

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

House Bill No. 1385



Introduced by Representatives
DIOSDADO MACAPAGAL ARROYO and GLORIA MACAPAGAL ARROYO

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 AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Since its inception during the Commonwealth Period until such time it became a mere division under the Department of Justice, the Office of the Government Corporate Counsel (OGCC) has evolved into an entity which plays a vital role in the country's justice system. It has grown over the years and oversees and provides legal services to approximately 600 government-owned and controlled corporations, government instrumentalities with corporate powers, government financial institutions and government corporate entities, their subsidiaries and corporate offsprings (to be referred hereinafter as "government corporations").

Executive Order No. 292, otherwise known as the Administrative Code of 1987, expressly defines the mandate of the OGCC, in particular, (1) to act as the principal law office of all government corporations and (2) exercise control and supervision over all legal departments or divisions thereof maintained separately. Later executive issuances further strengthened and enhanced OGCC's mandate and responsibilities over the legal affairs of various government corporations. And given the crucial and important role of these corporations in the country's

economic growth and development being the primary vehicles in the implementation of vital government projects, the OGCC is in dire need of augmentation to provide better services its clientele corporations.

There has been a substantial increase in the volume, complexity and the importance of the OGCC's mandate due to escalating demands of government activities and transactions. Statistics show that the OGCC responds to and handles an increasing number of requests for legal advice and cases per year, in addition to the performance of its adjudicatory and other functions. The work in the OGCC is presently performed by its current complement of only 57 lawyers which includes the Government Corporate Counsel himself and augmented by administrative support personnel of 69 employees.

A timely increase in its personnel and a corresponding adjustment in their compensation and benefits are imperative in maintaining the OGCC's effectiveness and to help it adapt to the continuous changing conditions of the legal service. It is therefore clear that there is an urgent need to re-define and strengthen its mandate by streamlining, further professionalizing and rationalizing its functions and organization. It is of the utmost importance when the public interest is protected as a result of a more effective and efficient OGCC.

In view of the foregoing reasons, we urge our colleagues for the expeditious approval of this measure.



DIOSDADO MACAPAGAL ARROYO
Second District, Camarines Sur



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Second District, Pampanga

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

SECTION 1. *Declaration of Policy.* - 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 offsprings, 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".

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

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

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

In addition, the OGCC shall:

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

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

SECTION 3. *Expansion and Upgrading of Positions.* - The GCC shall have a cabinet rank and the same prerogatives, salary, allowances, benefits and privileges as the Presiding Justice of the Court of Appeals. He/she shall be assisted by a Deputy Government Corporate Counsel ("DGCC") and twelve (12)

Assistant Government Corporate Counsels ("AGCC") who shall have the rank, salary, allowances, retirement and benefits, and privileges of an Associate Justice of the Court of Appeals.

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

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

- a) Twenty (20) Government Corporate Attorney IV (the "GCA IV") who shall have the rank, salary, allowances, retirement and benefits, and privileges of a Regional Trial Court Judge. No person shall be appointed GCA IV unless he/she is a natural-born citizen of the Philippines and, for at least eight (8) years, has been engaged in the practice of law in the Philippines;
- b) Twenty (20) Government Corporate Attorney III (the "GCA III") who shall have the rank, salary, allowances, retirement and benefits, and privileges of a Metropolitan Trial Court Judge. No person shall be appointed GCA III unless he/she is a natural-born citizen of the Philippines and, for at least five (5) years, has been engaged in the practice of law in the Philippines;
- c) Twenty (20) Government Corporate Attorney II (the "GCA II") who shall have the rank, salary, allowances, retirement and benefits, and privileges of a Municipal Trial Court Judge in Cities. No person shall be appointed GCA II unless he/she is a natural-born citizen of the Philippines and, for at least four (4) years, has been engaged in the practice of law in the Philippines;
- d) Ten (10) Government Corporate Attorney I (the "GCA I") who shall have the rank, salary, allowances, retirement and benefits, and privileges of a Municipal Trial Court Judge. No person shall be appointed GCA I unless he/she is a natural-born citizen of the Philippines and, for at least three (3) years, has been engaged in the practice of law in the Philippines;
- e) Seven (7) Associate Government Corporate Attorney II who must be members of the Philippine Bar and, for at least two (2) years, has been engaged in the practice of law in the Philippines; and,

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

The GCC shall serve for a fixed term of six (6) years reckoned from the date of his/her appointment. The fixed term of the GCC shall apply and commence to appointments to the said position beginning July 1, 2013.

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

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

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

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

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

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

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

SECTION 5. *Personnel Benefits and Privileges.* – Provisions of other laws to the contrary notwithstanding, the OGCC may provide its employees the following benefits:

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

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

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

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

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

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

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

SECTION 10. *Special Allowance.* – The GCC, DGCC, AGCC and other members of the legal staff may be granted special allowances in such amounts to be determined by the GCC to implement the salary increases. The grant of special allowances shall be implemented uniformly in such amounts and up to

extent only that can be supported by the funding source specified in Section 11 hereof.

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

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

SECTION 12. *Franking Privilege.* - All official matters and telegrams of the OGCC addressed 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.

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

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

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

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

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

Approved,