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**NINETEENTH CONGRESS OF THE }
REPUBLIC OF THE PHILIPPINES }**
Third Regular Session }

RECEIVED BY: 

SENATE

S. NO. 2732

Introduced by Senator Francis "Tol" N. Tolentino

AN ACT

**STRENGTHENING THE LEGAL STAFF OF THE DEPARTMENT OF JUSTICE,
RENAMING IT AS THE OFFICE OF THE CHIEF STATE COUNSEL, REDEFINING,
EXPANDING, RATIONALIZING AND FURTHER PROFESSIONALIZING ITS
ORGANIZATION, AND APPROPRIATING FUNDS THEREFOR**

EXPLANATORY NOTE

Executive Order (EO) No. 292 or the Administrative Code of 1987 provides for the role of the Department of Justice as the country's principal law agency – providing both the legal counsel and prosecution arm of the government. These core functions are delegated to the Legal Staff, as legal counsel, and to the National Prosecution Service, as the prosecution arm.

The charter of the Legal Staff in the Office of the Secretary of Justice is embodied under Republic Act No. 2705, as amended by Republic Act No. 4152. It enumerates the duties and composition of the Legal Staff and it provides for their qualifications, appointment, ranks, and salaries. The DOJ Legal Staff's main function is to present in a legal opinion how the law should be applied in relation to the function of national government agencies.

In addition to this duty, the DOJ Legal Staff acts as the Central Authority with regard to international legal cooperation. The State Counsels also assists the Secretary as the Attorney General by preparing comments on the bills filed in both the House of Representatives and Senate of the Philippines. Furthermore, they resolve questions on constitutionality of municipal tax ordinances and settle controversies between government agencies. Through the Legal Staff, the President, as well as the Executive branch, in general, fulfills his mandate to "ensure that the laws be faithfully executed." Such gargantuan task currently rests upon the Chief State Counsel and a very small number of only forty-two (42) state counsels and twenty-six (26) support staff.

Given the myriad of roles of the DOJ Legal Staff, it is important that there be organizational upgrading to effectively perform their mandate. The counterparts of the Chief State Counsel, namely, the Prosecutor General and the Solicitor General in the Office of the Solicitor General, are already equivalent to the rank of Presiding Justices of the Court of Appeals. It is only right that we recognize the position of the Chief State Counsel as such and grant them the same benefits.

Truly, the work of the Legal Staff can be said to be low key, but high impact.

Recently, compensation and retirement benefits from the Office of the Ombudsman, the National Prosecution Service, and the Judiciary have been upgraded, leaving the Legal Staff, the government's legal counsel, behind. This has, unfortunately, resulted to several lawyers and personnel of the Legal Staff moving to said offices, hampering the effectiveness of the latter in performing its tasks.

Taking into account the foregoing, there is a need to improve on the current compensation and benefits that the Legal Staff is receiving. Doing so will prevent the exodus of its lawyers and personnel, and at the same time, ensure that the Legal Staff will attract competent and capable human resource, who will dedicate their life to public service.

It is high time for the Legal Staff of the Department of Justice to be compensated and treated the same as that of the other lawyers in public service.

The passage of this Bill is earnestly sought.



FRANCIS "TOL" N. TOLENTINO

Senator



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

1 **SECTION 1. *Short Title.*** – This Act shall be known as the “**Office of the Chief**
2 **State Counsel Act.**”

3 **SEC. 2. *Office of the Chief State Counsel.*** – The Legal Staff created under
4 Republic Act (R.A.) No. 2705, as amended by R.A. No. 4152, shall be renamed as the
5 “Office of the Chief State Counsel.”

6 **SEC. 3. *State Counsel.*** - Unless otherwise specified, the term “State Counsel”
7 shall refer to the Chief State Counsel, Deputy Chief State Counsel, Senior State Counsel,
8 and State Counsels I to IV.

9 **SEC 4. *Powers and Functions.*** – The Office of the Chief State Counsel shall
10 assist the Secretary of Justice in the exercise of his functions as Attorney General of the
11 Philippines and *ex officio* legal adviser of government-owned or controlled corporations,
12 or enterprises and their subsidiaries. The Office of the Chief State Counsel shall be under
13 the supervision and control of the Secretary of Justice. The Office of the Chief State
14 Counsel shall have the following powers and functions:

- 15 a. Recommend to the Secretary of Justice, legal opinion or advice on
16 questions of law arising from the performance of powers and duties,

1 and upon request of heads of national government functionaries and
2 act on other queries;

3 b. Study and recommend to the Secretary of Justice the following:

4 i. Comments and position papers on proposed legislations,
5 whenever there are legal issues involved;

6 ii. Opinion or comments on the legality and validity of foreign loan
7 and guarantee agreements, and, in certain cases, agreements
8 related to domestic borrowings;

9 c. Lead negotiations of treaties, conventions, or agreements involving
10 international legal cooperation, including extradition, mutual legal
11 assistance in criminal matters, and transfer of sentenced persons;

12 d. Serve as legal adviser to other government agencies in the negotiations
13 and implementation of international agreements, and whenever so
14 requested, lead in the negotiations involving legal and institutional
15 issues;

16 e. Represent the Secretary of Justice or Department of Justice (DOJ) as
17 the designated Central Authority in treaties, conventions, and other
18 international agreements;

19 f. Act on requests for mutual legal assistance in criminal matters,
20 extradition, transfer of sentenced persons, and other forms of
21 international legal cooperation;

22 g. Represent and serve as counsel of the requesting state in all stages of
23 cases relating to extradition and mutual legal assistance in criminal
24 matters;

25 h. Serve on standing councils, committees, working groups, and task
26 forces, as required;

27 i. Review Orders of the Bureau of Immigration, including recognition of
28 Filipino citizens or cancellation of alien certificate of registration, and
29 deportation cases;

30 j. Adjudication of disputes, claims and controversies between or among
31 government offices, agencies and instrumentalities, including
32 government-owned and controlled corporations, when only questions
33 of law are raised;

k. Review the legality and validity of tax ordinances and revenue measures;

l. Act on applications for the following:

i. Special non-immigrant visas under Sec. 47(a)(2) of Commonwealth Act (C.A.) No. 613, otherwise known as the *Philippine Immigration Act of 1940*, as amended;

ii. Special authority to employ foreign nationals under C.A. No. 108, otherwise known as the *Anti-Dummy Law*, as amended;

iii. Recognition of refugee and statelessness status;

iv. Validation of land titles filed pursuant to Presidential Decree (P.D.) No. 1271 entitled "*An Act Nullifying the Decrees of Registration and Certificates of Title Covering Lands Within the Baguio Townsite Reservation*";

m. Supervise the Department Law Library, as well as its personnel; and,

n. Exercise such other powers and functions as may be provided by law or as may be delegated by the Secretary of Justice.

SEC 5. Expansion. The staff of the Office of the Chief State Counsel shall be increased and their positions upgraded, with a corresponding increase in the general and administrative support personnel and provision for ample office space. There shall be seven (7) divisions in the Office of the Chief State Counsel. Each division shall be headed by a Deputy Chief State Counsel and shall consist of at least ten (10) State Counsels, and such personnel as may be necessary for the office to effectively carry out its functions. Upon the recommendation of the Chief State Counsel, provided the exigencies of service requires it, the Secretary of Justice may create additional divisions.

The designation, ranks, and salary grades of State Counsels are amended as follows:

OLD POSITION		NEW POSITION	
POSITION/ DESIGNATION	SALARY GRADE	POSITION/ DESIGNATION	SALARY GRADE

Chief State Counsel	SG 30	Chief State Counsel	SG 30 Step 4
Assistant Chief State Counsel	SG 29	Deputy Chief State Counsel	SG 30
State Counsel V	SG 28	Senior State Counsel	SG 29
State Counsel IV	SG 27	State Counsel IV	SG 28
State Counsel III	SG 26	State Counsel III	SG 27
State Counsel II	SG 25	State Counsel II	SG 26
State Counsel I	SG 24	State Counsel I	SG 25

1 The Chief State Counsel and the Deputy Chief State Counsels shall be appointed
2 by the President of the Philippines. All other State Counsels and administrative personnel
3 shall be appointed by the Secretary of Justice upon recommendation by the Promotion
4 and Selection Board.

5 The Chief State Counsel and the Deputy Chief State Counsels shall act as the
6 Promotion and Selection Board to screen applicants for appointment and promotion to
7 any State Counsel position and administrative personnel in the Office of the Chief State
8 Counsel. The Chief State Counsel shall be the chairperson of the Board.

9 Appointments of the State Counsels shall be deemed permanent upon compliance
10 with the prescribed qualification standards under the law. The State Counsels occupying
11 the positions affected by the changes in this Act at the time of its approval shall thereafter
12 occupy and discharge the duties and functions of the upgraded positions and receive the
13 corresponding salary, benefits and privileges without necessity of new appointment.

1 The State Counsels occupying the positions affected by the changes in this Act at
2 the time of its approval shall thereafter occupy and discharge the duties and functions of
3 the upgraded positions and receive the corresponding salary, benefits, and privileges,
4 without necessity of new appointment.

5 There shall be positions created for administrative personnel equivalent to at least
6 one (1) support staff for every two (2) State Counsels.

7 **SEC. 6. *Qualifications of the State Counsels.*** - The Chief State Counsel and
8 Deputy Chief State Counsels must be citizens of the Philippines and have been engaged
9 in the practice of law in the Philippines for at least fifteen (15) years prior to their
10 appointment.

11 Senior State Counsels must be members of the Philippine Bar for at least ten (10)
12 years prior to their appointment.

13 State Counsels IV must be members of the Philippine Bar for at least five (5) years
14 prior to their appointment.

15 State Counsels III must be members of the Philippine Bar for at least four (4) years
16 prior to their appointment.

17 State Counsels II must be members of the Philippine Bar for at least three (3)
18 years prior to their appointment.

19 State Counsels I must be members of the Philippine Bar for at least one (1) year
20 prior to their appointment.

21 **SEC. 7. *Compensation and Benefits.*** - The salaries and allowances of State
22 Counsels shall correspond to the position, rank, and salary grade pursuant to Section 5
23 hereof. The Chief State Counsel and the Deputy Chief State Counsels shall enjoy the same
24 retirement, death, survivorship, and other benefits as those of a Presiding Justice and
25 Associate Justice of the Court of Appeals, respectively. Senior State Counsels shall enjoy
26 the same retirement, death, survivorship, and other benefits as those of the judges of
27 the Regional Trial Courts. All other State Counsels shall enjoy the same retirement, death,
28 survivorship, and other benefits as those of the judges of the Metropolitan Trial Courts,
29 Municipal Trial Courts in Cities, Municipal Trial Courts, and Municipal Circuit Trial Courts.

30 **SEC. 8. *Retirement Benefits.*** - When a State Counsel, who has rendered at
31 least fifteen (15) years of service either in the Office of the Chief State Counsel or in any
32 branch of government, or in both, retires for having attained the age of sixty-five (65)
33 years or resigns by reason of incapacity to discharge the duties of his or her office, he or
34 she shall, during the residue of his or her natural life, in the manner hereinafter provided,
35 receive a retirement pension based on the highest monthly salary, plus the highest

1 monthly aggregate of transportation, living and representation allowances, which he or
2 she was receiving at the time of his or her retirement or resignation.

3 A State Counsel, who retires after having worked for at least fifteen (15)
4 uninterrupted years in the Office of the Chief State Counsel, shall also earn longevity pay
5 in addition to retirement benefits.

6 When a State Counsel has attained the age of sixty (60) years and has rendered
7 at least fifteen (15) years of service in government, the last five (5) years of which must
8 have been continuously rendered in the Office of the Chief State Counsel, he or she shall
9 likewise be entitled to retire and receive during the residue of his or her natural life the
10 same benefits provided for in Paragraph 1 of this Section; Provided, however, that those
11 with less than fifteen (15) years of service in the government shall be entitled to a *pro*
12 *rata* pension computed as follows:

No. of years		Basic Pay Plus the Highest
In Government		Monthly Aggregate of
<u> </u>	x	Transportation, Living and
15 years		Representation Allowances

13 Upon retirement, a State Counsel shall automatically be entitled to a lump sum of
14 five (5) years' gratuity computed on the basis of the highest monthly salary plus the
15 highest aggregate transportation, living and representative allowances he or she was
16 receiving on the date of retirement, and thereafter, upon survival after the expiration of
17 five (5) years, to further annuity payable monthly during the residue of his or her natural
18 life pursuant to the first and second paragraph of this Section.

19 **SEC. 9. Collateral Increase.** - All pension benefits of retired State Counsels shall
20 be automatically increased whenever there is an increase in the salary and allowance for
21 the same position from which they retired.

22 **SEC. 10. Survivorship Benefits.** - In case a State Counsel covered by this Act
23 dies during his or her retirement, the surviving legitimate spouse and dependent of said
24 State Counsel shall be entitled to receive all the retirement benefits that the deceased
25 was receiving or entitled to receive at the time of death.

26 A "dependent" means a legitimate, illegitimate or legally-adopted child who is
27 chiefly dependent on the said deceased State Counsel if such dependent is not more than
28 twenty-one (21) years of age, unmarried and not gainfully employed, or if such
29 dependent regardless of age, is incapable of self-support because of mental or physical
30 disability or condition.

1 The surviving legitimate spouse shall continue to receive retirement benefits during
2 his or her lifetime or until he or she remarries; Provided, that the surviving legitimate
3 spouse receiving benefits under existing retirement laws shall only be entitled to the
4 difference between the amount provided for in this Act and the benefits he or she is
5 receiving; Provided, further, that said benefits shall be granted to the surviving legitimate
6 spouse or dependent of State Counsels who retired prior to the effectivity of this Act.

7 Funds for the initial implementation of this Section shall be taken out of the current
8 appropriations for the retirement of the State Counsel and/or savings of the DOJ.
9 Thereafter, such sums as may be necessary for the continued implementation of this
10 Section shall be included in the Annual General Appropriations Act.

11 **SEC. 11. *Death Benefits.*** – In case a State Counsel dies while in service,
12 regardless of age and length of service, the heirs shall receive a lump sum of five (5)
13 years' gratuity computed on the basis of the highest monthly salary plus the highest
14 aggregate of transportation, living and representation allowances being received by the
15 State Counsel at the time of death: *Provided, however,* That where said State Counsel
16 has rendered at least fifteen (15) years of government service, either in the Office of the
17 Chief State Counsel or in any branch of government, or both, his or her heirs shall instead
18 be entitled to a lump sum of ten (10) years gratuity computed on the same basis as
19 indicated in this provision: *Provided further,* That the lump sum of ten (10) years gratuity
20 shall be received by the heirs of a State Counsel who was killed by reason of his or her
21 duties as such: *Provided finally,* that the State Counsel has served in the Office of the
22 Chief State Counsel for at least five (5) years regardless of age at the time of death.
23 When a State Counsel is killed intentionally while in service, the presumption is that death
24 is work-related.

25 **SEC. 12. *Prohibitions.*** – To maintain entitlement to the retirement benefits
26 herein provided, a State Counsel shall not, during the time he or she is receiving said
27 benefit, appear as counsel before any judicial or quasi-judicial agency in any civil case
28 wherein the Government or any agency, subdivision, or instrumentality thereof is an
29 adverse party, or in any criminal case wherein any officer or employee of the Government
30 is accused of an offense committed in relation to his/her office, or collect any fee for his
31 or her appearance in any administrative proceedings, to maintain an interest adverse to
32 the government, whether national, provincial, or municipal or to any of its legally
33 constituted offices. When a State Counsel covered under this Act shall assume an elective
34 public office, he or she shall not, upon assumption of office and during his or her term,
35 receive retirement benefits.

36 **SEC. 13. *Other Benefits and Privileges.*** –The State Counsels and all
37 employees under the Office of the Chief State Counsel shall be entitled to the following
38 benefits:

- 1 a. Health care services through a health maintenance organization (HMO). Expenses
2 for the mandatory annual executive check-up of the Chief State Counsel, Deputy
3 Chief State Counsels and Senior State Counsels, shall be for the account of the
4 DOJ;
- 5 b. Accident insurance policies procured by the DOJ, at its own expense, during travels
6 while in the performance of their official duties and functions;
- 7 c. Scholarships to deserving employees, on official time and at the expense of the
8 DOJ, to enhance their academic growth and upgrade their knowledge and skills;
9 and,
- 10 d. Annual thirty (30) days forfeitable leave with pay, in addition to the fifteen (15)
11 days vacation leave and fifteen (15) days sick leave privileges provided for by law,
12 for all State Counsels. The forfeitable leave privilege under this Act shall be
13 noncumulative and non convertible to cash.

14 **SEC. 14. *Applicability.*** – All benefits heretofore extended under Republic Act
15 No. 910, as amended, and all other benefits that may be extended by way of amendment
16 thereto shall likewise be given to the State Counsels covered by this Act.

17 **SEC. 15. *Authority to Collect Fees.*** – The Office of the Chief State Counsel is
18 hereby authorized to assess, revise and collect fees for various services rendered in
19 accordance with Section 54, Chapter 12, Book IV of Executive Order No. 292, otherwise
20 known as the Administrative Code of 1987, and other laws. These collections shall be
21 deposited as a Trust Fund which shall be administered by the Secretary of Justice to
22 augment the Department's funds covering the privileges and benefits under Sections 13
23 and 17 hereof.

24 **SEC. 16. *Seminar and Other Related Fees.*** – Fees for relevant seminars, as
25 well as professional membership fees for lawyers, registration fees and related
26 miscellaneous expenses incurred in completing the mandatory continuing legal education
27 (MCLE) shall be charged against the Trust Fund.

28 **SEC. 17. *Franking Privilege.*** – The Office of the Chief State Counsel may
29 transmit through ordinary mail and/or registered mail with return card, free of charge, all
30 official communications and papers directly connected with the conduct of its duties and
31 functions.

32 **SEC. 18. *Appropriation.*** – There is hereby appropriated initially the sum of Two
33 Hundred Million Pesos (P200,000,000.00) from the funds of the National Treasury not
34 otherwise appropriated for the initial implementation of this Act. Thereafter, the amount
35 needed for the implementation of this Act shall be appropriated in the budget of the

1 Department of Justice under the Annual General Appropriations Act and from the
2 collected fees pursuant to Section 15 hereof.

3 **SEC. 19. *Separability Clause.*** – If any of the provisions of this Act is declared
4 unconstitutional or invalid, the provisions not affected thereby shall continue to be in full
5 force and effect.

6 **SEC. 20. *Repealing Clause.*** – All acts, laws, decrees, executive orders, letters
7 of instructions and regulations or any part thereof which are inconsistent with any
8 provision of this Act are hereby repealed and or modified accordingly.

9 **SEC. 21. *Effectivity.*** – This Act shall take effect after fifteen (15) days from its
10 publication in at least two (2) newspapers of general circulation or in the Official Gazette.

Approved,