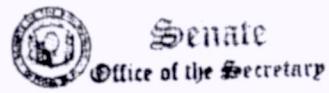


EIGHTEENTH CONGRESS OF THE }
REPUBLIC OF THE PHILIPPINES }
First Regular Session }



19 SEP 10 P5:42

S E N A T E
S.B. No. 1029

RECEIVED BY: J

INTRODUCED BY SENATOR VICENTE C. SOTTO III

AN ACT

STRENGTHENING THE OFFICE OF THE GOVERNMENT CORPORATE
COUNSEL BY RATIONALIZING AND FURTHER PROFESSIONALIZING ITS
ORGANIZATION, UPGRADING POSITIONS AND APPROPRIATING FUNDS
THEREFOR

EXPLANATORY NOTE

The Office of the Government Corporate Counsel (OGCC) acts as the statutory counsel of about 714 government-owned or controlled corporations, government instrumentalities exercising corporate powers, government financial institutions and government corporate entities, their subsidiaries and corporate offsprings as well as economic zones, state universities and water districts (which shall all hereinafter be referred collectively as "GOCCs" for brevity) all over the country. Its responsibilities cover all the legal affairs of all the GOCCs and it handles special tasks for them including the exercise of control and supervision over all their legal departments. Its mandate has been further reinforced in subsequent executive issuances to effectively provide legal counsel to the GOCCs in their operations.

The strengthening of the OGCC is long overdue. The existing organizational structure and personnel complement of OGCC was formulated way back in 1978 and has not been amended and improved since then despite the increasing work performed by the OGCC in discharging its mandate. To ensure that OGCC shall be able to adapt to the

changing conditions, the increase in the number of its personnel and corresponding adjustment in their compensation and benefits is inevitable.

For decades, the legal guidance and assistance provided by the OGCC by way of legal representations, legal opinions, drafting and review of contracts, performance of special tasks the exercise of control and supervision over its legal departments, enabled the GOCCs to more efficiently perform their respective mandates within the bounds of the law.

With OGCC as statutory counsel, GOCCs do not need to engage private lawyers to address their legal requirements. The GOCCs are able to generate savings and utilize its much-needed funds for its core purposes, which would otherwise be allocated for legal fees of private lawyers if OGCC has not existed.

With the growth in the number of GOCCs coupled with the complexities of their requirements brought by the modern business situations and conditions, the increase in the request for the legal services of OGCC, not only in terms of volume, but also the nature of the services required, call for specialization and expertise in specific fields of law.

The Officials and employees of OGCC who are entrusted with the legal concerns of the GOCCs need to be properly equipped and be adequately compensated to effectively fulfill their duties and responsibilities.

In line with the principle of National Government's thrust to standardize and rationalize the current compensation framework in the bureaucracy, the positions, salaries and benefits of the lawyers and administrative staff of the OGCC should be at par with the salary grades, positions, salaries and benefits of its counterparts in the Department of Justice performing similar functions and providing similar legal services. It is for this reason that the OGCC needs a new Charter upgrading the

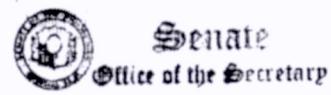
positions, salaries and benefits of its employees and increasing the number of its legal personnel and administrative staff.

In view of the foregoing reasons, the expeditious approval of this proposed bill is earnestly sought.



VICENTE C. SOTTO III

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

1 SECTION 1. **Short Title** – This Act shall be known as the “OGCC
2 Charter.”

3 SEC 2. **Declaration of Policy** – It shall be the policy of the State to
4 protect and promote the welfare, rights and interests of government-owned
5 or controlled corporations (GOCCs), government financial institutions (GFIs),
6 government instrumentalities with corporate powers (GCIPs), government
7 corporate entities (GCEs) as defined in Republic Act 10149 as well as their
8 subsidiaries and corporate offsprings including economic zones, state
9 universities and water districts, all collectively referred to in this Act as
10 government corporations (GOCCs).

11 Toward this end, the State shall require the improvement of legal
12 services to efficiently address the expanding needs of these government
13 corporations in accordance with its initiative towards an improved fiscal
14 management and good corporate governance. It shall be the mandate of the
15 OGCC to safeguard the legal interest of the government corporations.

16 SEC 3. **Power, Jurisdiction and Mandate** – Any law to the contrary
17 notwithstanding, the Office of the Government Corporate Counsel (“OGCC”)
18 shall be the statutory counsel and principal law office of all government

1 corporations. All government corporations shall refer to the OGCC the
2 following:

- 3 a. All important legal questions for opinion and advice;
- 4 b. All contracts for review, provided that the GCC may from time to
5 time determine which contract shall no longer be submitted to
6 OGCC; and
- 7 c. All cases for representation before regular courts, quasi-judicial
8 bodies, administrative agencies and arbitral tribunals, *provided*
9 *that*, the Government Corporate Counsel (GCC) may thereafter
10 authorize the government corporation's legal department or
11 retained counsel as collaborating counsel to handle cases, as the
12 urgency or expediency of circumstances may warrant.

13 The OGCC shall:

- 14 a. Exercise control and supervision over the legal departments of all
15 government corporations and conduct periodic performance audit
16 of the in-house lawyers or legal departments of government
17 corporations and to recommend appropriate actions to them;
- 18 b. Conciliate, mediate, act as hearing officers or adjudicate all
19 disputes on controversies exclusively between government
20 corporations;
- 21 c. Investigate and, in appropriate cases, hear administrative
22 disciplinary cases involving all lawyers, officials and employees of
23 government corporations upon the latter's request and recommend
24 appropriate administrative or disciplinary sanctions;
- 25 d. Conduct fact-finding and preliminary investigation in appropriately
26 referred cases;
- 27 e. Act as Corporate Secretary or any other officer of government
28 corporations upon their request;
- 29 f. Be assigned as members of technical working groups, bids and
30 awards committee, task force and other committees in relation to
31 government corporations' projects;
- 32 g. Be detailed or assigned to government corporations upon their
33 request provided, that the GCC approves the assignment or

- 1 designation, including attendance in meetings requested by
2 government corporations;
- 3 h. Represent the OGCC in the Governing Board and management
4 committees of government corporations;
- 5 i. Approve the engagement of private lawyers by the government
6 corporations; and
- 7 j. Perform such other functions necessary in the interest of the
8 service.

9 **SEC 4. *Expansion and Upgrading of Positions* –**

10 **A.** The Government Corporate Counsel (“GCC”) shall have the rank,
11 salary, allowances, retirement and pension benefits, emoluments,
12 prerogatives and privileges as the Presiding Justice of the Court of Appeals.
13 He/she shall be assisted by a Deputy Government Corporate Counsel
14 (“DGCC”) and twelve (12) Assistant Government Corporate Counsels
15 (“AGCC”) who shall have the rank, salary, allowances, retirement and
16 pension benefits, emoluments, prerogatives and privileges of an Associate
17 Justice of the Court of Appeals.

18 No person shall be appointed GCC, DGCC or AGCC unless he/she is a
19 natural-born citizen of the Philippines and, for at least fifteen (15) years, has
20 been engaged in the practice of law in the Philippines.

21 **B.** The number, rank, salary, allowances, retirement and pension
22 benefits, emoluments, prerogatives and privileges of the other members of
23 the legal staff shall be as follows:

- 24 1. The present ten (10) Government Corporate Attorney IV (“GCA
25 IV”) shall be increased to sixteen (16) and they shall have the
26 rank, salary, allowances, retirement and pension benefits,
27 emoluments, prerogatives and privileges of a Regional Trial
28 Court Judge. No person shall be appointed as GCA IV unless
29 he/she is a natural-born citizen in the Philippines and, for at
30 least ten (10) years, has been engaged in the practice of law in
31 the Philippines;

- 1 2. The present fourteen (14) Government Corporate Attorney III
2 ("GCA III") shall be increased to nineteen (19) and they shall
3 have the rank, salary, allowances, retirement and pension
4 benefits, emoluments, prerogatives and privileges of a
5 Metropolitan Trial Court Judge. No person shall be appointed
6 GCA III unless he/she is a natural-born citizen of the
7 Philippines and, for at least five (5) years, has been engaged in
8 the practice of law in the Philippines.
- 9 3. The present seventeen (17) Government Corporate Attorney II
10 ("GCA II") shall be increased to twenty (20) who shall be natural-
11 born citizens of the Philippines and have been engaged in the
12 practice of law in the Philippines for at least three (3) years;
- 13 4. The present four (4) Government Corporate Attorney I ("GCA I")
14 shall be increased to twelve (12) who shall be natural-born
15 citizens of the Philippines and have been engaged in the practice
16 of law in the Philippines for at least one (1) year.

17 The GCC, DGCC and AGCCs shall be appointed by the President of
18 the Philippines. The other members of the legal and administrative
19 personnel shall be appointed by the GCC. Except for the GCC, the
20 appointments of the DGCC and AGCCs shall be permanent upon
21 compliance with the prescribed qualification standards under this law.

22 The GCC may appoint in coterminous capacity two (2) lawyers with
23 the same rank, salary, allowances and other benefits of an AGCC and two
24 (2) lawyers with the same rank, salary, allowances and other benefits of a
25 GCA IV, who shall form part of his confidential staff.

26 SEC 5. ***Organizational Structure*** – The OGCC shall be headed by
27 the GCC, who is the principal law officer and legal defender of all the
28 government corporations. He shall have the authority and responsibility for
29 the exercise of the OGCC's mandate and for the discharge of its duties and
30 functions, and shall have supervision and control over the OGCC and its
31 constituent units. The GCC shall promulgate necessary rules & regulations
32 for the implementation of the provisions of this law.

33

1 The GCC shall be assisted by the DGCC, AGCCs and such number of
2 GCAs as may be necessary to operate the OGCC.

3 Unless otherwise determined by the GCC, the legal staff shall be
4 divided into teams, each to be headed by an AGCC.

5 The administrative structure of the OGCC shall be composed of the
6 Secretarial and Legal Support Services, Finance and Accounting Services,
7 Human Resource and Management Services, Case and Records
8 Management Services, Library Management and Information Technology
9 Services, Corporate Planning Services and Property and Supply Services.

10 The legal and non-legal personnel of the OGCC occupying the
11 positions affected by the changes embodied in this Act at the time of its
12 approval shall thereafter occupy and discharge the duties and functions of
13 the upgraded positions and receive the corresponding salary, benefits and
14 privileges without necessity of new appointments.

15 SEC 6. **Compensation** – The salary grades for the basic monthly
16 compensation of the OGCC legal personnel shall be as follows:

Position	Salary Grade
Government Corporate Counsel	31
Deputy Government Corporate Counsel	30
Assistant Government Corporate Counsel	30
Government Corporate Attorney IV	29
Government Corporate Attorney III	28
Government Corporate Attorney II	27
Government Corporate Attorney I	26

25 The 150 non-legal personnel shall be composed of the following: two
26 (2) Chief Administrative Officers; one (1) Budget Officer V; one (1) Executive
27 Assistant (EA) V; two (2) EA IV; one (1) EA III; one (1) Accountant IV; four (4)
28 Supervising Administrative Officers; one (1) Planning Officer IV; eleven (11)
29 Administrative Officers (AO) V; one (1) Librarian IV; one (1) Information
30 Technology Officer; one (1) Computer Main Technician; one (1) Librarian III;
31 four (4) AOs III; three (3) AOs II; twelve (12) Senior Administrative Assistant
32 III; one (1) Planning Analyst II; twenty (20) Administrative Assistant (ADAS)
33 VI; one (1) Computer Operator III; twelve (12) ADAS V; twelve (12) ADAS III;

1 one (1) Bookkeeper III; three (3) Records Officer I; fourteen (14) ADAS II; five
2 (5) ADAS I; one (1) Chauffeur IV; one (1) Security Guard III; ten (10) ADA VI;
3 one (1) Driver IV; one (1) Buyer II; fourteen (14) ADA IV; and six (6) ADA III.

4 The non-legal personnel shall have the same salaries and benefits as
5 that of their counterparts in the Office of the Solicitor General.

6 The salaries, benefits and privileges of the personnel of the OGCC
7 granted under this Act shall automatically be increased to keep in step with
8 any corresponding increase in salaries and privileges subsequently granted
9 to their respective counterparts in the judiciary, the Office of the Solicitor
10 General and the Court of Appeals.

11 SEC 7. **Personnel Benefits and Privileges** – Provisions of other laws
12 to the contrary notwithstanding, and subject to availability of funds, the
13 OGCC may provide its employees the following benefits:

- 14 I. Health care services through a health maintenance organization
15 (HMO).
- 16 II. Accident insurance for all employees for approved travels while
17 in the performance of official duties;
- 18 III. Provided the efficiency of the service is not prejudiced,
19 scholarships for the deserving employees on official time to
20 upgrade their knowledge and skills. *Provided further,* That
21 scholars under this provision shall be selected on the basis of
22 merit as determined by competitive examination; and
- 23 IV. A Provident Fund which shall consist of, but not be limited to
24 contributions made by the OGCC and by its employees;
- 25 V. Reimbursement of registration fees and expenses for trainings
26 and seminars, Mandatory Continuing Legal Education fees and
27 professional license fees.

28 SEC 8. **Other Benefits** – Provisions of other laws to the contrary
29 notwithstanding, the legal personnel of the OGCC are authorized and shall
30 continue to receive allowances and honoraria from government corporations
31 which shall not exceed One Hundred Percent (100%) of their annual basic
32 salary. The employees of the OGCC may likewise be extended such benefits
33 and privileges as are given to the employees of government corporations.

1 SEC 9. ***Retirement Benefits*** – Any law to the contrary
2 notwithstanding, and consistent with Section 4 of this Act granting them the
3 same retirement benefits and privileges of their counterparts in the
4 judiciary, the retirement benefits of the GCC, DGCC, AGCC, GCA IV and
5 GCA III shall be automatically increased whenever there is an increase in
6 the salaries and allowances of the same positions from which he or she
7 retired.

8 SEC 10. ***Attorney's Fees and Special Assessment*** – The OGCC is
9 authorized to receive twenty percent (20%) of the money claims collected by,
10 or awarded/adjudged to government corporations, in addition to the
11 attorney's fees awarded by a court, tribunal, or panel, including
12 awards/judgments, stipulated under court-approved compromise
13 agreements. The OGCC is hereby authorized to use such awards and
14 attorney's fees to meet contingencies, obligations and undertakings and/ or
15 for employee benefits and incentives, necessary or proper to promote
16 efficiency in the service as determined by the GCC.

17 The GCC is likewise authorized to make special assessments upon
18 government corporations and to disburse and use the same for such
19 contingencies, obligations and undertakings, and to provide for employees'
20 benefits and incentives allowed under the law.

21 Attorney's fees and special assessments shall be deposited in an
22 authorized government depository and shall be made available for
23 expenditure without the need for a cash disbursement ceiling for purposes
24 of meeting obligations and contingencies, upgrading facilities and
25 equipment, granting of employees' benefits and incentives and defraying
26 such other expenses not provided for in the General Appropriations Act
27 subject to accounting and auditing procedures.

28 SEC 11. ***Franking Privilege*** – All official matters and telegrams of the
29 OGCC addressed for delivery within the Philippines shall be received,
30 transmitted and delivered free of charge.

31 SEC 12. ***Appropriations*** – The amount needed for employees'
32 salaries, mandatory allowances and benefits under other laws, maintenance

1 and other operating expenses and capital outlay shall be appropriated in the
2 budget of the OGCC under the annual General Appropriations Act.

3 **SEC 13. *Repealing Clause*** - All laws, decrees, rules and regulations
4 inconsistent with the provisions of this Act are hereby repealed or amended
5 accordingly.

6 **SEC 14. *Separability Clause*** – If any of the provisions of this Act is
7 declared invalid or unconstitutional, the provisions not affected thereby
8 shall continue to be in full force and effect.

9 **SEC 15. *Effectivity*** – This Act shall take effect after fifteen (15) days
10 from its publication in the Official Gazette or in a national newspaper of
11 general circulation.

Approved,