

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

Sixteenth Congress
First Regular Session



House Bill No. **2959**

Introduced by AKBAYAN Representatives
Ibarra M. Gutierrez III and Walden F. Bello

EXPLANATORY NOTE

The 1987 Philippine Constitution was promulgated through the active and sovereign role of the Filipino people. As authors, the people gave the legislature the authority to make, alter and repeal laws with the primary limitation that the provisions of legislative enactments are in consonant with the Constitution.

Republic Act No. 10149, otherwise known as "*GOCC Governance Act of 2011*," was signed into law on 06 June 2011. It advances the policy of the State to actively exercise its ownership rights in government-owned and –controlled corporations ("GOCCs") and to promote growth by ensuring that operations of GOCCs are consistent with national development policies and programs. RA 10149 empowers the Governance Commission for Government-Owned or –Controlled Corporations ("GCG") to develop a Compensation and Position Classification System (CPCS) which is made to apply to all officers and employees of GOCCs whether under Republic Act No. 6758, otherwise known as the "*Salary Standardization Law*," or exempt therefrom.

The *Salary Standardization Law* was passed pursuant to Section 5, Article IX-B of the Constitution, which states that Congress shall provide for the standardization of compensation of government officials and employees, including those in government-owned or –controlled corporation with original charters. Clearly, this constitutional provision expressly limits the power of Congress to set the compensation of government

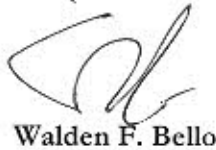
officials and employees in GOCCs with original charters and excluded therefrom Congress' power to set compensation of officials and employees of GOCCs without original charters, or those created under Batas Pambansa Bilang No. 68 otherwise known as "*The Corporation Code of the Philippines*."

There is a need to clarify the effects of RA 10149 to officials and employees of GOCCs without original charters in order to comply with the provisions of the Constitution. Particularly, there is a need to clarify that the CPCS is applicable only to employees of GOCCs with original charters. By amending RA 10149, the mandate and supremacy of the Constitution will be upheld.

In view of the foregoing, the passage of this bill is earnestly sought.



Ibarra M. Gutierrez III



Walden F. Bello

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AN ACT
AMENDING REPUBLIC ACT NO. 10149
OTHERWISE KNOWN AS
THE “GOCC GOVERNANCE AMENDMENTS ACT OF 2011”

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

1 **SECTION 1. *Title.*** - This Act shall be known as the “*GOCC Governance Amendments Act*
2 *of 2013.*”
3

4 **SECTION 2. *Amendatory Provisions.***—
5

6 (a) Section 3 of Republic Act No. 10149 is hereby amended to read as follows:
7

8 “Section 3. *Definition of Terms.*—For purposes of this Act,
9 the following terms shall used and understood as
10 follows:
11

12 (a) “*Affiliate*” refers to a corporation fifty percent
13 (50%) or less of the outstanding capital stock of which is
14 owned or controlled, directly or indirectly, by the
15 GOCC.

1
2 (b) “*Appointive Director*” refers to: (1) In the case of
3 chartered GOCCs, all members of its Board of
4 Directors/Trustees who are not *ex officio* members
5 thereof; (2) In the case of nonchartered GOCCs,
6 members of its Board of Directors/Trustees whom the
7 State is entitled to nominate, to the extent of its
8 percentage shareholdings in such GOCC; and (3) In the
9 case of subsidiaries and affiliates, members of its Board
10 of Directors/Trustees whom the GOCC is entitled to
11 nominate to the extent of its percentage shareholdings in
12 such subsidiary or affiliate.

13
14 (c) “*Board of Directors/Trustees*” or “*Board*” refers to
15 the governing body that exercises the corporate powers
16 of a GOCC.

17
18 (d) “*Breakthrough Results*” refer to the achievement of
19 corporate goals or other performance indicators as
20 determined by the GOCC or its supervising department.

21
22 (e) “*Chartered Statement*” refers to a statement of the
23 GOCC’s vision, mission and core values.

24
25 (f) “*Chartered GOCC*” refers to a GOCC, including
26 Government Financial Institutions, created and vested
27 with functions by special law.

28
29 (g) “*Chief Executive Officer (CEO)*” refers to the
30 highest-ranking corporate executive, who could be the
31 President or the General Manager, Chairman or the
32 Administrator of a GOCC.

33
34 (h) “*Department*” refers to an executive department

created by law. This shall include any instrumentality having or assigned the rank of a department, regardless of its name or designation.

(i) “Employee” refers to any individual employed by a nonchartered GOCC who occupies a managerial, supervisory or rank-and-file position and who is not a member of the Board of Directors/Trustees or an Officer, as these terms are defined herein.

(j) *“Ex Officio Board Member”* refers to any individual who sits or acts as a member of the Board of Directors/Trustees by virtue of one’s title to another office, and without further warrant or appointment.

(k) *“Fit and Proper Rule”* refers to the standard for determining whether a member of the Board of Directors/Trustees or CEO is fit and proper to hold a position in a GOCC which shall include, but not be limited to, standards on integrity, experience, education, training and competence.

(l) *“Government Agency”* refers to any of the various units of the Government of the Republic of the Philippines, including a department, bureau, office, instrumentality or GOCC, or a local government or district unit therein.

(m) *“Government Corporate Governance Standards”* refer to a set of principles derived from law and practices, rules and standards prescribed by the Governance Commission for Government-Owned or –Controlled Corporation (GCG) that generate long-term and desirable economic value for the State. It shall also refer to a

1 system whereby shareholders, creditors, employees,
2 personnel, and other stakeholders of a corporation
3 ensure that management enhances the value of the
4 corporation as it competes in an increasingly global
5 market place.

6
7 (n) “*Government Financial Institutions (GFIs)*” refer to
8 financial institutions or corporations in which the
9 government directly or indirectly owns majority of the
10 capital stock and, which are either: (1) registered with or
11 directly supervised by the Bangko Sentral ng Pilipinas; or
12 (2) collecting or transacting funds or contributions from
13 the public and places them in financial instruments or
14 assets such as deposits, loans, bonds and equity
15 including, but not limited to, the Government Service
16 Insurance System and the Social Security System.

17
18 (o) “*Government Instrumentalities with Corporate Powers*
19 *(GCIP)/Government Corporate Entities (GCE)*” refer to
20 instrumentalities within the departmental framework but
21 vested by law with special functions or jurisdiction,
22 endowed with some if not all corporate powers,
23 administering special funds, and enjoying operational
24 autonomy usually through a charter including, but not
25 limited to, the following: the Manila International
26 Airport Authority (MLAA), the Philippine Ports
27 Authority (PPA), the Philippine Deposit Insurance
28 Corporation (PDIC), the Metropolitan Waterworks and
29 Sewerage System (MWSS), the Laguna Lake
30 Development Authority (LLDA), the Philippine
31 Fisheries Development Authority (PFDA), the Bases
32 Conversion and Development Authority (BCDA), the
33 Cebu Port Authority (CPA), the Cagayan de Oro Port
34 Authority, the San Fernando Port Authority, the Local

1 Water Utilities Administration (LWUA) and the Asian
2 Productivity Organization (APO).

3
4 (p) *“Government-Owned or –Controlled Corporation*
5 *(GOCC)”* refers to ~~any agency~~ a chartered or
6 nonchartered GOCC, as defined herein, organized either
7 as a stock or nonstock corporation, vested with
8 functions relating to public needs whether governmental
9 or proprietary in nature, and owned by the Government
10 of the Republic of the Philippines directly or through its
11 instrumentalities, either wholly or, where applicable, as in
12 the case of stock corporation, to the extent of at least a
13 majority of its outstanding capital stock: *Provided, however,*
14 *That for purposes of this Act, the term “GOCC” shall*
15 *include “GICP/GCE and GFP” as defined herein:*
16 *Provided, further, That for purposes of Chapter III of this*
17 *Act, the distinction between a chartered or nonchartered*
18 *GOCC shall be retained.*

19
20 (q) *“Member of the personnel”* refers to any individual
21 employed by a chartered GOCC who occupies a career
22 or noncareer position and who is not a member of the
23 Board of Directors/Trustees or an Officer, as these are
24 defined herein.

25
26 (r) *“Nonchartered GOCC”* refers to a GOCC
27 organized and operating under Batas Pambansa Bilang
28 68, or the Corporation Code of the Philippines.

29
30 (s) *“Officers”* refer to corporate officers of the
31 GOCC as provided in its charter or bylaws, such as the
32 CEO, Chief Financial Officer, Chief Investment Officer,
33 President, Vice President, General Manager, Treasurer
34 and Corporate Secretary.

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(t) “*Ownership Manuals*” refer to guidelines and rules pertaining to the ownership by the State or corporations and enterprises or the exercise of such ownership governing the GOCCs or any classification thereof.

(u) “*Per Diems*” refer to the compensation granted to members of the Board of Directors or Trustees of a GOCC for actual attendance in meetings.

(v) “*Performance Evaluation System*” refers to the process of appraising the accomplishments of GOCCs in a given fiscal year based on set performance criteria, targets and weights.

(w) “*Performance Scorecard*” refers to a governance and management tool forming part of the performance evaluation system which consists of a set of measures, targets and initiatives that facilitate the achievement of breakthrough results and performance through the effective and efficient monitoring and coordination of the strategic objectives of the GOCC.

(x) “*President*” refers to the President of the Republic of the Philippines.

(y) “*Related Corporation*” refers to a subsidiary or affiliate of a GOCC.

(z) “*Secretary*” refers to the person vested with the authority and responsibility for the exercise of the mandate of the Department, for the discharge of its powers and functions, and who shall have supervision and control of the Department.

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(aa) “*Strategy Map*” refers to an integrated set of strategic choices or objectives drawn by the governing body, the successful execution of which results in the achievement of the GOCC’s vision in relation to its mission or purpose for having been created.

(bb) “*Subsidiary*” refers to a corporation where at least a majority of the outstanding capital stock is owned or controlled, directly or indirectly, through one or more intermediaries, by the GOCC.”

(b) A new provision after Section 4, denominated as “*Section 4-1*” is hereby added:

“Section 4-1. Interpretation.—No provision of this Act shall be interpreted to deny a member of the personnel of a chartered GOCC or an employee of a nonchartered GOCC, or such member of the personnel or employee occupying supervisory and rank-and-file positions in the entities covered in Section 4 hereof, the right to security of tenure, right to self-organize and right to collective bargaining and negotiations.”

(c) Section 8 is hereby amended to read as follows:

*“Section 8. Coverage of the Compensation and Position Classification System.—*The GCG, after conducting a compensation study, shall develop a Compensation and Position Classification System which shall apply to all officers and employees of the chartered GOCCs ~~whether under the Salary Standardization Law or exempt therefrom~~ and shall consist of classes of positions grouped into such categories as the GCG may determine, subject to the approval of the President: Provided, That the

1 compensation of employees of nonchartered GOCCs
2 shall be set in accordance with the Articles 244, 252 253,
3 253-A and 250 of the Presidential Decree No. 442
4 otherwise known as the ‘Labor Code of the Philippines.’”
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6 **SECTION 3. *Separability Clause.***—If for any reason, any provision of this Act is
7 declared invalid or unconstitutional, the remaining provisions not affected thereby shall
8 continue to be in force and effect.
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10 **SECTION 4. *Repealing Clause.***—All laws, decrees, executive orders, proclamations,
11 rules and regulations, and other issuances, or part or parts thereof, particularly of
12 Republic Act No. 10149, otherwise known as the “*GOCC Governance Act of 2011*,” and of
13 Executive Order No. 7 series of 2010, which are inconsistent with the provisions of this
14 Act are hereby repealed or modified accordingly.
15

16 **SECTION 5. *Effectivity Clause.***—This Act shall take effect fifteen (15) days after the
17 completion of its publication in the Official Gazette or at least two (2) newspapers of
18 general circulation.

Approved,