PANLUNGSOD NG ORMOC HELD AT THE
SANGGUNIANG PANLUNGSOD SESSION HALL,
ORMOC CITY HALL BUILDING
ON AUGUST 04, 2011

PRESENT:

Hon. Claudio P. Larrazabal,	City Councilor, Presiding Officer "Pro-Tempore"
Hon. Ruben R. Capahi,	(Acting Vice Mayor), City Councilor, Majority Floor Leader
Hon. Rolando M. Villasencio,	City Councilor, Minority Floor Leader
Hon. Mario M. Rodriguez,	City Councilor, Assist. Minority Floor Leader
Hon. Lea Doris C. Villar,	City Councilor, Assist. Majority Floor Leader
Hon. Filomeno P. Maglasang,	City Councilor
Hon. Jose C. Alfaro, Jr.,	City Councilor
Hon. Demosthenes F. Tugonon,	City Councilor
Hon. Rafael C. Omega, Jr.,	City Councilor
Hon. Antonio M. Codilla,	Ex-Officio City Councilor
	Chapter President, Liga ng mga Barangay ng Ormoc
Hon. Corinne M. Corro,	Ex-Officio City Councilor, SK Federation President

ON OFFICIAL BUSINESS:

Hon. Nepomuceno P. Aparis I,	(Acting City Mayor), Vice Mayor & Presiding Officer
Hon. Sotero M. Pepito,	(O.B. - Dumaguete City), City Councilor

ABSENT:

NONE

RESOLUTION NO. 2011-140

A RESOLUTION URGING THE PHILIPPINE CONGRESS THROUGH THE HONORABLE SENATE PRESIDENT AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES TO AMEND SECTION 15(C) OF REPUBLIC ACT (RA) 9513 OTHERWISE KNOWN AS THE RENEWABLE ENERGY ACT OF 2008 TO EXPLICITLY PROVIDE FOR A ONE PERCENT (1%) ADDITIONAL LEVY ON REAL PROPERTY TO EXCLUSIVELY ACCRUE TO THE SPECIAL EDUCATION FUND (SEF) AS MANDATED IN SECTION 235 OF REPUBLIC ACT (RA) 7160 OTHERWISE KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991.

WHEREAS, Section 15 (c) of RA 9513 otherwise known as the "Renewable Energy Act of 2008" provides that:

Section 15. Incentives for Renewable Energy Projects and Activities.-

- (c) *Special Realty Tax Rates on Equipment and Machinery.- Any law to the contrary notwithstanding, realty and other taxes on civil works, equipment, machinery, and other improvements of a Registered RE Developer actually and exclusively used for RE facilities shall not exceed one and one half percent (1.5%) of their original cost less accumulated normal depreciation or net book value :Provided, That in case of an integrated resource development and generation facility as provided under Republic No. Act 9136, the real property tax shall only be imposed on the power plant;*

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WHEREAS, the enactment of RA 9513 by the Philippine Congress on December 16, 2008 carried with it the effect of reducing the Special Education Fund (SEF) in imposing a lower realty tax as against the realty tax rate imposed under RA 7160 (LGC);

WHEREAS, Section 15(c) of RA 9513(REA) which imposes a realty tax rate of only 1.5% IS SILENT on the special levy of an additional 1% for the Special Education Fund (SEF) as provided for in Section 235 of RA 7160 (LGC);

WHEREAS, there is a maxim in law which states that what is not included is deemed excluded and besides, the Local Government Code of 1991, specifically Section 2 thereof provides that it is a declared policy of the State that its political subdivisions shall enjoy genuine and meaningful local autonomy to enable them to attain their fullest development as self-reliant communities and make them more effective partners in the attainment of national goals;

WHEREAS, Section 3(d) of the same Code further provides that the vesting of duty, responsibility, and accountability in local government units shall be accompanied with provision for reasonable adequate resources and the right to a just share in national taxes. Furthermore, Sec. 2 © requires all national agencies and offices to conduct periodic consultation with appropriate local government units and other concerned sectors of the community before any project or program is implemented in their respective jurisdictions;

WHEREAS, the LGU of Ormoc City was unaware of the public consultation made prior to the passage of RA 9513 and therefore, missed the opportunity to disclose its position on the salient provisions of RA 9513 particularly Section 15 (c) thereof;

WHEREAS, concomitantly, Section 235 of RA 7160 (LGC) explicitly mandates an imposition of an annual tax of 1% on the assessed value of real property which shall be in addition to the basic real property tax, the proceeds of which shall exclusively accrue to the Special Education Fund (SEF);

WHEREAS, in view of the ambiguity in the interpretation and application of Section 235 of RA 7160 (LGC) and Section 15(c) of RA 9513 (REA) , it is sincerely requested that an amendment of the later Section be made to explicitly provide for a 1% additional levy on real property to exclusively accrue to the Special Education Fund (SEF) as mandated in Section 235 of RA 7160 (LGC). The drastic reduction of real property tax from the current rate of 2.5% to 1.5% as provided for in Section 15(c) of RA 9513 is adversely affecting the allocation for education (SEF) and runs counter to the mandates of Section 17 , Article II and Section I, Article XIV of the 1987 Philippine Constitution respectively. Section 17 of Article II provides that the State shall give priority to education x x x and promote total human development. Furthermore, Section I, Article XIV provides that the *"State shall protect and promote the right of all citizens to quality education at all levels and shall take appropriate steps to make such education accessible to all;"*

WHEREAS, this request finds support in the general welfare provisions of the Local Government Code which provides for a liberal interpretation of the law to give more power to the Local Government Unit (LGU) in accelerating economic development and in upgrading the quality of life for the people in the community. The impending reduction of LGU's share in the real property tax from the Renewable Energy developers in Ormoc City as a result of the enactment of RA 9513 is inconsistent to the foregoing provision;

WHEREAS, this august Body believes that if the Renewable Energy Act of 2008 (RA 9513) was specifically crafted to encourage potential energy developers to invest in the country, then such enactment should have excluded from its tax incentive provisions the already existing power plants in the cities and municipalities concerned;

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WHEREFORE, FOREGOING PREMISES CONSIDERED, on MASS MOTION of the Body; be it

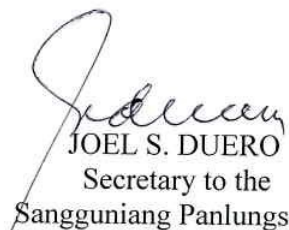
RESOLVED, AS IT IS HEREBY RESOLVED, to pass a resolution URGING THE PHILIPPINE CONGRESS THROUGH THE HONORABLE SENATE PRESIDENT AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES TO AMEND SECTION 15 (C) OF REPUBLIC ACT (RA) 9153 OTHERWISE KNOWN AS THE RENEWABLE ENERGY ACT OF 2008 TO EXPLICITLY PROVIDE FOR A ONE PERCENT (1%) ADDITIONAL LEVY ON REAL PROPERTY TO EXCLUSIVELY ACCRUE TO THE SPECIAL EDUCATION FUND (SEF) AS MANDATED IN SECTION 235 OF REPUBLIC ACT (RA) 7160 OTHERWISE KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991;

ADOPTED, August 04, 2011;

RESOLVED, FURTHER, that copies of this resolution be furnished each to the Honorable City Mayor Eric C. Codilla; the Honorable Senate President; Sen. Juan Ponce Enrile; the Speaker of the House of Representatives, Hon. Feliciano R. Belmonte, Jr.; the Chairman, Committee on Education, Arts & Culture, Senate of the Philippines, Hon. Edgardo J. Angara; the Chairman, Committee on Basic Education & Culture, House of Representatives, Hon. Salvador H. Escudero III; the Secretary, Department of Energy (DOE), Hon. Jose Rene D. Almendras; the Secretary, Dept. of Education, Hon. BR. Armin A. Luistro, FSC; the Members of Alliance of Geothermal Energy Producing LGUs (AGEPL), the City Administrator, the City Legal Officer, and other offices concerned.

CARRIED UNANIMOUSLY.

I HEREBY CERTIFY to the correctness of the foregoing resolution.


JOEL S. DUERO
Secretary to the
Sangguniang Panlungsod

ATTESTED:


CLAUDIO P. LARRAZABAL
City Councilor
Presiding Officer "Pro-Tempore"