


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

SEVENTEETH CONGRESS
First Regular Session

House Bill No. 2439

HOUSE OF REPRESENTATIVES	
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Introduced by AKBAYAN Representative Tomasito S. Villarín

EXPLANATORY NOTE

The social justice clause of the 1987 Philippine Constitution rightfully affords full protection to labor. The rights provided in Article XIII, Section 3 of the Philippine Constitution, particularly the rights to security of tenure, to self-organize, to collectively bargain and negotiate, including the right to participate in the decision-making process of employers, are rights guaranteed to all workers in the private and public sector.

On 6 June 2011, Republic Act No. 10149 otherwise known as the "GOCC Governance Act of 2011" was signed into law. RA 10149 was enacted to curb the grant of unreasonably high allowances, bonuses and *per diems* given to members of the Board and officers of government-owned or -controlled corporations. RA 10149 created the Governance Commission for Government-Owned or -Controlled Corporation, or GCG, which has the power to recommend the reorganization, merger, streamlining, abolition and privatization of any government-owned or -controlled corporation.

Earlier on 08 September 2010, Executive Order No. 7 was issued seeking to rationalize compensation in GOCCs. In its Section 9, EO 7 imposed a moratorium on increases in salaries, allowances, benefits, and other incentives in GOCCs unless approved by the President.

While the safeguards imposed by RA 10149 and EO 7 were meant to prevent the grant of unconscionable compensation to members of the Board and officers, the two enactments placed employees and personnel of GOCCs, particularly those occupying supervisory and rank-and-file positions, in an unfair situation.


Moreover, every recommendation of reorganization, merger, streamlining, abolition and privatization affects the right of employees

and personnel to security of tenure. The blanket moratorium in EO 7 has frustrated the implementation of the provisions of collective bargaining and negotiating agreements. These effects were not the intention behind the law.

In connection to this, the intention of RA 10149 should be clearly set by an amendment of the law. The negative effects of the implementation on the rights of supervisory and rank-and-file employees and members of personnel run counter to the guarantees given by the Philippine Constitution.

This bill was filed by Akbayan's representatives during the 16th Congress after consulting several GOCC unions.

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



TOMASITO S. VILLARIN

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Introduced by AKBAYAN Representative Tomasito S. Villarin

AN ACT
AMENDING REPUBLIC ACT NO. 10149
OTHERWISE KNOWN AS
THE "GOCC GOVERNANCE ACT OF 2011"

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

SECTION 1. Title. - This Act shall be known as the "GOCC Governance Amendments Act of 2016."

SECTION 2. Amendatory Provisions.—

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

"Section 3. Definition of Terms.—For purposes of this Act, the following terms shall used and understood as follows:

(a) "Affiliate" refers to a corporation fifty percent (50%) or less of the outstanding capital stock of which is owned or controlled, directly or indirectly, by the GOCC.

(b) "Appointive Director" refers to: (1) In the case of chartered GOCCs, all members of its Board of Directors/Trustees who are not *ex officio* members thereof; (2) In the case of nonchartered GOCCs, members of its Board of Directors/Trustees whom the State is entitled to nominate, to the extent of its

percentage shareholdings in such GOCC; and (3) In the case of subsidiaries and affiliates, members of its Board of Directors/Trustees whom the GOCC is entitled to nominate to the extent of its percentage shareholdings in such subsidiary or affiliate.

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

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

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

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

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

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

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

(o) "*Government Instrumentalities with*

Corporate Powers (GCIP)/Government Corporate Entities (GCE) refer to instrumentalities within the departmental framework but vested by law with special functions or jurisdiction, endowed with some if not all corporate powers, administering special funds, and enjoying operational autonomy usually through a charter including, but not limited to, the following: the Manila International Airport Authority (MIAA), the Philippine Ports Authority (PPA), the Philippine Deposit Insurance Corporation (PDIC), the Metropolitan Waterworks and Sewerage System (MWSS), the Laguna Lake Development Authority (LLDA), the Philippine Fisheries Development Authority (PFDA), the Bases Conversion and Development Authority (BCDA), the Cebu Port Authority (CPA), the Cagayan de Oro Port Authority, the San Fernando Port Authority, the Local Water Utilities Administration (LWUA) and the Asian Productivity Organization (APO).

(p) *"Government-Owned or -Controlled Corporation (GOCC)"* refers to any agency a chartered or nonchartered GOCC, as defined herein, organized either as a stock or nonstock corporation, vested with functions relating to public needs whether governmental or proprietary in nature, and owned by the Government of the Republic of the Philippines directly or through its instrumentalities, either wholly or, where applicable, as in the case of stock corporation, to the extent of at least a majority of its outstanding capital stock: *Provided, however*, That for purposes of this Act, the term "GOCC" shall include *"GCIP/GCE and GFT"* as defined herein: *Provided, further*, That for purposes of Chapter III of this Act, the distinction between a chartered or nonchartered GOCC shall be retained.

(q) *"Member of the personnel"* refers to any individual employed by a chartered GOCC who occupies a career or noncareer position

and who is not a member of the Board of Directors/Trustees or an Officer, as these are defined herein.

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

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

(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.

(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 compensation of employees of nonchartered GOCCs shall be set in accordance with the Articles 244, 252 253, 253-A and 250 of the Presidential Decree No. 442 otherwise known as the 'Labor Code of the Philippines'."

SECTION 3. Separability Clause.—If for any reason, any provision of this Act is declared invalid or unconstitutional, the remaining provisions not affected thereby shall continue to be in force and effect.

SECTION 4. Repealing Clause.—All laws, decrees, executive orders, proclamations, rules and regulations, and other issuances, or part or parts thereof, particularly of Republic Act No. 10149 otherwise known as the "GOCC Governance Act of 2011," which are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

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

Approved.