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How to fill permanent vacancies in the Sanggunian Panlalawigan, Panlungsod, Bayan and Barangay?

by Atty. Fernando Alonzo

Permanent Vacancies in the Sanggunian is governed by Section 45 of R.A. No. 7160 otherwise known as the Local Government Code of 1991 which provides, thus:

“Sec. 45. Permanent Vacancies in the Sanggunian. – (a) Permanent vacancies in the sanggunian where automatic successions provided above do not apply shall be filled by appointment in the following manner:

1. The **President**, through the Executive Secretary, in cases of the sangguniang panlalawigan and the sangguniang panlungsod of highly urbanized cities and independent component cities;

2. The **Governor**, in the case of sangguniang

panlungsod of component cities and sangguniang bayan;

3. The **City or Municipal Mayor**, in the case of sangguniang barangay, upon recommendation of the sangguniang barangay concerned.

(b) Except for the sangguniang barangay, only the nominee of the political party under which the sanggunian member concerned had been elected and whose elevation to the position next higher in rank created the last vacancy in the sanggunian shall be appointed in the manner hereinabove provided. The appointee shall come from the same political party as that of the sanggunian member who caused the vacancy and shall serve the unexpired term of the vacant office. In the

appointment herein mentioned, a nomination and a certificate of membership of the appointee from the highest official of the political party concerned are conditions **sine qua non**, and any appointment without such nomination and certification shall be null and void **ab initio** and shall be a ground for administrative action against the official responsible therefor.

(c) In case the permanent vacancy is caused by a sanggunian member who does not belong to any political party, the local chief executive shall, upon recommendation of the sanggunian concerned, appoint a qualified person to fill the vacancy.

(d) In case of vacancy in the representa-

tion of the youth and the barangay in the sanggunian, said vacancy shall be filled automatically by the official next in rank of the organization concerned.”

What are the steps and who are the responsible persons in filling-up of permanent vacancies in the Sanggunian?

DISCUSSION:

At the outset, it is noteworthy to discuss first the instances wherein permanent vacancy occurs. “A permanent vacancy arises when an elective local official fills a higher vacant office, refuses to assume office, fails to qualify, dies, is removed from office, voluntarily resigns, or is otherwise permanently



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incapacitated to discharge the functions of his office.”[Sec. 44, R.A. 7160].

In cases of permanent vacancies as mentioned above, the responsible officials in filling-up the said vacancies are the appointing authority and the recommending official or body. The **appointing authority** and the **recommending official or body** are summarized as follows:

In cases of vacancies in the Sanggunian of Provinces, Highly Urbanized Cities (HUCs) and Independent Component Cities (ICCs), the appointing authority is the President, through

the Executive Secretary, and the recommending official is the highest ranking official of the political party concerned, if the sanggunian member who caused the vacancy belongs to a political party, otherwise, the sanggunian of the concerned Province, HUC or ICC shall be the recommending body;

In cases of vacancies in the Sanggunian of component cities and municipalities, the Governor is the appointing authority and the recommending official is the highest ranking official of the political party concerned, if the sanggunian member who caused the vacancy belongs to a political

party, otherwise, the sanggunian of the concerned component city and municipality shall be the recommending body;

In cases of vacancies in the sanggunian barangay, the appointing authority is the Mayor and the recommending body of the sangguniang barangay concerned. The rule on political party affiliation does not apply, obviously because under existing laws, barangay elections are non-partisan.

Therefore, to operationalize the foregoing provisions of the law, the concerned recommending official or body shall initiate the

process by recommending a qualified person to fill the vacancy and submitting the same to the concerned appointing authority for appointment. The nominee must possess the qualifications enumerated in Section 39 of R.A. No. 7160 and none of the disqualifications stated in Section 40 of the same law.

The whole process is fulfilled when the appointing authority issues the appointment papers and the appointee's taking of oath and his or her assumption of office.