

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 4496



Introduced by **Rep. LAWRENCE LEMUEL H. FORTUN**

EXPLANATORY NOTE

This bill seeks to strengthen and expand the functions of the Legal Staff in the Department of Justice (DOJ) which shall be known as the Office of the Chief State Counsel. The current Legal Staff of the DOJ plays a pivotal role in the country's international commitments and economic development.

The enactment of Republic Act No. 2705 on June 18, 1960 saw the creation of the Legal Staff that is headed by the Chief Legal Counsel with the assistance of thirty (30) attorneys. It was 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 or enterprises.*" The Legal Staff then was mainly responsible for the issuance by the Secretary of Justice of various written legal opinions requested by government entities, instrumentalities and offices.

Over the years, the Legal Staff has evolved and been involved in more undertakings of different fields. It adjudicates and arbitrates conflicts or controversies between or among government offices and agencies, resolves the legality of tax ordinances or measures, reviews citizenship and immigration cases, implements the anti-dummy law, negotiates and executes executive agreements and treaties, and determines the status of refugees in compliance with our commitment to the 1951 United Nations Convention Relating to the Status of Refugees and the 1954 United Nations Convention Relating to the Status of Stateless Persons.

Today, the Legal Staff is engaged in more government programs and international undertakings unprecedented in its history. Its indispensable participation is seen in matters affecting not only foreign trade, financing and investments in the Philippines, but also in international cooperation relating to extradition, mutual legal assistance, trafficking, financial crimes, and irregular migration.

The multifaceted and demanding role required of State Counsels, which has been unheralded and overlooked over the years, can efficiently and effectively be met by recognizing the exceptional role of the Office, strengthening its functions, expanding the Office, augmenting benefits, and upgrading employee skills.

Presently, the Legal Staff is undermanned and in dire need of organizational upgrading in order to function optimally. The highest point in the career of a State Counsel is perhaps the position of Chief State Counsel. Yet, it is unfortunate that the counterparts of the Chief State Counsel – the Government Corporate Counsel in the Office of the Government Corporate Counsel and the Solicitor General in the Office of the Solicitor General – enjoy the rank of Associate Justice and Presiding Justice of the Court of Appeals, respectively. The corresponding judicial ranking proposed for State Counsel augurs well with the fact that the Office is a veritable

training ground for lawyers in very special fields of law. To mention a few who worked in the Legal Staff of the Department of Justice and rose to prominence in the legal field are former Supreme Court Justice Florentino Feliciano, former Ombudsman Conchita Carpio-Morales, former Supreme Court Justice Teresita Leonardo-De Castro, former Supreme Court Justice Leonardo Quisumbing and former Supreme Court Justice Minerva P. Gonzaga-Reyes.

The counterparts of State Counsels in the DOJ are the State Prosecutors who were strengthened and rationalized, and given the same benefits in R.A. No. 10071 in 2010. It is high-time that the unheralded and overlooked State Counsels of the Department of Justice likewise be given the same benefits as that of their counterparts in the Department.

Equally important is the pressing necessity to augment the salaries of the State Counsels who are already overburdened due to the unforgiving demands of their work. Inevitably, the Legal Staff has been unsuccessful in retaining and maintaining the best legal minds, and thus continue to suffer from professional exodus to more economically rewarding offices. Of similar economic situation as the State Counsels are the administrative personnel of the Legal Staff who, over the years, are equally burdened by the voluminous work in the Office. Overworked and underpaid, they are undeniably the strategic partners who facilitate the work of the State Counsels. Any economic gain by the State Counsels should cascade to, and be shared with, the administrative personnel.

This bill has been filed in the 15th, 16th and 17th Congresses which signifies its importance and urgency. In re-filing this proposed measure in the 18th Congress, it is sincerely hoped that this will finally gain enough support for its passage into a law in order to empower and recognize our State Counsels as they perform fully and effectively their mandates.

The foregoing are the compelling reasons for the enactment of this proposed legislation.



LAWRENCE LEMUEL H. FORTUN
1st District of Agusan del Norte

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EIGHTEENTH CONGRESS
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House Bill No. **4496**

Introduced by **Rep. LAWRENCE LEMUEL H. FORTUN**

**AN ACT STRENGTHENING
THE LEGAL STAFF OF THE DEPARTMENT OF JUSTICE,
RENAMING IT AS THE OFFICE OF THE CHIEF STATE COUNSEL, REDEFINING,
EXPANDING, RATIONALIZING 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.”

SEC. 2. *Office of the Chief State Counsel.* – The Legal Staff created under Republic Act (RA) No. 2705, as amended by R.A. No. 4152, shall be renamed as the Office of the Chief State Counsel (“OCSC”).

The OCSC shall be under the supervision and control of the Secretary of Justice and shall assist the Secretary of Justice in the exercise of his functions as Attorney General of the Philippines and *ex officio* legal adviser of departments, agencies and instrumentalities, including government-owned or controlled corporations, or enterprises and their subsidiaries.

SEC. 3. *Powers and Functions.* – All matters concerning the following shall be referred to and acted upon by the Office of the Chief State Counsel:

- (a) Requests for legal opinion;
- (b) Requests for opinion/comments on the legality and validity of foreign loan agreements and guarantee agreements, and in certain cases, agreements related to domestic borrowings;
- (c) Requests for comments and position papers on proposed legislations;
- (d) Affirmation of Orders of the Bureau of Immigration concerning recognition of Filipino citizens or cancellation of alien certificate of registration;
- (e) Appeals or petitions for review on any action in the exercise of the quasi-judicial function of the attached agencies under the control and supervision of the Secretary of Justice;

(f) Administrative settlement or adjudication of disputes, claims and controversies between or among government offices, agencies and instrumentalities, including government-owned and controlled corporations;

(g) Legality and validity of tax ordinances and revenue measures;

(h) Applications for special authority to employ foreign nationals under Commonwealth Act (C.A) No. 108 entitled “An Act to Punish Acts of Evasion of the Laws on the Nationalization of Certain Rights, Franchises or Privileges” or the *Anti-Dummy Law*, as amended;

(i) Applications for determination of refugee and statelessness status of foreign nationals, as well as protection matters of refugees and stateless persons;

(j) Applications for, and implementation of, special non-immigrant visas which may be issued by the President under Sec. 47(a)(2) of C.A. No. 613 entitled “*An Act to Control and Regulate the Immigration of Aliens into the Philippines*”, otherwise known as the *Philippine Immigration Act of 1940*, as amended;

(k) Applications for 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) Requests on matters involving the implementation of treaties on mutual legal assistance in criminal matters, extradition and transfer of sentenced persons;

(m) Cases for representation before the courts relating to extradition and mutual legal assistance in criminal matters;

(n) Requests for legal advice from other government agencies in the negotiations and implementation of international agreements, including participation in the negotiations, whenever so requested;

(o) Negotiations and implementation of international agreements where the Department of Justice (DOJ) is the Central Authority or implementing agency, including bilateral, regional or multilateral treaties and conventions within the purview of the DOJ’s mandate or function;

(p) Requests for legal advice from other government agencies in the negotiations and implementation of international agreements, including participation in the negotiations, whenever so requested;

(q) Supervision of the Department Law Library as well as its personnel; and

(r) Such other functions and duties as may be delegated by the Secretary of Justice.

SEC. 4. Expansion, upgrading and creation of positions. – The OCSC is hereby expanded and their positions upgraded as follows:

Old Position	From		New Position under this Act	To	
	No. of Position	Salary Grade		No. of Position	Salary Grade
Chief State Counsel	1	SG 30	Chief State Counsel	1	SG 30 step 8
Assistant Chief	2	SG 29	Deputy Chief State Counsel	4	SG 30

State Counsel					
State Counsel V	6	SG 28	Senior State Counsel	10	SG 29
State Counsel IV	12	SG 27	Assistant Senior State Counsel	15	SG 28
State Counsel III	12	SG 26	State Counsel	20	SG 27
State Counsel II	12	SG 25	Associate State Counsel III	20	SG 26
State Counsel I	15	SG 24	Associate State Counsel II	20	SG 25
			Associate State Counsel I	10	SG 24
	60			100	

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 to be chaired by the Chief State Counsel.

Appointments of the State Counsels shall be deemed permanent upon compliance with the prescribed qualification standards under the law. 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.

In the interest of greater efficiency in the discharge of its functions, the OCSC may be organized into divisions and units, as may be necessary.

There shall be positions created for administrative personnel equivalent to at least one (1) support staff for every two (2) State Counsels.

SEC. 5. Standards, Compensation and Benefits. – The qualifications for appointment, rank, prerogatives, salaries, allowances, emoluments, and privileges of State Counsels shall be the same as that of their counterparts in the Office of the Solicitor General, specified as follows:

Chief State Counsel	-	Assistant Solicitor General
Deputy Chief State Counsel	-	Assistant Solicitor General
Senior State Counsel	-	Senior State Solicitor
Deputy Senior State Counsel	-	State Solicitor II
State Counsel	-	State Solicitor I
Associate State Counsel III	-	Associate Solicitor III
Associate State Counsel II	-	Associate Solicitor II
Associate State Counsel I	-	Associate Solicitor I

No person shall be appointed as Chief State Counsel or Deputy Chief State Counsel unless he is a natural-born citizen of the Philippines and has been engaged in the practice of law in the Philippines for at least fifteen (15) years.

Senior State Counsels must be members of the Philippine Bar for at least ten (10) years prior to their appointment while Deputy Senior State Counsels and State Counsels must be members of the Philippine Bar for at least five (5) years prior to their appointment.

The Secretary of Justice shall determine the qualifications, prerogatives and responsibilities of Associate State Counsels.

All salaries, benefits and privileges of the lawyers of the OCSC granted under this Act shall further be increased to match any corresponding increase in the salaries, benefits and

privileges subsequently granted to their respective counterparts in the Office of the Solicitor General.

SEC. 6. Retirement Benefits. – When a State Counsel, who has rendered at least fifteen (15) years of service either in the OCSC 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/her office, he/she shall, during the residue of his/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/she was receiving at the time of his/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 OCSC, he/she shall likewise be entitled to retire and receive during the residue of his/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		Basic Pay Plus the Highest Monthly Aggregate of Transportation, Living and Representation Allowances
<hr/>	x	
15 years		

SEC. 7. Conditions. – To maintain entitlement to the pension herein provided, no State Counsel, during the time he/she is receiving said pension, shall 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/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 officers. When a State Counsel covered under this Act shall assume an elective public office, he/she shall not, upon assumption of office and during his/her term, retrieve the monthly pension or any of the allowance due to him/her.

SEC. 8. Automatic Increase. – All pension benefits of retired State Counsels of the OCSC shall be automatically increased whenever there is an increase in the salary and allowance of the same position from which he retired.

SEC. 9. Retroactivity. - The benefits mentioned in Sections 4, 5 and 8 hereof shall be granted to all those who retired prior to the effectivity of this Act.

SEC. 10. 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.

SEC. 11. Authority to Collect Fees. – The OCSC 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 as special allowance for lawyers of the OCSC who are actually performing the functions under Section 3 hereof duly certified by the Chief State Counsel; *Provided*, That such special allowances shall not exceed One Hundred Percent (100%) of the basic salary as provided under Republic Act No. 6758 otherwise known as the Salary Standardization Law, as amended.

SEC. 12. Seminar and Other Related Fees. – Subject to availability of funds, 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 (MCLE) shall be borne by the OCSC.

SEC. 13. Franking Privilege. – The OCSC may transmit through ordinary mail and/or registered mail with return card, free of charge, all official communications and papers directly connected with the conduct of its duties and functions.

SEC. 14. Appropriation. – 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 law shall be appropriated in the budget of the Department of Justice under the Annual General Appropriations Act.

SEC. 15. Implementing Rules and Regulations. – Within sixty (60) days from the approval of this Act, the Department of Justice and the Department of Budget and Management shall promulgate such rules and regulations as may be necessary to carry out the provisions of this Act.

SEC. 16. 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.

SEC. 17. Repealing Clause. – Provisions of Republic Act No. 2705, as amended by R.A. No. 4152, and other provisions of E.O. No. 292 (Section 7, Chapter 2, Title III, Book IV, Administrative Code of 1987) are hereby repealed. All other issuances inconsistent with any provision of this Act are likewise hereby repealed, amended and/or modified accordingly.

SEC. 18. Effectivity. – This Act shall take effect after fifteen (15) days from its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,