

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 1020



Introduced by Hon. Jerry P. Treñas

EXPLANATORY NOTE

This bill seeks to create the Office of the State Counsel in the Department of Justice. It was originally filed as House Bill No. 6632 in the previous Congress. It was approved in principle by the Committee on Justice in the 15th Congress and all of the supporting documents and requirements were already submitted by the Department of Justice to the Justice and Appropriations Committee. This proposed legislation shall strengthen, streamline and expand the functions of the Legal Staff in the Department of Justice (DOJ) which shall be known as the Office of the State Counsel. The current Legal Staff of the DOJ plays a pivotal role in the country's international commitments and economic development.

The enactment of Republic Act No. 2705 on June 18, 1960 saw the creation of the Legal Staff that is headed by the Chief Legal Counsel with the assistance of thirty (30) attorneys. It was mandated to "assist the Secretary of Justice in the performance of his duties as Attorney General of the Philippines, and as *ex-officio* legal adviser of government corporations or enterprises."

The Legal Staff then was mainly responsible for the issuance by the Secretary of Justice of various written legal opinions requested by government entities, instrumentalities and offices.

Over the years, the Legal Staff has evolved and been involved in more undertakings of different fields. It adjudicates and arbitrates conflicts or controversies between or among government offices and agencies, resolves the legality of tax ordinances or measures, reviews citizenship and immigration cases, implements the anti-dummy law, negotiates and executes executive agreements and treaties, and determines the status of refugees in compliance with our commitment to the 1951 United Nations Convention Relating to the Status of Refugees and the 1954 United Nations Convention Relating to the Status of Stateless Persons.

Today, the Legal Staff is engaged in more government programs and international undertakings unprecedented in its history. Its indispensable participation is seen in matters affecting not only foreign trade, financing and investments in the Philippines, but also in international cooperation relating to extradition, mutual legal assistance, trafficking, financial crimes and irregular migration.

The multifaceted and demanding role required of State Councils of the Legal Staff, which has been unheralded and overlooked over the years, can efficiently and effectively be met by recognizing the exceptional role of the Office, strengthening its functions, expanding and streamlining the Office, augmenting benefits and upgrading employee skills.

Presently, the Legal Staff is undermanned and in dire need of organizational upgrading in order to function optimally. The highest point in the career of a State Counsel is perhaps the position of Chief State Counsel. Yet, it is unfortunate that the counterpart of the Chief State Counsel, the Government Corporate Counsel in the Office of the Government Corporate Counsel and the Solicitor General in the Office of the Solicitor General, enjoy the rank of Associate Justice and Presiding Justice of the Court of Appeals, respectively. The corresponding judicial ranking proposed for State Councils augurs well with the fact that the Office is a veritable training ground for lawyers in very special fields of law. To mention a few who worked in the Legal Staff and rose to prominence in the legal field are Supreme Court Justice Florentino Feliciano, Ombudsman Conchita Carpio-Morales, Supreme Court Justice Teresita Leonardo-De Castro, former Supreme Court Justice Leonardo Quisumbing and former Supreme Court Justice Minerva P. Gonzaga-Reyes.

Equally important is the pressing necessity to augment the salaries of the State Councils who are already overburdened due to the unforgiving demands of their work. Inevitably, the Legal Staff has been unsuccessful in retaining and maintaining the best legal minds, and thus continues to suffer from professional exodus to more economically rewarding offices.

Of similar economic situation as the State Councils are the administrative personnel of the Legal Staff who, over the years, are equally burdened by the voluminous work in the Office. Overworked and underpaid, they are undeniably the strategic partners who facilitate the work of the State Councils. Any economic gain by the State Councils should cascade to, and be shared with, the administrative personnel.

The foregoing are the compelling reasons for the enactment of this proposed legislation.



JERRY P. TREÑAS

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**AN ACT TO CREATE THE OFFICE OF THE STATE COUNSEL IN THE
DEPARTMENT OF JUSTICE,
AND FOR OTHER PURPOSES**

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

Section 1. *Short Title.* - This Act shall henceforth be known as the "State Counsel Act of 2013."

Sec. 2. *Office of the State Counsel; Creation, Functions and Duties.* - There is hereby created the Office of the State Counsel, under the supervision of the Secretary of the Department of Justice, which shall have the following functions and duties:

1. Act in behalf of the Secretary of Justice in the exercise of his function as the Attorney General of the Philippines and as *ex officio* legal adviser of government-owned and controlled corporations, departments, agencies, and instrumentalities;
2. Conduct the negotiation, and act as the focal authority in respect to the execution and implementation of conventions, international agreements and cooperation on criminal matters;
3. Adjudicate and arbitrate controversies and conflicts between or among government offices, corporations and agencies;
4. Act as legal adviser in finance, trade and investments;
5. Resolve the legality of tax ordinances and revenue measures;
6. Act on anti-dummy cases;
7. Determine status of refugees and stateless persons;
8. Act on immigration matters and citizenship cases; and
9. Perform such other functions and duties as may be provided by law.

Sec. 3. *Composition.* - The Office of the State Counsel shall be headed by the Chief State Counsel who shall be assisted by such number of State Counsels as hereunder determined:

- a) three (3) Assistant Chief State Counsels
- b) six (6) Senior State Counsels
- c) fifteen (15) State Counsels IV
- d) fifteen (15) State Counsels III
- e) fifteen (15) State Counsels II
- f) fifteen (15) State Counsels I

Sec. 4. *Divisions and Units.* - In the interest of greater efficiency in the discharge of its functions, the Office of the State Counsel may be organized into divisions and operating units as may be necessary.

Sec. 5. *Appointment and Qualifications.* - The Chief State Counsel must be an officer learned in the law who shall be a natural-born citizen of the Philippines, at least forty (40) years of age, a member of the Philippine Bar, and must not have been a candidate for any elective national in the immediately preceding election whether regular or special. He must have, for at least ten (10) years, been engaged in the practice of law in the Philippines.

The Chief State Counsel shall be appointed by the President upon recommendation of the Secretary of Justice. He shall have the same rank, salary, privileges, and retirement as the presiding justice of the Court of Appeals. His salary shall not be decreased during his term of office.

The qualifications for appointment, rank, category, prerogatives, salary grade and salaries, allowances, emoluments and other privileges of the other State Counsels shall be the same as justices or judges as follows:

Assistant Chief State Counsel	Associate Justice of the Court of Appeals
Senior State Counsel	Judge of the Regional Trial Court
State Counsel IV	Judge of the Metropolitan Trial Court
State Counsel III	Judge of the Municipal Trial Court in Cities
State Counsel II	Judge of the Municipal Trial Court in Municipalities

The Assistant Chief State Counsels, Senior State Counsels, State Counsels IV, State Counsels III, and State Counsels II shall be appointed by the President upon the recommendation of the Secretary of Justice.

No person shall be appointed State Counsel I unless he is a citizen of the Philippines, learned in the law, and a member of the Philippine Bar. He is appointed by the Secretary of Justice upon the recommendation of the Selection and Promotion Board.

The Chief State Counsel and the Assistant Chief State Counsels shall compose the Selection and Promotion Board to screen all applicants for appointment or promotion to any position in the Office of the State Counsel.

Sec. 6. Powers of the Chief State Counsel. – The Chief State Counsel shall have the following powers and functions:

1. Implement policies, programs, orders, memoranda, rules and regulations issued by the Department of Justice;
2. Exercise disciplinary actions over all personnel;
3. Approve all leaves of absence with or without pay, for overtime services, for permission to exercise their profession or engage in business outside of official hours, for all official travels, and for claims and benefits of all personnel under existing laws;
4. Approve attendance of personnel in conferences, seminars and other training programs;
5. Prepare the budget of the Office;
6. Approve the acquisition or requisition of supplies, materials and equipment;
7. Approve contracts for services, supplies, materials, equipment and the like;
8. Retain on contractual basis such legal experts as may be necessary to assist in the discharge of the functions and duties of the Office; and
9. Perform such other functions as may be provided by law or assigned by the Secretary of Justice.

Sec. 7. Security of Tenure. – Upon effectivity of the law, the incumbent Chief State Counsel of the Legal Staff in the Department of Justice shall automatically continue as such without need of appointment by the President.

The incumbent State Counsels in the Legal Staff shall continue in office in the Office of the State Counsel without need of appointment by the President and not be removed or separated from service as a result of this Act.

All incumbent personnel of the Office of the Legal Staff shall continue in office in the Office of the State Counsel and not be removed or separated from service as a result of this Act. Likewise, no diminution of salary and benefits or demotion shall be allowed.

Sec. 8. *Removal; Filling of Vacancy.* – The Chief State Counsel may be removed from office by the President, after due process, on the ground of violation of the Constitution, treason, bribery, graft and corruption, other high crimes or betrayal of public trust.

In case of vacancy in the Office of the State Counsel due to death, resignation, removal or permanent disability of the Chief State Counsel, the most senior Assistant Chief State Counsel shall automatically serve as Officer in Charge in a concurrent capacity until a new Chief State Counsel shall have been appointed. In case the most senior Assistant Chief State Counsel cannot assume as Officer in Charge, the next senior Assistant Chief State Counsel shall assume as Officer in Charge.

Sec. 9. *Compensation.* – The basic monthly compensation of the Assistant Chief State Counsels, Senior State Counsels, and other State Counsels are as follows:

POSITION	SALARY FROM	GRADE TO
Assistant Chief State Counsel	29	30
Senior State Counsel	28	29
State Counsel IV	27	28
State Counsel III	26	28
State Counsel II	25	27
State Counsel I	24	27

Sec. 10. *Benefits and Privileges.* – Subject to the availability of funds, the Office of the State Counsel may provide its legal and non-legal personnel with the following benefits:

1. Health care services for each personnel including one (1) dependent by a health maintenance organization. Expenses for the annual executive check-up of the Chief State Counsel, Assistant Chief State Counsels, and Senior State Counsels shall be for the account of the Office;
2. During official travels, personnel shall be covered by accident insurance at the expense of the Office;
3. A provident fund which shall consist of contributions made both by the Office of the State Counsel and its personnel to a common fund, at the contribution rate of 60/40, respectively, for the payment of benefits to the personnel or their heirs;
4. Transportation expense and per diem allowance shall be borne by the Office of the State Counsel for travels outside Metro Manila;
5. Without prejudice to efficiency in the service, scholarships to deserving employees on official time and at the expense of the Office to enhance their academic and professional growth or upgrade their knowledge and skills. Scholars shall be selected on the basis of competitive examination; and
6. The Chief State Counsel and other State Counsels are entitled to special allowance for court appearances and congressional hearings.

Sec. 11. *Professional Fees.* - Subject to availability of funds, fees for relevant seminars or workshops as well as professional membership of lawyers, registration fees and related miscellaneous expenses incurred in completing any mandated legal education courses shall be borne by the Office. Professional membership, registration fees including mandatory continuing professional education and related miscellaneous expenses of other employees holding positions for which a professional license is required shall also be borne by the Office.

Sec. 12. *Other Benefits.* - The Chief State Counsel and other State Counsels are authorized to receive allowances and honoraria as may be provided by government offices, instrumentalities and corporations in addition to their basic compensation.

Sec. 13. *Fees.* - The funds required for the implementation of Sections 9 and 10 hereof, including the acquisition, maintenance and repair of equipment, vehicles, facilities, buildings shall be sourced from all fees collected by the Office of the State Counsel.

For this purpose, the Office of the State Counsel is hereby authorized to collect fees for services rendered. The amounts collected pursuant to this section shall constitute a trust fund in the name of the Office of the State Counsel to be managed and used by the Office to carry out the provisions of this Act.

Sec. 14. *Office for the Stateless Persons and Refugees.* - There is hereby created a special division, Office for the Stateless Persons and Refugees (OSPR), in the Office of the State Counsel to determine the status of refugees and stateless persons in accordance with relevant laws and international conventions. It may employ such number of staff including lawyers, consultants and resource persons to effectively execute its function.

While the determination of the stateless or refugee status is under consideration, the Bureau of Immigration shall suspend any proceeding for the deportation or exclusion of an asylum seeker or stateless person and authorize their temporary residence.

To enable the OSPR to effectively and efficiently perform its functions and responsibilities, departments, bureaus, offices, agencies or instrumentalities of the Government shall extend such services, assistance and cooperation as may be necessary.

Sec. 15. *Retirement and Resignation Benefits.* - When a state counsel, who has rendered at least fifteen (15) years of government service, the last five (5) years of which must have been continuously rendered in the Office of the State Counsel, retires upon attainment of sixty-five (65) years of age, or resigns by reason of incapacity, he shall be entitled to receive during the residue of his natural life a retirement pension based on the highest monthly salary plus the highest monthly aggregate of allowances received at the time of retirement or resignation.

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

When a State Counsel has attained the age of sixty (60) years and has rendered at least fifteen (15) years of government service, the last five (5) years of which must have been continuously rendered in the Office of the State Counsel, he shall likewise be entitled to retire and receive during the residue of his natural life the same benefits provided for in this section. *Provided, however,* that those with less than fifteen (15) years of government service shall be entitled to a pro-rata pension computed as follows:

$$\frac{\text{Years of government service}}{15 \text{ years}} \times \text{Basic pay plus highest monthly aggregate of allowances}$$

The previous years of service of some incumbents shall be credited in the determination and computation of retirement and pension benefits.

Sec. 16. *Automatic Increase of Pension.* - All pension benefits due a retired or resigned state counsel shall be automatically increased whenever there is an increase in the salary and allowances for the same position from which he retired or resigned.

Sec. 17. *Franking Privilege.* - All official mail matters of the Office of the State Counsel for delivery within the Philippines shall be received, transmitted and delivered free of charge: *Provided,* That such mail matters when addressed to private persons or non-government offices shall not exceed one hundred and twenty (120) grams.

Sec. 18. *Appropriation.* - There is hereby appropriated initially the sum of ____ million (P____,000,000.00) from the funds of the National Treasury not otherwise appropriated for the initial implementation of this Act.

Sec. 19. *Repealing Clause.* - Republic Act No. 2705, as amended, and Section 7, Chapter 2, Title III, Book IV of Executive Order No. 292 are hereby repealed.

All acts, laws, decrees, executive orders, letters of instruction and regulations or any part hereof which are inconsistent with any provision of this Act are likewise hereby repealed and/or modified accordingly.

Sec. 20. *Effectivity.* - This Act shall take effect after fifteen (15) days following its publication in a newspaper of general circulation, or in the Official Gazette.