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SENATE
S. No. 1818

Introduced by Senator Miriam Defensor Santiago

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EXPLANATORY NOTE

The intellectual property generated by Government-funded research represents a great opportunity to return social and economic value to taxpayers in return for public investment in research. The public interest in research outcomes needs to be protected both by the Government and by the beneficiaries of such awards, including research bodies that are the grant recipients. The application and utilization of the results of research grants can play a significant role in the development of new consumer and industrial products, of new industrial processes, and in the enhancement of the productivity and competitiveness of business involved in the production of existing products.

It is believed that the Government needs to manage its intellectual property effectively so that it is best utilized for the benefit of the Government, the taxpayers, and the private sector. It is submitted that agency and public authority policies should be appropriately formed and upheld in practice to ensure all participants in research and in commercialization of research discoveries understand their obligations and responsibilities.

This bill seeks to create an Intellectual Property Asset Management Advisory Council to recommend to the President how the Government should treat Government-owned intellectual property created under Government contracts, grants, and agreements in order to maximize their social and economic value to taxpayers.*


MIRIAM DEFENSOR SANTIAGO

* This bill was originally filed during the Thirteenth Congress, Third Regular Session.

SENATE
S. No. **1818**

10 JUL 21 P5:12

Introduced by Senator Miriam Defensor Santiago

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1 AN ACT
2 CREATING THE INTELLECTUAL PROPERTY ASSET MANAGEMENT COUNCIL

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

3 SECTION 1. *Short Title.* – This Act shall be known as the “Intellectual Property Asset
4 Management Act.”

5 SECTION 2. *Declaration of Policy.* – It is the policy of the State to promote the general
6 welfare of the people. Pursuant to this policy, the State shall create an Intellectual Property Asset
7 Management Advisory Council to recommend to the President the manner by which the
8 Government should treat Government-owned intellectual property created under Government
9 contracts, grants, and agreements in order to maximize their social and economic value to
10 taxpayers.

11 SECTION 3. *Definition of Terms.* – As used in this Act, the term:

12 (A) “Patentable inventions” means inventions that fall within the scope of patentable
13 subject matter under the Intellectual Property Code of the Philippines, but are not yet the subject
14 of an issued patent.

15 (B) “Patented inventions” means those rights reflected in subsisting patents issued by
16 Philippine Government, as well as the governments of those countries who are signatories to
17 treaties regarding intellectual property which have ratified by the Philippines.

18 (C) “Government-owned intellectual property rights” means any and all intellectual
19 property that is owned by the government, including all trademarks and service marks,

1 collective marks and certification marks, all copyrights, all trade secrets, all patentable
2 inventions, and all patented inventions.

3 (D) "President" means the President of the Republic of the Philippines.

4 SECTION 4. *The Intellectual Property Asset Management Advisory Council.* – There is
5 hereby created the Intellectual Property Asset Management Advisory Council to develop
6 recommendations to the President on how the Government should treat Government-owned
7 intellectual property created under Government contracts, grants, and agreements.

8 The Council shall consist of ten (10) members to be appointed as follows:

9 (A) One (1) shall be the Secretary of Trade and Industry, who shall also be the
10 Chairperson of the Council.

11 (B) One (1) shall be the Secretary of Science and Technology.

12 (C) One (1) shall be the Chairman of the National Economic Development Authority;

13 (D) Two (2) shall be a representative of State colleges and universities.

14 (E) Two (2) shall be a representative of private colleges and universities.

15 (F) Three (3) shall be representative of the private sector.

16 The representatives educational and private sector shall be individuals with outstanding
17 knowledge and leadership in one of the following fields: high-risk venture investments in new
18 scientific or technological businesses or new scientific or technological product development;
19 professional and business services with more than ten years of experience in the licensing of
20 intellectual property; patent, trademark, copyright, and trade secrets law of the Governments;
21 international patent law including patent cooperation treaties; or university technology transfer
22 and commercialization.

23 SECTION 5. *Terms of Office.* – All members of the advisory Council shall serve for a
24 term of two (2) years or until such time as the Council has completed its recommendations to the
25 President.

26 Notwithstanding any inconsistent provision of any general, special or local law,
27 ordinance, resolution or charter, no officer, member or employee of the Government or of any
28 public corporation shall forfeit his or her office or employment by reason of his or her

1 acceptance of appointment as a Member of the Advisory Council, nor shall service on the
2 Council be deemed incompatible or in conflict with such office or employment.

3 SECTION 6. *Provision for Actual and Necessary Expenses.* – The members of the
4 advisory council shall receive no compensation for their services, but shall be reimbursed for the
5 actual and necessary expenses incurred by them in the performance of their duties under this Act.

6 SECTION 7. *Meetings.* – The Advisory Council shall meet regularly and at least four
7 times per year. Special meetings may be called by the Chairperson of the Council and shall be
8 called by him or her at the request of any of its members.

9 SECTION 8. *Recommendations to and Reports for the President.* –

10 (A) The advisory council shall submit its recommendations in writing to the President
11 within six (6) months after the first meeting of all ten members. The Council's recommendations
12 shall include, but not be limited to, the following:

13 (1) Whether all, none, or some of the rights arising out of the creation of
14 intellectual property should be dedicated to the public domain.

15 (2) The manner why which the Government should maximize the protection of
16 intellectual property that it owns.

17 (3) The manner by which Government employees and officials should be made
18 aware of the obligations, restrictions, requirements, and opportunities
19 regarding the protection and management of Government-owned intellectual
20 property.

21 (4) The manner by which Government employees and officials should be
22 informed on disclosure and whether a uniform system of disclosure should be
23 developed and implemented.

24 (5) The actions that are being taken by Government agencies, authorities, boards,
25 and commissions to manage Government-owned intellectual property.

1 (6) The manner by which ownership rights should be determined when
2 intellectual property is created by Government employees in the course of
3 their Government employment.

4 (B) The Council shall also submit reports to the President providing guidance on how
5 to:

6 (1) Promote the utilization of intellectual property arising from Government-
7 supported contracts, grants, and agreements.

8 (2) Encourage maximum participation of small-business firms in licensing
9 Government-owned intellectual property.

10 (3) Promote collaboration between commercial concerns and Government entities
11 in commercializing Government-owned intellectual property.

12 (4) Ensure that there are mechanisms in place that allow the Government to obtain
13 certain minimal rights in Government-supported intellectual property to meet
14 the needs of the Government and protect the public against nonuse or
15 unreasonable use of such intellectual property.

16 SECTION 9. *Separability Clause.* – If any provision or part hereof, is held invalid or
17 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
18 valid and subsisting.

19 SECTION 10. *Repealing Clause.* – Any law, presidential decree or issuance, executive
20 order, letter of instruction, administrative order, rule or regulation contrary to, or inconsistent
21 with the provisions of this Act is hereby repealed, modified or amended accordingly.

22 SECTION 11. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
23 publication in at least two (2) newspapers of general circulation.

Approved.