


10 JAN 11 P1:52

SENATE

Senate Bill No. 3564

RECEIVED BY: 

Introduced by Senate President Juan Ponce Enrile

EXPLANATORY NOTE

The Office of the Solicitor General (OSG) represents the Government of the Philippines, its agencies, instrumentalities, officials and agents in any litigation, proceeding, investigation or matter requiring the services of lawyers. When authorized by the President or head of the office concerned, it can also represent government-owned or controlled corporations in similar legal concerns. Upon the instructions of the President, the OSG represents the Republic of the Philippines in international litigations, negotiations or conferences where the legal position of the Republic must be defended or presented.

In sum, as Tribune of the People,¹ the OSG acts and represents the Republic and/or the People before any court, tribunal, body or commission in any matter, action or proceedings which affects the welfare of the people as the ends of justice may require. Thus, the duty of the OSG is to defend the interests of the Republic of the Philippines and to promote the rule of law as a fulcrum in advancing the interests of the Government and the rights of all the People of the Republic of the Philippines. As Tribune of the People, the OSG at times takes a position contrary to that of its traditional client – the Government.

Given these formidable duties of the Solicitor General, his insulation from political pressure is crucial and necessary for the proper performance of his duty to uphold the interest of the State and to faithfully carry out his role as Tribune of the People.

To further strengthen the OSG as an institution, this bill aims to give the Solicitor General a fixed term of seven years without reappointment. The bill likewise aims to grant to the OSG fiscal autonomy. These measures are proposed in order to insulate the Solicitor General, as principal lawyer of the Republic of the Philippines and as the Tribune of the People, from political pressure² and uphold the OSG's independence.³

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


JUAN PONCE ENRILE
Senator

¹ *Gonzales vs. Chavez*, 205 SCRA 816 (1992).

² *Rationale for granting the Ombudsman the same qualifications and disqualifications as that of the constitutional commissioners*; RECORDS OF THE CONSTITUTIONAL COMMISSION, Vol. 2, pp. 264-267.

³ *Rationale for granting fiscal autonomy to the constitutional commissions and granting the commissioners thereof a fixed term of office without reappointment*; RECORDS OF THE CONSTITUTIONAL COMMISSION, Vol. 1, p. 525.

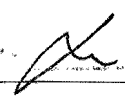
FOURTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Third Regular Session)

OFFICE OF THE SECRETARY

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Senate Bill No. 3564

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AN ACT
STRENGTHENING THE AUTONOMY AND INDEPENDENCE OF THE OFFICE OF
THE SOLICITOR GENERAL AND FOR OTHER PURPOSES

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

1 SECTION 1. Section 3 of Republic Act No. 9417, "An Act to Strengthen the Office
2 of the Solicitor General by Expanding and Streamlining Its Bureaucracy, Upgrading
3 Employee Skills and Augmenting Benefits, and Appropriating Funds Therefor and For
4 Other Purposes," is hereby amended to read as follows:

5 "SEC. 3. *Standards.* - The Solicitor General shall have cabinet
6 rank, **WITH A TERM OF SEVEN (7) YEARS WITHOUT**
7 **REAPPOINTMENT**, and the same qualifications for appointment,
8 rank, prerogatives, salaries, allowances, benefits and privileges as
9 the Presiding Justice of the Court of Appeals; an Assistant Solicitor
10 General shall have the same qualifications for appointment, rank,
11 prerogatives, salaries, allowances, benefits and privileges as the
12 Associate Justice of the Court of Appeals.

13 The qualifications for appointment, rank, prerogatives, salaries,
14 **ALLOWANCES, BENEFITS** and privileges of solicitors shall be the
15 same as judges, specified as follows:

1	Senior State Solicitor	-	Regional Trial Court Judge
2	State Solicitor II	-	Metropolitan Trial Court Judge
3	State Solicitor I	-	Municipal Trial Court in Cities
4			Judge

5 The Solicitor General shall determine the qualifications,
6 prerogatives and responsibilities of the Associate Solicitors."

7 SECTION 2. Section 5 of Republic Act No. 9417 is hereby amended to read as
8 follows:

9 "SEC. 5. *Benefits and Privileges.* - Subject to the availability of
10 funds, the Office of the Solicitor General may provide its employees
11 with the following benefits:

12 (1) Health care services through a health maintenance
13 organization (HMO). Expenses for the mandatory annual
14 executive check-up of the Solicitor General, the Assistant
15 Solicitors General and the Service Heads, shall be for the
16 account of the office;

17 (2) All employees shall be covered by accident insurance policies
18 procured by the office at its own expense during travels while in
19 the performance of their official duties and functions;

20 (3) Without prejudice to efficiency in the service, scholarship to
21 deserving employees on official time and at the expense of the
22 Office of the Solicitor General to enhance their academic growth
23 and upgrade their knowledge and skills. Scholars under this
24 provision shall be selected on the basis of competitive
25 examination; [and]

1 (4) A provident fund which shall consist of contributions made
2 both by the Office of the Solicitor General and by its lawyers and
3 employees to a common fund for the payment of benefits to
4 such lawyers or employees or their heirs; **AND,**

5 **(5) OTHER PERQUISITES AND BENEFITS AS MAY BE**
6 **DETERMINED BY THE SOLICITOR GENERAL IN THE**
7 **EXIGENCIES OF THE SERVICE."**

8 SECTION 3. Section 11 of Republic Act No. 9417 is hereby amended to read as
9 follows:

10 "SEC. 11. *Funding.* - The funds required for the implementation of
11 this Act, including those for health care services, insurance premiums,
12 professional, educational, registration fees, contracted transportation
13 benefits, the other benefits above, shall be taken from:

14 (i) [five percent (5%)] **TEN PERCENT (10%)** of monetary
15 awards **OR ASSETS** given by the Courts to client
16 departments, agencies and instrumentalities of the
17 Government, including those under court-approved
18 compromise agreements[;], **AND TEN PERCENT (10%)**
19 **OF ASSETS AWARDED TO THE GOVERNMENT IN**
20 **FORFEITURE PROCEEDINGS;**

21 (ii) fifty percent (50%) of fees collected by the Special
22 Committee on Naturalization; and

23 (iii) all other income, fees and revenues earned and collected by
24 the Office of the Solicitor General.

1 For this purpose, the Office of the Solicitor General is hereby
2 authorized to charge deputation, certification and other similar fees in
3 the cases that it handles.

4 The amounts collected pursuant to this section shall constitute a
5 trust fund in the name of the Office of the Solicitor General to be
6 managed and used by the Solicitor General to carry out the provisions
7 of this Act.

8 **THE OFFICE OF THE SOLICITOR GENERAL SHALL ENJOY**
9 **FISCAL AUTONOMY TO ENSURE ITS INDEPENDENCE IN**
10 **CARRYING OUT ITS ROLE AS THE PRINCIPAL LAW FIRM OF**
11 **THE GOVERNMENT AND THE TRIBUNE OF THE PEOPLE.**
12 **ANNUAL APPROPRIATIONS FOR THE OFFICE OF THE**
13 **SOLICITOR GENERAL SHALL BE AUTOMATICALLY AND**
14 **REGULARLY RELEASED. THE OFFICE OF THE SOLICITOR**
15 **GENERAL IS, LIKEWISE, AUTHORIZED TO BORROW FUNDS**
16 **AND DISPOSE ITS ASSETS TO CARRY OUT THE PROVISIONS OF**
17 **THIS ACT."**

18 SECTION 4. *Separability Clause.* – If any provision of this Act is declared
19 unconstitutional or invalid, other parts or provisions hereof not affected shall continue
20 in full force and effect.

21 SECTION 5. *Effectivity.* – This Act shall take effect fifteen (15) days following its
22 publication in at least two (2) newspapers of general circulation.

23 Approved,