

**PERTINENT PROVISIONS OF THE NEW LOCAL
GOVERNMENT CODE OF 1991 (REPUBLIC ACT NO. 7160)
WITH RESPECT TO PEA**

* SEC. 17. Basic Services and Facilities

- a. Local government units shall endeavour 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 responsibility of national agencies and offices devolved to time pursuant to this code. Local government units shall likewise exercise such other powers and discharge such functions and responsibilities as are necessary, appropriate, or incidental to efficient and effective provision of the basic services and facilities enumerated therein.
- b. Such basic services and facilities include, but not limited to, the following:

3. for a Province:

Article VII: Infrastructure facilities intended to service the needs of the residents of the province and which are funded out of provincial funds including, but not limited to, provincial roads and bridges; inter-municipal waterworks, drainage and sewerage, flood control, and irrigation systems, reclamation projects, and similar facilities.

* SEC. 25 (b) - National agencies and offices with project implementation functions shall coordinate with one another and with the local government units concerned in the discharge of these functions. They shall ensure the participation of local government units both in the planning and implementation of said national projects.

* SEC. 27 - Prior Consultations Required. - No project or program shall be implemented by government authorities unless the consultations mentioned in Section 2 (c) and 26 hereof, are complied with, and prior approval of the sanggunian concerned is obtained: Provided, That occupants in areas where such projects are to be implemented shall not be evicted unless appropriate relocation sites have been provided, in accordance with the provisions of the Constitution.

* SEC. 117. Establishment of Autonomous Special Economic Zone. – The establishment by law of autonomous special economic zones in selected areas of the country shall be subject to concurrence by the local government units included therein.

* SEC. 135. Tax and Transfer of Real Property Ownership. – (a). The province may impose a tax on the sale, donation, barter, or on any other mode of transferring ownership or title of real property at the rate of not more than fifty percent (50%) of one percent (1%) of the total consideration involved in the acquisition of the property or of the fair market value is higher. The sale, transfer or other disposition of real property pursuant to R.A. No. 6657 shall be exempt from this tax.

(b). for this purpose, the Register of Deeds of the province concerned shall, before registering any deed, require the presentation of the evidence of payment of this tax. The provincial assessor shall likewise make the same requirement before cancelling an old tax declaration and issuing a new one in place thereof. Notaries public shall furnish the provincial treasurer with a copy of any deed transferring ownership or title to any real property within thirty (30) days from the date of notarization.

It shall be the duty of the seller, donor, transferor, executor or administrator to pay the tax herein imposed within sixty (60) days from the date of the decedent's death.

- * SEC. 138. Tax on Sand, Gravel and Other Quarry Resources. – The province may levy and collect not more than ten percent (10%) of fair market value in the locality per cubic meter of ordinary stones, sand, gravel, earth, and other quarry resources, as defined under the National Internal Revenue code, as amended, extracted from public lands or from the beds of seas, lakes, rivers, streams, creeks, and other public waters within its territorial jurisdiction.

The permit to extract sand, gravel and other quarry resources shall be issued exclusively by the provincial governor, pursuant to the ordinance of the sagguniang panlalawigan.

The proceeds of the tax on sand, gravel and other quarry resources shall be distributed as follows:

- (1) Province – Thirty percent (30%);
- (2) Component City or Municipality where the sand, gravel, and other quarry resources are extracted – Thirty percent (30%); and
- (3) Barangay where the sand, gravel, and other quarry resources are extracted – Forty percent (40%).

- * SEC. 289. Share in the Proceeds from the Development and Utilization of the National Wealth – Local government units shall have an equitable share in the proceeds derived from the utilization and development of the national wealth within their respective areas, including sharing the same with the inhabitants by way of direct benefits.

- * SEC. 290. 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.

- * SEC. 291. Share of the Local Government from any Government Agency or Government-Owned or Controlled Corporation – Local government units shall have a share based on the preceding fiscal year from the proceeds derived by any government agency or government-owned or controlled corporation engaged in the utilization and development of the national wealth based on the following formula whichever will produce a higher share for the local government unit:

- (a) One percent (1%) of the gross sales or receipts of the preceding calendar year; or
- (b) Forty percent (40%) of the mining taxes, royalties, forestry and fishery charges and such other taxes, fees or charges, including related surcharges, interests, or fines the government agency or government-owned or controlled corporation would have paid if it were not otherwise exempt.

- * SEC. 302. Financing, Construction, Maintenance, Operation, and Management Infrastructure Projects by the Private Sector –

(a) Local government units may enter into controls with any duly prequalified individual contractor, for the financing, construction, operation, and maintenance of any financially viable infrastructure facilities under the build-operate-transfer agreement, subject to the applicable provisions of Republic Act Numbered Sixty-nine hundred fifty-seven (Republic Act No.

6957) authorizing the financing, construction, operation and maintenance of infrastructure projects by the private sector and the rules and regulations issued thereunder and such terms and conditions provided in this Section.

(b) Local government units shall include in their respective local development plans and public investment programs priority projects that may be financed, constructed, operated and maintained by the private sector under this Section. It shall be the duty of the local government unit concerned to disclose financing under this Section, including official notification of duly registered contractors and publication in newspaper of general and local circulation and in conspicuous and accessible public places. Local projects under the build-operate-and-transfer agreement shall be confirmed by the local development councils.

(c) Projects implemented under this Section shall be subject to the following terms and conditions:

(1) The provincial, city, or municipal engineer, as the case may be, upon formal in writing by the local chief executive, shall prepare the plans and specifications for the proposed project, which shall be submitted to the sanggunian for approval.

(2) Upon approval by the sanggunian of the project plans and specifications, the provincial, city, or municipal engineer shall, as the case may be, cause to be published once every week for two (2) consecutive weeks in at least one (1) local newspaper which is circulated in the region, province, city or municipality in which the project is to be implemented, a notice inviting all duly qualified contractors to participate in a public bidding for the projects so approved. The conduct of public bidding and award of contracts for local government projects under this Section shall be in appropriate with this Code and other applicable laws, rules and regulations.

In the case of a build-operate-and-transfer agreement, the contract shall be awarded to the lowest complying bidder whose offer is deemed most advantageous to the local government and based on the present value of its proposed tolls, fees, rentals, and charges over a fixed term for the facility to be constructed, operated, and maintained according to the prescribed minimum design and performing standards plans, and specifications. For this purpose, the winning contractor shall be automatically granted by the local government unit concerned the franchise to operate and maintain the facility, including the collection of tolls, fees, rentals, and charges in accordance with subsection (c-4) hereof.

In the case of a build-operate-and-transfer agreement, the contract shall be awarded to the lowest complying bidder based on the present value of its proposed schedule of amortization payments for the facility to be constructed according to the prescribed minimum design and performance standards, plans, and specifications.

(3) Any contractor who shall undertake the presentation of any project under this Section shall post the required bonds to protect the interest of the province, city, or municipality, in such amounts as may be fixed by the sanggunian concerned and the provincial, city or municipal engineer shall, as the case may be, not allow any contractor to initiate the prosecution of projects under this Section unless such contractor presents proof or evidence that he has posted the required bond.

(4) The contractor shall be entitled to a reasonable return of its investment in accordance with its bid proposal as accepted by the local government unit concerned.

In the case of a build-operate-and-transfer agreement, the repayment shall be made by authorizing the contractor to charge and collect reasonable tolls, fees, rentals, and charges for the use of the project facility not exceeding those proposed in the bid and incorporated in the contract: Provided, That the local government unit concerned shall, based on reasonableness and equity, approved the tolls, fees, rentals and charges: Provided, further, That the imposition and collection of tolls, fees, rentals and charges shall be for a fixed period as proposed in the bid and incorporated in the contract which shall in no case exceed fifty (50) years; Provided, finally, That during the lifetime of the contract, the contractor shall undertake the necessary maintenance and repair of the facility in accordance with standards prescribed in the bidding documents and in the contract.

In the case of a build-operate-and-transfer agreement, the repayment shall be made through amortization payments in accordance with the schedule proposed in the bid and incorporated in the contract.

In the case of land reclamation or construction of industrial estates, the repayment plan may consist of the grant of a portion or percentage of the reclaimed land or the industrial estate constructed.

(5) Every infrastructure project undertaken under this Section shall be constructed, operated, and maintained by the contractor under the technical supervision of the local government unit and in accordance with the plans, specifications, standards, and costs approved it.

(d) The provincial, city or municipal legal officer shall, as the case may be, review the contracts executed pursuant to this Section to determine their legality, validity, enforceability and correctness and form.

* SEC. 450.

Requisites for Creation. – (a) A municipality or a cluster of barangays may be converted into a component city if it has an average annual income, as certified by the Department of Finance of at least Twenty Million Pesos (P 20,000,000.00) for the last two consecutive years based on 1991 constant prices, and if it has either of the following requisites:

- (i) a contiguous territory of at least one hundred (100) square kilometres, as certified by the Lands Management Bureau; or
- (ii) a population of not less than one hundred fifty thousand (150,000) inhabitants, as certified by the National Statistics Office:

Provided, That, the creation thereof shall not reduce the land area, population, and income of the original unit or units at the time of said creation to less than the minimum requirements prescribed herein.

(b) The territorial jurisdiction of a newly-created city shall be property identified by metes and bounds. The requirement on land area shall not apply where the city proposed to be created is composed of one (1) or more islands. The territory need not be contiguous if it comprises two (2) or more islands.

(c) The average annual income shall include the income accruing to the general fund, exclusive of special funds, transfers, and non-recurring income.