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OFFICE OF THE SECRETARY

Senate Bill No. 2991

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Prepared and submitted jointly by the Committees on Justice and Human Rights; Civil Service and Government Reorganization and Finance with Senators Enrile, Trillañes IV, Lacson and Escudero as authors thereof

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

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

13 SECTION 2. *Jurisdiction and mandate* - Any law to the contrary
14 notwithstanding, the Office of the Government Corporate Counsel ("OGCC")

1 shall be the legal counsel and principal law office of all government
2 corporations. All government corporations shall refer to the OGCC the
3 following:

- 4 a) All legal questions for opinion and advice;
- 5 b) Prior to their execution, all contracts for review; and
- 6 c) All cases for representation before regular courts, quasi-judicial
7 bodies, administrative agencies and arbitral tribunals, *Provided*
8 *That* the Government Corporate Counsel ("*GCC*") may thereafter
9 authorize the legal department of the government corporation as
10 collaborating counsel to handle cases, as the urgency or
11 expediency of circumstances may warrant.

12 In addition, the OGCC shall:

- 13 a) Conciliate, mediate, arbitrate or adjudicate all disputes or
14 controversies exclusively between government corporations;
- 15 b) Exercise control and supervision over the legal departments of
16 all government corporations;
- 17 c) Approve the engagement of services of private lawyers by the
18 government corporations; and
- 19 d) Enforce the Property Insurance Law pursuant to Republic Act
20 No. 656, as amended by Presidential Decree No. 245, in domestic
21 or international transactions.

22 The OGCC shall be an independent and autonomous office attached to
23 the Department of Justice. All opinions and issuances of the OGCC shall be
24 binding on all government corporations.

1 **SECTION 3. *Expansion and Upgrading of Positions*** - The GCC shall
2 have a cabinet rank and the same prerogatives, salary, allowances, benefits
3 and privileges as the Presiding Justice of the Court of Appeals. He/she shall
4 be assisted by a Deputy Government Corporate Counsel (“DGCC”) and twelve
5 (12) Assistant Government Corporate Counsels (“AGCC”) who shall have the
6 rank, salary, allowances, retirement and benefits, and privileges of an
7 Associate Justice of the Court of Appeals.

8 No person shall be appointed GCC, DGCC or AGCC unless he/she is a
9 natural-born citizen of the Philippines and, for at least ten (10) years, has
10 been engaged in the practice of law in the Philippines.

11 The number, rank, qualifications for appointment, salary, allowances,
12 retirement and other benefits, and privileges of the other members of the
13 legal staff shall be as follows:

14 a) Twenty (20) Government Corporate Attorney IV (the “GCA IV”) who
15 shall have the rank, salary, allowances, retirement and benefits,
16 and privileges of a Regional Trial Court Judge. No person shall be
17 appointed GCA IV unless he/she is a natural-born citizen of the
18 Philippines and, for at least eight (8) years, has been engaged in the
19 practice of law in the Philippines;

20 b) Twenty (20) Government Corporate Attorney III (the GCA III”) who
21 shall have the rank, salary, allowances, retirement and benefits,
22 and privileges of a Metropolitan Trial Court Judge. No person shall
23 be appointed GCA III unless he/she is a natural-born citizen of the
24 Philippines and, for at least five (5) years, has been engaged in the
25 practice of law in the Philippines;

- 1 c) Twenty (20) Government Corporate Attorney II (the "GCA II") who
2 shall have the rank, salary, allowances, retirement and benefits,
3 and privileges of a Municipal Trial Court Judge in Cities. No person
4 shall be appointed GCA II unless he/she is a natural-born citizen of
5 the Philippines and, for at least four (4) years, has been engaged in
6 the practice of law in the Philippines;
- 7 d) Ten (10) Government Corporate Attorney I (the "GCA I") who shall
8 have the rank, salary, allowances, retirement and benefits, and
9 privileges of a Municipal Trial Court Judge. No person shall be
10 appointed GCA I unless he/she is a natural-born citizen of the
11 Philippines and, for at least three (3) years, has been engaged in
12 the practice of law in the Philippines;
- 13 e) Seven (7) Associate Government Corporate Attorney II who must be
14 members of the Philippine Bar and, for at least two (2) years, has
15 been engaged in the practice of law in the Philippines; and,
- 16 f) Five (5) Associate Government Corporate Attorney I who must be
17 members of the Philippine Bar and, for at least one (1) year, has
18 been engaged in the practice of law in the Philippines.

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

22 The GCC, DGCC and AGCC shall be appointed by the President of the
23 Philippines. The other members of the legal staff and administrative
24 personnel shall be appointed by the GCC. Appointments of the DGCC, AGCC

1 and other members of the legal staff shall be deemed permanent upon
2 compliance with the qualification standards heretofore stated.

3 The administrative structure of the OGCC shall be organized into the
4 Finance and Accounting Services, the Human Resource and Management
5 Services, the Case and Records Management Services, the Library
6 Management and Information Technology Services and the Property and
7 Supply Services.

8 The legal and non-legal staff of the OGCC occupying the positions
9 affected by the changes embodied in this Act at the time of its approval shall
10 thereafter occupy and discharge the duties and functions of the upgraded
11 positions and receive and receive the corresponding salary and benefits
12 without necessity of new appointment.

13 SECTION 4. *Compensation* - The basic monthly compensation of the
14 legal staff shall be as follows:

<u>Position</u>	<u>Salary</u>		<u>Grade</u>
	<u>From</u>	<u>To</u>	
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	

1 The non-legal personnel shall have the same compensation as that of
2 their counterparts in the Office of the Solicitor General and Court of Appeals.

3 The salaries and privileges of the personnel of the OGCC granted
4 under this Act may further be increased to match any corresponding
5 increase in salaries and privileges subsequently granted to their respective
6 counterparts in the judiciary.

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

10 I. *Health care services* through a health maintenance organization
11 (HMO). Expenses for the mandatory medical annual check-up of
12 the GCC, the DGCC and the AGCC shall be for the account of the
13 office.

14 II. *Accident insurance* for all employees to be procured by the office
15 at its own expense during travels while in the performance of
16 official duties;

17 III. *Without prejudice to the efficiency of the service, scholarships*
18 *for deserving employees on official time and at the expense of the*
19 *office to upgrade their knowledge and skills; Provided That,*
20 *scholars under this provision shall be selected on the basis of*
21 *merit as determined by competitive examination;*

22 IV. *A provident fund which shall consist of, but not be limited to*
23 *contributions made by the office and by its lawyers and*
24 *employees to a common fund for the payment of benefits to such*
25 *lawyers or employees or their respective beneficiaries/heirs.*

1 **SECTION 6. *Seminar and other Professional Fees*** - Subject to
2 availability of funds, fees for relevant seminars, as well as professional
3 membership fees for lawyers, registration fees and related miscellaneous
4 expenses incurred in completing the mandatory continuing legal education
5 (MCLE) shall be borne by the office. Professional membership, registration
6 fees including those for mandatory continuing professional education (CPE),
7 and related miscellaneous expenses of other employees holding positions for
8 which a professional license is required by the office, shall also be borne by
9 the OGCC.

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

14 **SECTION 8. *Other Benefits*** - Provisions of other laws to the contrary
15 notwithstanding, the legal staff of the OGCC are allowed to receive
16 allowances and honoraria from its client-government corporations.
17 Employees of the OGCC may likewise be extended such benefits and
18 privileges as are given to the employees of their clients.

19 When the exigency of the service so require, any member of the legal staff
20 may be designated by the GCC to act in concurrent capacity as corporate
21 officer of, or assigned to perform special or additional tasks in any of the
22 client government corporations of the OGCC and by virtue of such
23 designation or assignment, receive such additional compensation and
24 privileges as may be granted them by the government corporation
25 concerned.

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

12 The GCC is likewise authorized to make special assessments upon its
13 *client government corporations* to similarly meet such contingencies,
14 obligations and undertakings, or to provide for employee salaries,
15 allowances, other benefits and incentives, as may be warranted or proper as
16 determined by the GCC.

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

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

- 1 I. The Twenty percent (20%) share of the money claims collected or
2 awarded in judgments in favor of government corporations and
3 all Attorney's fees authorized to be received by the OGCC
4 pursuant to this Act and Executive Order No. 292 or the Revised
5 Administrative Code of 1987;
- 6 II. Special assessments made by the GCC upon client government
7 corporations; and
- 8 III. Other revenues, savings, fees generated and collected and
9 donations received by the OGCC.

10 SECTION 12. *Franking Privilege* - All official matters and telegrams of
11 the OGCC addressed for delivery within the Philippines shall be received,
12 transmitted and delivered free of charge *Provided*, That such mail matters
13 when addressed to private persons or non- government offices shall not
14 exceed one hundred and twenty (120) grams.

15 SECTION 13. *Appropriations* - The amount needed for employees'
16 salaries, mandatory allowances and benefits under other laws and office
17 expansion shall be appropriated in the budget of the OGCC under the annual
18 General Appropriations Act.

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

24 SECTION 15. *Repealing Clause* - Provisions of Executive Order No. 292
25 or the Revised Administrative Code of 1987, as amended, Executive Order

1 No. 878 dated March 4, 1983, Presidential Decree No. 1415 dated June 9,
2 1978, Republic Act No. 6000 dated August 4, 1969 and other pertinent laws,
3 rules and regulations shall remain in force and effect unless otherwise
4 contrary or inconsistent with the provisions of this Act.

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

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

10 Approved.