

Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**  
Quezon City

**EIGHTEENTH CONGRESS**  
Second Regular Session

House Bill No. 7828



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Introduced by **REP. NAEALLA BAINTO AGUINALDO**

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**EXPLANATORY NOTE**

Since its establishment and initial amendments in the early 1960's, under Republic Act No. 2705 and the amending Republic Act No. 4152, the Legal Staff of the Department of Justice, primarily 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, has evolved with the political, legal, social, and economic development of the Philippine landscape – leading to greater undertakings and responsibilities that the authors of both RA 2705 and RA 4152 were not able to foresee.

Despite the unprecedented increase in the duties of the Legal Staff, the salaries and other benefits granted to State Counsels, who perform the same, if not greater, undertakings and responsibilities as their counterparts in the Office of the Solicitor General and in the National Prosecution Service, are not comparable to those already enjoyed by the latter agencies.

The time-honored principle of "equal work, equal pay," meaning persons who work with substantially equal qualifications, skills, and responsibilities under similar conditions should be paid similar salaries and benefits, has long been institutionalized in

our jurisdiction. Thus, it is high-time that the overburdened and underpaid State Counsels of the Department of Justice be given similar benefits as that of their counterparts.

Likewise, by reason of the ever-increasing undertakings and responsibilities of the Legal Staff, it is essential to expand its office by increasing its plantilla positions and the corresponding general and administrative support personnel. Thereby, the Legal Staff would be in a better position and would have the capacity to perform its official functions for the benefit not only of the Secretary of Justice, but also the rest of the government and the public in general.

I had the privilege of collaborating with the Legal Staff when I was still serving in the Department of Justice, and witnessed firsthand their perseverance and brilliance in tackling legal issues imbued with public interest. It is high-time to recognize and appreciate the function and service of the Legal Staff through the enactment of this legislative measure that will provide the institution more strength and protection.

  
NAEALLA BAINTO AGUINALDO

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AN ACT STRENGTHENING THE LEGAL STAFF OF THE DEPARTMENT OF JUSTICE, REDEFINING, EXPANDING, AND FURTHER PROFESSIONALIZING ITS ORGANIZATION, AND APPROPRIATING FUNDS THEREFOR

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

**SECTION 1. *Short Title.*** – This Act shall be known as the "State Counsel Act."

**SECTION 2. *Office of the Chief State Council.*** – The Legal Staff created under Republic Act No. 2705, as amended by Republic Act No. 4152, shall be renamed as the "Office of the Chief State Counsel."

**SECTION 3. *State Counsel.*** - Unless otherwise specified, the term "State Counsel" shall refer to the Chief State Counsel, Deputy Chief State Counsel, Senior State Counsel, State Counsel, and Associate State Counsel.

**SECTION 4. *Powers and Functions.*** – The Office of the Chief State Counsel shall assist the Secretary of Justice in the exercise of this functions as Attorney General of the Philippines and *ex officio* legal adviser of government-owned and controlled corporations, or enterprises and their subsidiaries.

The Office of the Chief State Counsel shall be under the supervision and control of the Secretary of Justice.

The Office of the Chief State Counsel shall have the following powers and functions:

(a) Recommend to the Secretary of Justice, legal opinions or advices on questions of law arising from the performance of powers and duties of national government functionaries, and upon request of department heads;

(b) Study and recommend to the Secretary of Justice the following:

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

- ii. Opinions or comments on the legality and validity of foreign loan and guarantee agreements, and in certain cases, agreements related to domestic borrowings;
- (c) Lead negotiations of treaties, conventions, or agreements involving international legal cooperation, including extradition, mutual legal assistance in criminal matters, and transfer of sentenced persons;
- (d) Serve as legal adviser to other government agencies in the negotiations and implementation of international agreements, and whenever so requested, lead in the negotiations involving legal and institutional issues;
- (e) Represent the SOJ or DOJ as the designated Central Authority in treaties, conventions, and other international agreements;
- (f) Act on requests for mutual legal assistance in criminal matters, extradition, transfer of sentenced persons, and other forms of international legal cooperation;
- (g) Represent and serve as counsel of the requesting state in all stages of cases relating to extradition and mutual legal assistance in criminal matters;
- (h) Review Orders of the Bureau of Immigration, including recognition of Filipino citizens or cancellation of alien certificate of registration, and deportation cases;
- (i) Review administrative settlement or adjudication of disputes, claims, and controversies between or among government offices, agencies, and

instrumentalities, including government-owned and controlled corporations, when only questions of law are raised;

(j) Review the legality and validity of tax ordinances and revenue measures;

(k) 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. Determination 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*";

(l) Supervise the Department Law Library, as well as its personnel; and

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

**SECTION 5.** *Expansion, Reformation, and Creation of Positions.* – 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.

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

| Old Position                     | From               |                 | New Position<br>under this Act | To                 |                 |
|----------------------------------|--------------------|-----------------|--------------------------------|--------------------|-----------------|
|                                  | No. of<br>Position | Salary<br>Grade |                                | No. of<br>Position | Salary<br>Grade |
| Chief State Counsel              | 1                  | SG 30           | Chief State<br>Counsel         | 1                  | SG 30<br>step 8 |
| Assistant Chief<br>State Counsel | 2                  | SG 29           | Deputy Chief State<br>Counsel  | 5                  | SG 30           |
| State Counsel V                  | 6                  | SG 28           | Senior State<br>Counsel        | 10                 | SG 29           |
| State Counsel IV                 | 12                 | SG 27           | Deputy Senior<br>State Counsel | 15                 | SG 28           |
| State Counsel III                | 12                 | SG 26           | State Counsel                  | 15                 | SG 27           |
| State Counsel II                 | 12                 | SG 25           | Associate State<br>Counsel III | 20                 | SG 26           |
| State Counsel I                  | 15                 | SG 24           | Associate State<br>Counsel II  | 20                 | SG 25           |
|                                  |                    |                 | Associate State<br>Counsel I   | 24                 | SG 24           |

|       |    |  |  |     |  |
|-------|----|--|--|-----|--|
| Total | 60 |  |  | 110 |  |
|-------|----|--|--|-----|--|

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

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

The State Counsels occupying the positions affected by the changes 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, benefits, and privileges, without necessity of new appointment.

There shall be positions created for administrative personnel equivalent to at least one (1) support staff for each State Counsel.

**SECTION 6. *Qualifications of the State Counsels.*** - The Chief State Counsel and Deputy Chief State Counsels must be citizens of the Philippines and have been

engaged in the practice of law in the Philippines for at least fifteen (15) years prior to their appointment.

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

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

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

State Counsels I must be members of the Philippine Bar for at least two (2) years prior to their appointment.

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

**SECTION 7. *Compensation and Benefits.*** – The salaries and allowances of State Counsels shall correspond to their position, rank, and salary grade pursuant to Section 5 hereof. The retirement, death, and survivorship benefits of State Counsels shall be the same as their counterparts in the judiciary, specified as follows:

|                            |                                                      |
|----------------------------|------------------------------------------------------|
| Chief State Counsel        | Associate Justice of the Court of Appeals            |
| Deputy 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 |

**SECTION 8. *Retirements Benefits.*** – When a State Counsel, who has rendered at least fifteen (15) years of service either in the Office of the Chief State Counsel or in any branch of government, or in both, retires for having attained the age of sixty-five (65) years or resigns by reason of incapacity to discharge the duties of his or her office, he or she shall, during the residue of his or her natural life, in the manner hereinafter provided, receive a retirement pension based on the highest monthly salary, plus the highest monthly aggregate of transportation, living, and representation allowances, which he or she was receiving at the time of his or her retirement or resignation.

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

than fifteen (15) years of service in the government shall be entitled to a pro-rata pension computed as follows:

|                                                          |               |                                                                                                       |
|----------------------------------------------------------|---------------|-------------------------------------------------------------------------------------------------------|
| No. of years in Government divided by fifteen (15) years | Multiplied by | Basic pay plus the highest monthly aggregate of transportation, living, and representation allowances |
|----------------------------------------------------------|---------------|-------------------------------------------------------------------------------------------------------|

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

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

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

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

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

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

**SECTION 11. *Death Benefits.*** – In case a State Counsel dies while in service, regardless of age and length of service, the heirs shall receive a lump sum of five (5) years' gratuity computed on the basis of the highest monthly salary plus the highest aggregate of transportation, living, and representation allowances being received by the

State Counsel at the time of death: *Provided, however,* That where said State Counsel has rendered at least fifteen (15) years of government service, either in the Office of the Chief State Counsel or in any branch of government, or both, his or her heirs shall instead be entitled to a lump sum of ten (10) years gratuity computed on the same basis as indicated in this provision: *Provided further,* That the lump sum of ten (10) years gratuity shall be received by the heirs of a State Counsel who was killed by reason of his or her duties as such: *Provided, finally,* that the State Counsel has served in the Office of the Chief State Counsel for at least five (5) years regardless of age at the time of death.

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

**SECTION 13. *Other Benefits and Privileges.*** – The State Counsels and other employees under the Office of the Chief State Counsel shall be entitled to the following benefits:

- (1) Health care services through a health maintenance organization (HMO). Expenses for the mandatory annual executive check-up of the Chief State Counsel, Deputy Chief State Counsels, and Senior State Counsels, shall be for the account of the DOJ;
- (2) Accident insurance policies procured by the DOJ, at its own expense, during travels while in the performance of their official duties and functions;
- (3) Scholarships to deserving employees, on official time and at the expense of the DOJ, to enhance their academic growth and upgrade their knowledge and skills; and
- (4) Wellness leave of fifteen (15) days a year for all State Counsels.

**SECTION 14. *Retroactivity.*** – The benefits mentioned in Sections 8 and 10 hereof shall be granted to all those who retired prior to the effectivity of this Act.

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

**SECTION 16. *Authority to Collect Fees.*** – The Office of the Chief State Counsel is hereby authorized to assess and collect fees for various services rendered in accordance with Section 54, Chapter 12, Book IV of Executive Order No. 292, otherwise known as the Administrative Code of 1987, and other laws. These collections shall be deposited as a Special Trust Fund which shall be administered by the Secretary of Justice to cover privileges and benefits under Sections 13 and 17 hereof.

**SECTION 17. *Seminar and Other Related Fees.*** – 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 shall be charged against the Special Trust Fund.

**SECTION 18. *Franking Privilege.*** – The Office of the Chief State Counsel may transmit through ordinary mail or registered mail with return card, free of charge, all official communications and papers directly connected with the conduct of its duties and functions.

**SECTION 19. *Appropriations.*** – There is hereby appropriated initially the sum of Fifty Million Pesos (P50,000,000.00) from the funds of the National Treasury not otherwise appropriated for the initial implementation of this Act. Thereafter, the amount needed for the implementation of this Act shall be appropriated in the budget of the Department of Justice under the Annual General Appropriations Act and from the collected fees pursuant to Section 16 hereof.

**SECTION 20. *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 21. *Repealing Clause.*** – Provisions of Republic Act No. 2705, as amended by Republic Act No. 4152, and the pertinent provisions of Executive Order No. 292, otherwise known as the Administrative Code of 1987, and all laws, decrees, orders, rules, and regulations or parts thereof which are contrary to or inconsistent with the provisions of this Act are hereby repealed, amended, and/or modified accordingly.

**SECTION 22. *Effectivity.*** – This Act shall take effect after fifteen (15) days from its publication in at least two (2) newspapers of general circulation or in the Official Gazette.

Approved,