

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

'04 JUL -7 P125

RECEIVED BY: _____

SENATE
S. B. No. 1404

Introduced by Senator Pangilinan

EXPLANATORY NOTE

The changes introduced in this bill update the conceptual framework of Republic Act No. 910 as amended, providing for the retirement of justices and all judges in the judiciary. Also, this bill focuses in strengthening the judiciary by encouraging professional longevity and discouraging early or optional retirement in the bench.

Alexander Hamilton once said that next to permanency in office, nothing can contribute more to the independence of judges than a fixed provision for their support. While this observation is true since power over a man's subsistence amounts to power over his will, the guaranty of impartiality within the judiciary does not end there. Beyond simply providing for sustenance, the pressing need to engineer budgetary support for judges and justices has as much, if not more, significance. Careful optimization of incentives achieves with greater degree of success the goals of professionalism and efficiency in the dispensation of justice.

One of the mechanisms for this purpose is the amended of the established rules under Republic Act. No. 910, as amended for the grant of lump sum gratuity for retiring magistrates. As proposed in this bill, judges and justice who retire at seventy (70) years with thirty (30) years in government service, the last twenty (20) years of which were rendered in the judiciary, shall receive a lump sum of ten years gratuity computed on the basis of the highest monthly salary plus the highest monthly aggregate of transportation, living and representation allowances he was receiving on the date of his retirement, in addition to the pension allowances already mandated by law. Furthermore, the bill also seek to add that a justice or judge who dies in actual service but has rendered twenty (20) years of government service shall similarly be entitled to the ten-year gratuity to place the deceased justice or judge on the same fair and just footing as one who has been permanently disabled.

Republic Act No. 910, as amended, perceives that professional longevity in the bench is a factor of both length of government service and age. However, the retirement law unfortunately and unwisely neglects to graduate incentives, particularly the grant of lump sum gratuity, to entice justices and judges to retire at the compulsory age of seventy (70) years. Accordingly, a magistrates who reaches sixty (60) years and had twenty (20) years of government service, the last five (5) years of which were served in the Judiciary, retires with as much benefits as a justice who is compulsory retired at the age of seventy (70) years and had an equal number of years of government service. Both would receive a five-year lump sum gratuity computed on the basis of highest monthly aggregate of transportation, living

and representation allowances and a lifetime pension to accrue after the fifth year determined on the same basis as the gratuity.

The results of this poor management of rewards are clear. The younger judge at the sixty (60) years would opt to collect his retirement benefits now rather than doing it ten (10) years later which he reaches seventy (70) since he could gain more productive use of his retirement benefits than he would if he were to let the resources remain idle and useless. The judge can invest his money elsewhere and certainly earn more for his own need and pleasure.

To be sure, novelty does not bring about efficiency in the bench. A new recruit would take time to learn the ropes of judgeship, thus making for more opportunities for the counsel of litigants to disagree with court rulings and to resort to the appeal process. Delay in the fair and judicious resolution of disputes ensues as a sad consequence. In contrast, a veteran judge would command more respect brought about by knowledge gained from practice and mandatory continuing legal education. Distinguished from the uninitiated one, he is understandably more adept at examining evidence and looking through the demeanor of witnesses as he is more than prepared to meet and cut short the cunning strategies of lawyers. Clearly, the judicial process stands to gain more from the experience and savvy of trained judges than the bookishness of new ones.

This bill is sound match for the other packages for judicial reform towards building a higher level of professionalism and efficiency among justices and judges. It entails a small amount to pay the public coffers but offers a wide opportunity for recruiting lawyers for early training and holding on to veteran magistrates, all in the interest of a better dispensation of justice.

For the above reasons, immediate passage of this bill is earnestly sought.



FRANCIS N. PANGLINAN

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

'04 JUL -7 P1:25

RECEIVED BY: _____

SENATE
S. B. No. 1404

Introduced by Senator Pangilinan

**AN ACT TO AMEND SECTIONS ONE, TWO, THREE-A OF REPUBLIC ACT NO. 910
PROVIDING FOR THE RETIREMENT OF JUSTICES AND JUDGES IN THE
JUDICIARY AS AMENDED TO APPROPRIATE FUNDS FOR THIS PURPOSE**

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

SECTION 1. Section One, Two, Three-A of RA No. 910, as amended are hereby
further amended to read as follows:

"SEC. 1. WHEN A JUSTICE OF THE SUPREME COURT OR THE COURT OF APPEALS OR THE SANDIGANBAYAN, OR A JUDGE OF COURT OF TAX APPEALS, THE REGIONAL TRIAL COURT, THE METROPOLITAN TRIAL COURTS AND THE MUNICIPAL CIRCUIT TRIAL COURTS, OR ANY OTHER COURTS HEREAFTER ESTABLISHED WHO HAS RENDERED AT LEAST TWENTY YEARS OF SERVICES IN THE JUDICIARY OR IN ANY OTHER BRANCH OF THE GOVERNMENT, OR IN BOTH, RETIRES FOR HAVING ATTAINED THE AGE OF SEVENTY YEARS, HE SHALL RECEIVE DURING THE RESIDUE OF HIS NATURAL LIFE THE HIGHEST MONTHLY SALARY PLUS THE HIGHEST MONTHLY AGGREGATE OF TRANSPORTATION, LIVING AND REPRESENTATION ALLOWANCES HE WAS RECEIVING AT THE TIME OF HIS RETIREMENT. THE SAME BENEFITS PROVIDED IN THE SECTION SHALL BE EXTENDED TO A JUDGES OF THE SUPREME COURT OR THE COURT OF APPEALS OR THE SANDIGANBAYAN, OR A JUDGE OF COURT OF TAX APPEALS, THE REGIONAL TRIAL COURT AND THE MUNICIPAL CIRCUIT TRIAL COURTS, OR ANY OTHER COURTS HEREAFTER ESTABLISHED, WHO HAS ATTAINED THE AGE OF SIXTY YEARS AND HAS RENDERED AT LEAST TWENTY YEARS OF SERVICE IN THE GOVERNMENT, THE LAST FIVE OF WHICH SHALL HAVE BEEN CONTINUOUSLY RENDERED IN THE JUDICIARY, AT THE RATE HE WAS THEN RECEIVING, PROVIDED IN CASE THE AMOUNT OF SALARY AND/OR THE OTHER AFOREMENTIONED EMOLUMENTS IS INCREASED, SUCH INCREASED RATES SHALL BE THE BASIS FOR COMPUTING THE PENSION. IT IS A CONDITION OF THE PENSION PROVIDED HEREIN THAT NO RETIRING JUSTICE OR JUDGE DURING THE TIME HE IS RECEIVING THE PENSION SHALL APPEAR AS COUNSEL BEFORE ANY COURT IN ANY CIVIL CASE WHEREIN THE GOVERNMENT OR ANY SUBDIVISION OR INSTRUMENTALITY THEREOF IS THE ADVERSE PARTY, OR IN ANY CRIMINAL CASE WHEREIN AN OFFICER OR EMPLOYEE OF THE GOVERNMENT IS ACCUSED OF AN OFFENSE COMMITTED IN RELATION TO HIS OFFICE, OR COLLECT ANY FEE FOR HIS APPEARANCE IN ANY ADMINISTRATIVE PROCEEDING TO MAINTAIN AN INTEREST ADVERSE TO THE GOVERNMENT NATIONAL PROVINCIAL OR MUNICIPAL, OR TO ANY OF

ITS LEGALLY CONSTITUTED OFFICERS. IT IS ALSO A CONDITION OF THE PENSION PROVIDED FOR HERREIN THAT WHEN A MEMBER OF THE JUDICIARY ENTITLED TO THE BENEFITS OF THIS ACT SHALL ASSUME AN ELECTIVE PUBLIC OFFICE, HE SHALL NOT UPON ASSUMPTION OF OFFICE AND DURING HIS TERM, RECEIVE THE MONTHLY PENSION DUE HIM.

"SEC. 2 IN CASE A JUSTICE OF THE SUPREME COURTOR THE COURT OF THE APPEALS OR THE SANDIGANBAYAN OR A JUDGE OF THE COURT OF TAX APPEALS, THE RREGIONAL TRIAL COURT, THE METROPOLITAN TRIAL COURT, THE MUNICIPAL TRIAL COURT IN CITIES, THE MUNICIPAL TRIAL COURT AND THE MUNICIPAL CIRCUIT TRIAL COURTS, OR ANY OTHER COURTS, OR ANY OTHER COURRT HEREAFTERESTABLISHED DIES WHILE IN ACTUAL SERVICE, HIS HEIRS SHALL RECEIVE ONLY LUMP SUM OF FIVE-YEAR GRATUITY COMPUTED ON THE BASIS OF THE HIGHEST MONTHLY SALARY PLUS THE HIGHEST MONTHLY AGGREGATES OF TRANSPORTATION, LIVING AND REPRESENTATION ALLOWANCES RECEIVED BY HIM AS SUCH JUSTICE OR JUDGE, WITHOUT THE LENGTH OF SERVICE REQUIRED IN SECTION ONE HEREOF, PROVIDED, HOWEVER, WHERE THE DECEASED JUSTICE OR JUDGE HAS RENDERED AT LEAST TWENTY YEARS' EITHER IN THE JUDICIARY OR IN ANY OTHER BRANCH OF THE GOVERNMENT OR IN BOTH, HE SHALL INSTEAD BE ENTITLED TO A LUMP SUM OF TEN -YEAR GRATUITY COMPUTED ON THE SAME BASIS AS INDICATED IN THIS PROVISION. THE SAME BENEFIT OF FIVE -YEAR GRATUITY PROVIDED IN THIS SECTION SHALL BE EXTENDED TO ANY INCUMBENT JUSTICE OF THE SUPREME COURRT OR THE COURT OF APPEALS OR THE SANDIGANBAYAN, OR A JUDGE OF A COURTT OF TAX APPEALS, THE REGIONAL TRIAL COURT, THE METROPOLITAN TRIAL COURT, THE MUNICIPAL TRIAL COURT IN CITIES, THE MUNICIPAL TRIAL COURTS, AND THE MUNICIPAL CIRCUIT TRIAL COURTS, OR ANY OTHER COURTS HEREAFTER ESTABLISHED, AS THE CASE MAYBE, WHO, WITHOUT ATTAINING THE LENGTH OF SERVICE REQUIRED IN SECTION ONE HEREOF, SHALL HAVE TO RETIRE UPON REACHING THE AGE OF SEVENTY YEARS, OR UPON OTHER CAUSES, SUCH ILLNESS OR PERMANENT PHYSICAL DISABILITY, TO BE CERTIFIED TO BY T HE SUPREME COURTT, WHICH RENDER HIM INCAPACITATED TO CONTINUE HIS POSITION.

"SEC. 3 UPON RETIREMENT, A JUSTICE OF THE SUPREME COURT OR THE COURT OF APPEALS OR THE SANDIGANBAYAN, OR A JUDGE OF COURT OF TAX APPEALS, THE REGIONAL TRAI COURT, THE MTEROPOLITAN TRIAL COURRT, THE MUNICIPAL TRIAL COURT IN CITIES, THE MUNICIPAL TRIAL COURTS AND THE MUNICIPAL CIRCUIT TRIAL COURTS, OR ANY OTHER COURT HEREAFTER ESTABLISHED, WHO HAS ATTAINE DTHE AGE OF SIXTY YEARS AND HAS RENDERED AT LEAST TWENTY YEARS IN THE GOVEERNMENT, LAST FIVE OF WHICH SHALL HAVE BEEN CONTINUOUSLY RENDERED IN THE JUDICIARY, OR WHO HAS ATTAINED THE AGE OF SEVENTY YEARS AND HAS RENDERED AT LEAST TWENTY YEARS OF GOVERNMENT SERVICE, SHALL BE AUTOMATICALLY ENTITLED TO A LUMP SUM OF FIVE YEAR GRATUITY COMPUTED ON THE BASIS OF THE HIGHEST MONTHLY SALARY PLUS THE HIGHEST MONTHLY AGGREGATE OF TRANSPORTATION, LIVING AND REPRESENTATION ALLOWANCES HE WAS RECEIVING ON THE DATE OF HIS RETIREMENT: PROVIDED, HOWEVER, THAT THE RETIREE HAS RENDERED AT LEAST THIRTY YEARS SERVICE EITHER IN THE JUDICIARY OR IN ANY OTHER BRANCH IN THE GOVERNMENT OR IN BOTH, THE LAST TWENTY YEARS OF WHICH HAVE BEEN CONTINUOUSLY RENDERED IN THE JUDICIARY, OR HAS

RENDERED CONTINUOUSLY SERVICE IN THE JUDICIARY FOR TWENTY YEARS, AND RETIRES FOR HAVING ATTAINED THE AGE OF SEVENTY YEARS, HE SHALL BE AUTOMATICALLY ENTITLED TO A LUMP SUM F TEN YEAR GRATUITY COMPUTED ON THE SAME BASIS AS INDICATED IN THIS PROVISION. IN EITHER CASE, THE RETIREE SHALL BE ENTITLED TO A FURTHER ANNUITY PAYABLE MONTHLY DURING THE RESIDUE OF HIS NATURAL LIFE EQUIVALENT TO THE AMOUNT SPECIFIED IN SECTION ONE HEREOF UPON SURVIVAL OF A UNIFORM PERIOD OF FIVE YEARS FROM THE DATE HE RECEIVED THE FIVE YEAR OR TEN YEAR LUMP SUM GRATUITY, AS THE CASE MAYBE, PROVIDED, FINALLY, IF AFTER RENDERING AT LEAST TWENTY YEARS SERVICE EITHER IN THE JUDICIARY OR IN ANY OTHER BRANCH OF THE GOVERNMENT OR IN BOTH AND THE REASON FOR THE RETIREMENT BE ANY PERMANENT DISABILITY CONTRACTED DURING HIS INCUMBENCY IN OFFICE AND PRIOR TO THE DATE OF RETIREMENT, HE SHALL ONLY RECEIVE ONLY A GRATUITY EQUIVALENT TO TEN YEARS SALARY AND ALLOWANCES AFOREMENTIONED WITH NO FURTHER ANNUITY PAYABLE MONTHLY AS PROVIDED IN SECTION ONE HEREOF DURING THE REST OF THE RETIREE'S NATURAL LIFE."

SEC. 2. The benefits authorized herein shall accrue only from the date of effectivity of this Act.

SEC. 3. The amount necessary to implement the provisions of this Act shall be charged against such fund of the National Treasury not otherwise appropriated.

SEC. 4. All laws inconsistent with the provisions of this Act are repealed or modified accordingly.

SEC. 5. The Act shall take effect fifteen days following its publication in a newspaper of general circulation or in the Official Gazette, whichever, is earlier.

Approved,