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REPUBLIC OF THE PHILIPPINES)
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HOUSE OF REPRESENTATIVES

Introduced by Representative Rufus B. Rodriguez

House Bill No. 9782

EXPLANATORY NOTE

The Governance Commission for GOCCS (GCG) was created under Republic Act No. 10149, otherwise known as the "GOCC Governance Act of 2011", as the central policy-making and regulatory body mandated to safeguard the State's ownership rights and ensure that the operations of GOCCs are transparent and responsive to the needs of the public. Towards this end, it empowered the Governance Commission to:

- oversee the selection and nomination of directors/trustees and maintain the quality of Board Governance;
- institutionalize transparency, accountability, financial viability and responsiveness in corporate performance by monitoring and evaluating GOCCs' performance;
- rationalize the Sector through streamlining, reorganization, merger, as well as recommending to the President of the Philippines the privatization or abolition of a GOCC; and
- establish compensation standards to ensure reasonable and competitive remuneration schemes that attract and retain the right talent)

The following are excluded from the coverage of the R.A. No. 10149:

1. Bangko Sentral ng Pilipinas (BSP);
2. State universities and colleges;
3. Cooperatives;
4. Local water districts;
5. Economic zone authorities; and
6. Research institutions.

The Government Service Insurance System (GSIS) is a government corporation created by law and operating under its Charter, R.A. No. 8291. It is classified as a Government Financial Institution (GFI) and is covered by R.A. No. 10149.

The GSIS should be exempted from the coverage of R.A. No. 10149 or the GCG Law on the following grounds:

A. Nature of GSIS' mandate necessitates its exemption from the GCG Law

Like the basis for exemption of the BSP, the mandate of the GSIS to administer the pension fund of government employees is deeply rooted in the Constitution (Section 1, Article XIII and Section 4, Article XV).

The legislature, through R.A. No. 8291 (the GSIS Charter), recognized the GSIS' need for autonomy and flexibility for the proper and efficient performance of its mandate as expressly manifested and provided in the following provisions of R.A. No. 8291:

- separated the GSIS Funds from the National Government (Section 34, GSIS Charter);

- made GSIS assets, revenues and benefits exempt from attachment, execution, and other processes except monetary liabilities in favor of the GSIS (Section 39, GSIS Charter);

- vested in the GSIS and its Board of Trustees (BOT) absolute, express and unqualified powers such as budget autonomy, formulation, adoption and approval; and

- compensation and position classification system and qualification standards and compensation package for officers and employees including granting of benefits and allowances, bonuses, incentives among others, shall be exempt from R.A. No. 6758 or the Salary Standardization Law (SSL) and R.A. No. 7430 or the Attrition Law (Sections 41 and 43, GSIS Charter).

The oversight function of the GCG is redundant as far as GSIS is concerned since in granting autonomy to the GSIS, the legislature set various mechanisms for checks and balances [through President, Congress, Insurance Commission (IC), Department of Finance (DOF), Civil Service Commission (CSC), Commission on Audit (COA) and Office of the Ombudsman) in order to prevent abuses.

While the GSIS is expressly mentioned as a government financial institution (GFI) under the GCG Law, it does not satisfy the GCG Law's first requisite of state ownership to fall under the category of GFIs.

B. GCG Law tramples the autonomy granted to the GSIS under its Charter, causing adverse effects to GSIS

The authority of the GCG to formulate, implement and coordinate policies for all GOCCs erodes the autonomy intended by the legislature for the GSIS and interferes with the smooth operations of the GSIS.

Policies under the Ownership and Operations Manual and Government Corporate Governance Standards Manual (Manual) developed by the GCG show that some provisions thereof permeate the very operations of the GSIS and thus goes beyond the advisory/oversight/policy determining functions of the GCG. (i.e„ act of the GCG in setting targets and milestones for the GSIS).

The GCG's lack of expertise translates to unrealistic and unreasonable demands and targets being made on the GSIS.

C. GCG Law suffers from inherent and grave defects

The oversight functions given to the GCG are a mere surplusage as other government agencies, such as the IC, DOF, CSC, COA, and Office of the Ombudsman, in conjunction with the Congress and the Office of the President itself are already performing such functions with respect to the GSIS.

GCG encroaches on the Constitutional mandate of the CSC. The authority of the GCG to determine whether a GOCC should be reorganized/merged/streamlined/abolished diminishes the authorities of the CSC, as the central personnel agency, relative to the reorganization of government offices/agencies under the 1987 Constitution, E.O. No. 292 (Administrative Code) and R.A. No. 6656 (An Act to Protect the Security of Tenure of Civil Service Officers and Employees in The Implementation of Government Reorganization).

Further, the GCG effectively obstructed the CSC's initiatives on merit increases for the GOCCs with original charters. The GCG recommended the suspension of the CPCS following which the Office of the President issued E.O. No. 36, Series of 2017 (Suspending the CPCS under E.O. No. 203, Series of 2016, Providing for Interim Compensation and Adjustments, And for Other Purposes).

As such, the undue interference of the GCG in the day to day operations of the GSIS in the form of supplanting already set targets and milestones likewise undermines the expertise of the GSIS in the conduct of its own business and renders nugatory the powers and functions expressly granted to it by the Congress to effectively discharge its mandate and ensure its self-management and consequently. its independence.

The ill effects and incompatibility of R.A. No. 10149. to the GSIS universe is quite apparent. The GCG interference which erodes the safeguarded independence of the GSIS should not be countenanced as the accomplishment of the GSIS' very mandate to preserve and protect its funds, is grounded on its independence, both financially and operationally. Thus, the preservation of GSIS' independence is of transcendental and primordial importance.

For the sake of the valued GSIS stakeholders, its employees, members and pensioners, the GSIS is constrained to seek the GSIS' exemption from the coverage of the coverage of R.A. No. 10149, otherwise known as the "GOCC Governance Act of 2011 and the Governance Commission on GOCCs (GCG). The GSIS can best perform its mandate and functions outside the coverage of R.A. 10149 and the GCG, and unhampered and impeded by the bureaucratic, intrusive and overlapping functions and systems of GCG.

In view of the foregoing, the immediate passage of this Bill is most earnestly sought.



RUFUS B. RODRIGUEZ

NINETEENTH CONGRESS)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)

HOUSE OF REPRESENTATIVES

Introduced by Representative Rufus B. Rodriguez

House Bill No. 9782

AN ACT
AMENDING SECTION 4 OF REPUBLIC ACT NO. 10149, ENTITLED "AN ACT TO PROMOTE FINANCIAL VIABILITY AND FISCAL DISCIPLINE IN GOVERNMENT-OWNED OR - CONTROLLED CORPORATIONS AND TO STRENGTHEN THE ROLE OF THE STATE IN ITS GOVERNANCE AND MANAGEMENT TO MAKE THEM MORE RESPONSIVE TO THE NEEDS OF PUBLIC INTEREST AND FOR OTHER PURPOSES"

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

Section 1. Section 4 of Republic Act No. 10149 is hereby amended to read as follows:

> "SEC. 4. Coverage.—This Act shall be applicable to all GOCCs, GICPs/GCEs, and government financial institutions, including their subsidiaries, but excluding the Bangko Sentral ng Pilipinas, **GOVERNMENT SERVICE INSURANCE SYSTEM,** state universities and colleges, cooperatives, local water districts, economic zone authorities and research institutions: Provided, That in economic zone authorities and research institutions, the President shall appoint one-third (1/3) of the board members from the list submitted by the GCG."

Section 2. Repealing Clause. – Republic Act No. 10149 insofar as it refers to Government Service Insurance System (GSIS) and all laws, decrees, executive orders, administrative orders, rules and regulations, and other issuances or parts thereof inconsistent herewith are hereby repealed. amended or modified accordingly.

Section 3. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,