

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH CONGRESS
1st Regular Session

HOUSE BILL NO. 1123



Introduced by Representative ALEXANDER T. PIMENTEL

**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”**

EXPLANATORY NOTE

1 The GOVERNANCE COMMISSION FOR GOCCS (GCG) was created under Republic
2 Act (R.A.) No. 10149, otherwise known as the “GOCC Governance Act of 2011”, as the central
3 policy-making and regulatory body mandated to safeguard the State’s ownership rights and ensure
4 that the operations of GOCCs are transparent and responsive to the needs of the public. Towards
5 this end, it empowered the Governance Commission to:

- 6
7 ○ To oversee the selection and nomination of directors/trustees and maintain the quality
8 of Board Governance;
9
10 ○ To institutionalize transparency, accountability, financial viability and responsiveness
11 in corporate performance by monitoring and evaluating GOCCs’ performance;
12
13 ○ To rationalize the Sector through streamlining, reorganization, merger, as well as
14 recommending to the President of the Philippines the privatization or abolition of a
15 GOCC; and
16
17 ○ To establish compensation standards to ensure reasonable and competitive remuneration
18 schemes that attract and retain the right talent.¹
19

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

- 21
22 1. Bangko Sentral ng Pilipinas (BSP);
23 2. State universities and colleges;
24 3. Cooperatives;
25 4. Local water districts;
26 5. Economic zone authorities; and
27 6. Research institutions.
28

29 The Government Service Insurance System (GSIS) is a government corporation created by
30 law and operating under its Charter, R.A. No. 8291. It is classified as a Government Financial
31 Institution (GFI) and is covered by R.A. No. 10149.
32

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

¹ <https://gcg.gov.ph/site/aboutus>

1
2 A. Nature of GSIS' mandate necessitates its exemption from the GCG Law
3

4 Like the basis for exemption of the BSP, the mandate of the GSIS to administer the pension
5 fund of government employees is deeply rooted in the Constitution (Section 1, Article XIII
6 and Section 4, Article XV, Constitution).
7

8 The legislature, through R.A. No. 8291 (the GSIS Charter), recognized the GSIS' need for
9 autonomy and flexibility for the proper and efficient performance of its mandate as
10 expressly manifested and provided in the following provisions of R.A. No. 8291:
11

- 12 ○ separated the GSIS Funds from the National Government (Section 34, GSIS
13 Charter);
- 14 ○ made GSIS assets, revenues and benefits exempt from attachment, execution and
15 other processes except monetary liabilities in favor of the GSIS (Section 39, GSIS
16 Charter);
- 17 ○ vested in the GSIS and its Board of Trustees (BOT) absolute, express and
18 unqualified powers such as budget autonomy, formulation, adoption and approval;
19 and
20
- 21 ○ of compensation and position classification system and qualification standards and
22 compensation package for officers and employees including granting of benefits
23 and allowances, bonuses, incentives among others, which shall be exempt from
24 R.A. No. 6758 or the Salary Standardization Law (SSL) and R.A. No. 7430 or the
25 Attrition Law (Sections 41 and 43, GSIS Charter).
26
27
28

29 Based on Senate records, the GSIS was exempt from the coverage of the SSL to put the
30 GSIS compensation structure in equal footing with or at least competitive as those offered
31 by the private sector and by government offices like the BSP, National Power Corporation
32 and Land Bank of the Philippines, and to free it from restrictions so it can attract the
33 expertise required for the proper and efficient performance of its functions.
34

35 The oversight function of the GCG is redundant as far as GSIS is concerned since in
36 granting autonomy to the GSIS, the legislature set various mechanisms for checks and
37 balances [through President, Congress, Insurance Commission (IC), Department of
38 Finance (DOF), Civil Service Commission (CSC), Commission on Audit (COA) and
39 Office of the Ombudsman) in order to prevent abuses.
40

41 While the GSIS is expressly mentioned as a government financial institution (GFI) under
42 the GCG Law, it does not satisfy the GCG Law's first requisite of state ownership to fall
43 under the category of GFIs.
44
45

46 B. GCG Law tramples the autonomy granted to the GSIS under its Charter, causing adverse
47 effects to GSIS
48

49 The authority of the GCG to formulate, implement and coordinate policies for all GOCCs
50 erodes the autonomy intended by the legislature for the GSIS and interferes with the
51 smooth operations of the GSIS.
52

53 Policies under the Ownership and Operations Manual and Government Corporate
54 Governance Standards Manual (Manual) developed by the GCG show that some provisions
55 thereof permeate the very operations of the GSIS and thus goes beyond the
56 advisory/oversight/policy determining functions of the GCG. (i.e., act of the GCG in
57 setting targets and milestones for the GSIS).
58

59 The GCG's lack of expertise translates to unrealistic and unreasonable demands and targets
60 being made on the GSIS. The Performance Evaluation System (PES), which includes the
61 rigid requirements of scorecards (unrealistic targets and demands), has become an

1 ineffective tool in incentivizing the efforts exerted by the GSIS workforce thereby
2 demoralizing the employees, which ultimately affects the GSIS' overall performance.

3
4 Moreover, the application of the GCG Law to GSIS has resulted in the stagnation of its
5 compensation structure, contrary to the legislative purpose behind its exemption from the
6 SSL to make GSIS' compensation structure competitive.

7
8 C. GCG Law suffers from inherent and grave defects

9
10 The oversight functions given to the GCG are a mere surplusage as other government
11 agencies, such as the IC, DOF, CSC, COA, and Office of the Ombudsman, in conjunction
12 with the Congress and the Office of the President itself are already performing such
13 functions with respect to the GSIS.

14
15 GCG encroaches on the Constitutional mandate of the CSC. The authority of the GCG to
16 determine whether a GOCC should be reorganized/merged/streamlined/abolished
17 diminishes the authorities of the CSC, as the central personnel agency, relative to the
18 reorganization of government offices/agencies under the 1987 Constitution, E.O. No. 292
19 (Administrative Code) and R.A. No. 6656 (*An Act To Protect The Security Of Tenure Of*
20 *Civil Service Officers And Employees In The Implementation Of Government*
21 *Reorganization*).

22
23 Further, the GCG effectively obstructed the CSC's initiatives on merit increases for the
24 GOCCs with original charters. The GCG recommended the suspension of the CPCS
25 following which the Office of the President issued E.O. No. 36, Series of 2017 (*Suspending*
26 *the CPCS under E.O. No. 203, Series of 2016, Providing for Interim Compensation and*
27 *Adjustments, And for Other Purposes*).

28
29 As such, the undue interference of the GCG in the day to day operations of the GSIS in the
30 form of supplanting already set targets and milestones likewise undermines the expertise
31 of the GSIS in the conduct of its own business and renders nugatory the powers and
32 functions expressly granted to it by the Congress to effectively discharge its mandate and
33 ensure its self-management and consequently, its independence.

34
35 The ill effects and incompatibility of R.A. No. 10149, which may very well be an
36 unconstitutional law, to the GSIS macrocosm is quite apparent. The GCG interference which
37 erodes the safeguarded independence of the GSIS should not be countenanced as the
38 accomplishment of the GSIS' very mandate to preserve and protect its funds, is grounded on its
39 independence, both financially and operationally. Thus, the preservation of GSIS' independence
40 is of transcendental and primordial importance.

41
42 For the sake of the valued GSIS stakeholders, its employees, members and pensioners, the
43 GSIS is constrained to seek the GSIS' exemption from the coverage of the coverage of R.A. No.
44 10149, otherwise known as the "GOCC Governance Act of 2011 and the Governance Commission
45 on GOCCs (GCG). The GSIS can best performs its mandate and functions outside the coverage
46 of R.A. No. 10149 and the GCG and unhampered and impeded by the bureaucratic, intrusive and
47 overlapping functions and systems of GCG. Further, the GSIS needs its employees, its most
48 important resource, to faithfully and efficiently discharge its mandate. A disgruntled and
49 unmotivated workforce will indubitably decrease GSIS' productivity and output, which will
50 certainly affect the quality of the service rendered to its members, pensioners and beneficiaries,
51 who make up some of the most vulnerable sectors in our society.

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

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

1
2 Section 1. Section 4 of Republic Act No. 10149 is hereby amended to read as follows:
3

4 “SEC. 4. *Coverage.*—This Act shall be applicable to all GOCCs, GICPs/GCEs, and
5 government financial institutions, including their subsidiaries, but excluding the Bangko
6 Sentral ng Pilipinas, Government Service Insurance System, state universities and
7 colleges, cooperatives, local water districts, economic zone authorities and research
8 institutions: *Provided*, That in economic zone authorities and *research* institutions, the
9 President shall appoint one-third (1/3) of the board members from the list submitted by the
10 GCG.”
11

12 Section 2. *Separability Clause.* - Should any provision of this Act or any part thereof be
13 declared invalid, the other provisions, so far as they are separable from the invalid ones, shall
14 remain in force and effect.
15

16 Section 3. *Repealing Clause.* – Republic Act No. 10149 insofar as it refers to Government
17 Service Insurance System (GSIS) and all laws, decrees, executive orders, administrative orders,
18 rules and regulations, and other issuances or parts thereof inconsistent herewith are hereby
19 repealed, amended or modified accordingly.
20

21 Section 4. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in
22 the Official Gazette or in at least two (2) newspapers of general circulation.