

FIFTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

SENATE
OFFICE OF THE SECRETARY

10 AUG 10 P5:40

SENATE

S. No. 2364

RECEIVED

Introduced by Senator FRANCIS G. ESCUDERO

EXPLANATORY NOTE

It shall be the policy of the State to protect and promote the welfare, rights and interests of government-owned and -controlled corporations, their subsidiaries, other corporate off springs, including government acquired asset corporations, government corporate entities and government instrumentalities with corporate powers, government financial institutions, and other government entities, agencies and offices hereafter referred to as "government corporations".

Executive Order No. 292, otherwise known as the Administrative Code of 1987, has defined the mandate of the Office of the Government Corporate Counsel (OGCC) as the premier law office of government-owned and controlled corporations (GOCCs), their subsidiaries, other corporate offspring and government-acquired asset corporations. As such, it is mandated to safeguard their legal interests in a competent, speedy and adequate legal service in its commitment to uphold justice under the rule of law.

Every year, an increasing number of requests for legal advice and cases is being responded to and handled by the OGCC, in addition to the performance of its adjudicatory and other functions.

To efficiently and effectively address the expanding needs of these government corporations, this proposed bill seeks to strengthen the OGCC by re-defining, expanding, strengthening, rationalizing and further professionalizing the OGCC as an organization and upgrading the employee benefits.

In view thereof, the approval of this proposed bill is earnestly sought.



FRANCIS G. ESCUDERO

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REPUBLIC OF THE PHILIPPINES)
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S. No. 2364

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**AN ACT
TO STRENGTHEN THE OFFICE OF THE GOVERNMENT CORPORATE
COUNSEL, BY RE-DEFINING, EXPANDING, STRENGTHENING,
RATIONALIZING AND FURTHER PROFESSIONALIZING ITS
ORGANIZATION, UPGRADING EMPLOYEE BENEFITS AND APPROPRIATING
FUNDS THEREFOR**

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

1 **SECTION 1.** *Declaration of Policy* - It shall be the policy of the State to protect
2 and promote the welfare, rights and interests of government-owned and -controlled
3 corporations, their subsidiaries, other corporate offsprings, including government
4 acquired asset corporations, government corporate entities and government
5 instrumentalities with corporate powers, government financial institutions, and other
6 government entities, agencies and offices hereafter referred to as "government
7 corporations".

8
9 Toward this end, the State shall require the improvement of legal services in the
10 government to efficiently and effectively address the expanding needs of these
11 government corporations in accordance with its initiative towards an improved fiscal
12 management and good corporate governance.

13
14 **SECTION 2.** *Jurisdiction and Mandate* - Any law to the contrary
15 notwithstanding, the Office of the Government Corporate Counsel ("OGCC") shall be
16 the legal counsel and principal law office of all government corporations. All
17 government corporations shall refer to the OGCC the following:

- 18
19 a) All legal questions for opinion and advice;
20 b) Prior to their execution, all contracts for review; and
21 c) All cases for representation before regular courts, quasi-judicial bodies,
22 administrative agencies and arbitral tribunals, *provided that*, the Government
23 Corporate Counsel ("GCC") may thereafter authorize the legal department of
24 the government corporation as collaborating counsel to handle cases, as the
25 urgency or expediency of circumstances may warrant.

26
27 In addition, the OGCC shall:

- 28 a) Conciliate, mediate, arbitrate or adjudicate all disputes or controversies
29 exclusively between government corporations;

- 1 b) Exercise control and supervision over the legal departments of all government
- 2 corporations;
- 3 c) Approve the engagement of services of private lawyers by the government
- 4 corporations; and
- 5 d) Enforce the Property Insurance Law pursuant to Republic Act No. 656, as
- 6 amended by Presidential Decree No. 245, in domestic or international
- 7 transactions.

8
9 The OGCC shall be an independent and autonomous office attached to the
10 Department of Justice. All opinions and issuances of the OGCC shall be binding on all
11 government corporations.

12
13 **SECTION 3. *Expansion and Upgrading of Positions*** - The GCC shall have a
14 cabinet rank and the same prerogatives, salary, allowances, benefits and privileges as
15 the Presiding Justice of the Court of Appeals. He/she shall be assisted by a Deputy
16 Government Corporate Counsel ("DGCC") and twelve (12) Assistant Government
17 Corporate Counsels ("AGCC") who shall have the rank, salary, allowances, retirement
18 and benefits, and privileges of an Associate Justice of the Court of Appeals.

19
20 No person shall be appointed GCC, DGCC or AGCC unless he/she is a natural-
21 born citizen of the Philippines and, for at least ten (10) years, has been engaged in the
22 practice of law in the Philippines. The number, rank, qualifications for appointment,
23 salary, allowances, retirement and other benefits, and privileges of the other members
24 of the legal staff shall be as follows:

- 25
26 (a) Twenty (20) Government Corporate Attorney IV (the "GCA IV") who shall
27 have the rank, salary, allowances, retirement and benefits, and privileges of
28 a Regional Trial Court Judge. No person shall be appointed GCA IV unless
29 he/she is a natural-born citizen of the Philippines and, for at least eight (8)
30 years, has been engaged in the practice of law in the Philippines;
- 31
32 (b) Twenty (20) Government Corporate Attorney III (the "GCA III") who shall
33 have the rank, salary, allowances, retirement and benefits, and privileges of
34 a Metropolitan Trial Court Judge. No person shall be appointed GCA III
35 unless he/she is a natural-born citizen of the Philippines and, for at least five
36 (5) years, has been engaged in the practice of law in the Philippines;
- 37
38 (c) Twenty (20) Government Corporate Attorney II (the "GCA II") who shall
39 have the rank, salary, allowances, retirement and benefits, and privileges of
40 a Municipal Trial Court Judge in Cities. No person shall be appointed GCA
41 II unless he/she is a natural-born citizen of the Philippines and, for at least
42 four (4) years, has been engaged in the practice of law in the Philippines;
- 43
44 (d) Ten (10) Government Corporate Attorney I (the "GCA I") who shall have the
45 rank, salary, allowances, retirement and benefits, and privileges of a
46 Municipal Trial Court Judge. No person shall be appointed GCA I unless
47 he/she is a natural-born citizen of the Philippines and, for at least three (3)
48 years, has been engaged in the practice of law in the Philippines;
- 49
50 (e) Seven (7) Associate Government Corporate Attorney II who must be
51 members of the Philippine Bar and, for at least two (2) years, has been
52 engaged in the practice of law in the Philippines; and,
- 53

1 (f) Five (5) Associate Government Corporate Attorney I who must be members
2 of the Philippine Bar and, for at least one (1) year, has been engaged in the
3 practice of law in the Philippines.
4

5
6 The GCC shall serve for a fixed term of six (6) years reckoned from the date of
7 his/her appointment. The fixed term of the GCC shall apply and commence to
8 appointments to the said position beginning July 1, 2010.
9

10 The GCC, DGCC and AGCC shall be appointed by the President of the
11 Philippines. The other members of the legal staff and administrative personnel shall be
12 appointed by the GCC. Appointments of the DGCC, AGCC and other members of the
13 legal staff shall be deemed permanent upon compliance with the qualification
14 standards heretofore stated.
15

16 The administrative structure of the OGCC shall be organized into the Finance
17 and Accounting Services, the Human Resource and Management Services, the Case
18 and Records Management Services, the Library Management and Information
19 Technology Services and the Property and Supply Services.
20

21 The legal and non-legal staff of the OGCC occupying the positions affected by
22 the changes embodied in this Act at the time of its approval shall thereafter occupy
23 and discharge the duties and functions of the upgraded positions and receive and
24 receive the corresponding salary and benefits without necessity of new appointment.
25

26 **SECTION 4.** Compensation - The basic monthly compensation of the legal staff
27 shall be as follows:
28

Position	Salary Grade	
	From	To
Government Corporate Counsel	30	31
Deputy Government Corporate Counsel	29	30
Assistant Government Corporate Counsel	29	30
Government Corporate Attorney IV	28	29
Government Corporate Attorney III	27	28
Government Corporate Attorney II	26	27
Government Corporate Attorney I	25	26
Associate Government Corporate Attorney I	22	24
Associate Government Corporate Attorney II	18	23

29
30
31 The non-legal personnel shall have the same compensation as that of their
32 counterparts in the Office of the Solicitor General and Court of Appeals.
33

34 The salaries and privileges of the personnel of the OGCC granted under this
35 Act may further be increased to match any corresponding increase in salaries and
36 privileges subsequently granted to their respective counterparts in the judiciary.
37

38 **SECTION 5.** *Personnel benefits and privileges* - Provisions of other laws to the
39 contrary notwithstanding, the OGCC may provide its employees the following
40 benefits:

- 1 I. Health care services through a health maintenance organization (HMO).
2 Expenses for the mandatory medical annual check-up of the GCC, the
3 DGCC and the AGCC shall be for the account of the office.
- 4 II. Accident insurance for all employees to be procured by the office at its own
5 expense during travels while in the performance of official duties;
- 6 III. Without prejudice to the efficiency of the service, scholarships for deserving
7 employees on official time and at the expense of the office to upgrade their
8 knowledge and skills; *provided that*, scholars under this provision shall be
9 selected on the basis of merit as determined by competitive examination;
- 10 IV. A provident fund which shall consist of, but not be limited to contributions
11 made by the office and by its lawyers and employees to a common fund for
12 the payment of benefits to such lawyers or employees or their respective
13 beneficiaries/heirs.
14

15 **SECTION 6. Seminar and other Professional Fees** - Subject to availability of funds,
16 fees for relevant seminars, as well as professional 3 membership fees for lawyers,
17 registration fees and related miscellaneous expenses incurred in completing the
18 mandatory continuing legal education (MCLE) shall be borne by the office.
19 Professional membership, registration fees including those for mandatory continuing
20 professional education (CPE), and related miscellaneous expenses of other employees
21 holding positions for which a professional license is required by the office, shall also
22 be borne by the OGCC.
23

24 **SECTION 7. Transportation Benefits** - Subject to availability of funds, employees
25 shall be provided with contracted transportation services until such time as the office
26 can procure additional motor vehicles for this purpose.
27

28 **SECTION 8. Other Benefits** - Provisions of other laws to the contrary
29 notwithstanding, the legal staff of the OGCC are allowed to receive allowances and
30 honoraria from its client-government corporations. Employees of the OGCC may
31 likewise be extended such benefits and privileges as are given to the employees of
32 their clients.
33

34 When the exigency of the service so require, any member of the legal staff may
35 be designated by the GCC to act in concurrent capacity as corporate officer of, or
36 assigned to perform special or additional tasks in any of the client government
37 corporations of the OGCC and by virtue of such designation or assignment, receive
38 such additional compensation and privileges as may be granted them by the
39 government corporation concerned.
40

41 **SECTION 9. Attorney's fees and Special Assessment.** - The OGCC is authorized to
42 receive twenty percent (20%) of all the money claims collected by or
43 awarded/adjudged to client-government corporations in addition to the attorney's
44 fees awarded by a court, tribunal or panel, including awards/judgments, stipulated
45 under court-approved compromise agreements. The OGCC is hereby utilized to use
46 such awards and attorneys fees to meet contingencies, obligations and undertakings,
47 or for employee salaries, allowances, other benefits and incentives, necessary or
48 proper to promote efficiency in the service as determined by the GCC subject to the
49 rules and regulations of the Commission on Audit and the Department of Budget and
50 Management may authorize.
51

52 The GCC is likewise authorized to make special assessments upon its client
53 government corporations to similarly meet such contingencies, obligations and

1 undertakings, or to provide for employee salaries, allowances, other benefits and
2 incentives, as may be warranted or proper as determined by the GCC.

3
4 **SECTION 10. *Special Allowance*** - The GCC, DGCC, AGCC and other members
5 of the legal staff may be granted special allowances in such amounts to be determined
6 by the GCC to implement the salary increases. The grant of special allowances shall be
7 implemented uniformly in such amounts and up to extent only that can be supported
8 by the funding source specified in Section 11 hereof.

9
10 **SECTION 11. *Funding*** - The funds required for the implementation of this Act
11 including employee benefits shall be taken from:

- 12
13 I. The Twenty percent (20%) share of the money claims collected or awarded
14 in judgments in favor of government corporations and all Attorney's fees
15 authorized to be received by the OGCC pursuant to this Act and Executive
16 Order No. 292 or the Revised Administrative Code of 1987;
17 II. Special assessments made by the GCC upon client government corporations;
18 and
19 III. Other revenues, savings, fees generated and collected and donations
20 received by the OGCC.

21
22 **SECTION 12. *Franking Privilege*** - All official matters and telegrams of the OGCC
23 addressed for delivery within the Philippines shall be received, transmitted and
24 delivered free of charge *provided*, that such mail matters when addressed to private
25 persons or non- government offices shall not exceed one hundred and twenty (120)
26 grams.

27
28 **SECTION 13. *Appropriations*** - The amount needed for employees' salaries,
29 mandatory allowances and benefits under other laws and office expansion shall be
30 appropriated in the budget of the OGCC under the annual General Appropriations
31 Act.

32
33 **SECTION 14. *Implementing Rules and Regulations*** - Within sixty (60) days from the
34 approval of this Act, the GCC in consultation with the Secretary of the Justice and
35 Secretary of Budget and Management, shall promulgate such rules and regulations as
36 may be necessary to carry out the provisions of this Act.

37
38 **SECTION 15. *Repealing Clause***- Provisions of Executive Order No. 292 or the
39 Revised Administrative Code of 1987, as amended, Executive Order No. 878 dated
40 March 4, 1983, Presidential Decree No. 1415 dated June 9, 1978, Republic Act No. 6000
41 dated August 4, 1969 and other pertinent laws, rules and regulations shall remain in
42 force and effect unless otherwise contrary or inconsistent with the provisions of this
43 Act.

44
45 **SECTION 16. *Separability Clause*** -If any of the provisions of this Act is declared
46 invalid or unconstitutional, the provisions not affected thereby shall continue to be in
47 full force and effect.

48
49 **SECTION 17. *Effectivity*** - This Act shall take effect after fifteen (15) days from its
50 publication in a national newspaper of general circulation.

51
52 *Approved,*