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BILLS & INDEX

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

SENATE

COMMITTEE REPORT NO. 18

Submitted jointly by the Committees on Banks, Financial Institutions and *Currencies; and Ways and Means on* NOV 19 2007

RE : Senate No. 1882, prepared by the Committee

Recommending its approval in substitution of Senate Bill Nos. 70, 1194 and 1545

Sponsor: Sen. Angara

MR. PRESIDENT:

The Committee on Banks, Financial Institutions and Currencies and Ways and Means to which were referred SBN 70, introduced by Sen. Angara, entitled:

AN ACT ESTABLISHING A PROVIDENT PERSONAL SAVINGS PLAN, KNOWN AS THE PERSONAL EQUITY AND RETIREMENT ACCOUNT ('PERA')

SBN 1194, introduced by Sen. MAR Roxas, entitled

AN ACT ESTABLISHING A PROVIDENT PERSONAL SAVINGS PLAN KNOWN AS THE PERSONAL EQUITY AND RETIREMENT ACCOUNT

SBN 1545, introduced by Sen. Juan Miguel Zubiri, entitled

AN ACT ESTABLISHING A PROVIDENT PERSONAL SAVINGS PLAN KNOWN AS THE PERSONAL EQUITY AND RETIREMENT ACCOUNT

have considered the same and have the honor to report them back to the Senate with the recommendation that the attached Senate Bill No. 1882, prepared by the Committee entitled,

AN ACT ESTABLISHING A PROVIDENT PERSONAL SAVINGS PLAN, KNOWN AS THE PERSONAL EQUITY AND RETIREMENT ACCOUNT ('PERA')

be approved in substitution of Senate Bill Nos. 70, 1194 and 1545 with the members of the Committees on Banks, Financial Institutions and Currencies; and Ways and Means as authors thereof.

This bill was passed on third reading last Congress in the Senate and adopted *in toto* by the House of Representatives but failed to be enacted due to technical reasons. For all intent and purpose, attached for reference is the proposed "Personal Equity and Retirement Account ("PERA")" as well as a narrative of the discussions and positions considered by the Committee in drafting this Committee report.

Respectfully submitted:

EDGARDO J. ANGARA
Chairman, Committee on Banks,
Financial Institutions and Currencies
Member, Committee on Ways and Means

w/ amendments
FRANCIS "CHIZ" ESCUDERO
Chairman, Committee on
Ways and Means

with amendments and further clarifications
JUAN PONCE ENRILE
Vice Chairman
Committee on Banks, Financial
Institutions and Currencies

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amendments & further clarification
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EX OFFICIO MEMBERS

SEN. JINGGOY EJERCITO ESTRADA,
President Pro Tempore

SEN. FRANCIS N. PANGILINAN
Majority Leader

may amend.
SEN. AQUILINO Q. PIMENTEL,
Minority Leader

Respectfully submitted:

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Chairman, Committee on Banks, Financial Institutions and Currencies
Member, Committee on Ways and Means

FRANCIS "CHIZ" ESCUDERO
Chairman, Committee on Ways and Means

JUAN PONCE ENRILE
Vice Chairman
Committee on Banks, Financial Institutions and Currencies

with amendments and further clarifications

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Majority Leader

SEN. AQUILINO Q. PIMENTEL,
Minority Leader

14TH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

SENATE BILL NO. 1882

Prepared by the Committees on Banks, Financial Institutions and Currencies; and the Committee on Ways and Means in substitution of Senate Bill Nos. 70, 1194 and 1545

AN ACT
ESTABLISHING A PROVIDENT PERSONAL SAVINGS PLAN, KNOWN AS THE PERSONAL EQUITY AND RETIREMENT ACCOUNT ("PERA")

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

Section 1. Title.- This Act shall be known as the "Personal Equity and Retirement Account (PERA) Act of 2007."

Section 2. Declaration of Policy. – It is declared the policy of the State to promote capital market development and savings mobilization by establishing a legal and regulatory framework of retirement plans for persons, comprised of voluntary personal savings and investments. The State recognizes the potential contribution of PERA to long-term fiscal sustainability through the provision of long-term financing and reduction of social pension benefits.

Section 3. Definition of Terms. - Unless the context requires otherwise, the following terms shall have the following significance as used in this Act:

a. "Administrator" is an entity accredited by the Bureau of Internal Revenue (BIR), after pre-qualification by the concerned Regulatory Authority. The Administrator shall be responsible for overseeing the PERA, whose core functions shall include, but not limited to: reporting on contributions made to the account, computing the values of investments, educating the Contributor, enforcing PERA contributions and withdrawal limits, collecting appropriate taxes and penalties for the government, issuing BIR Income Tax Credit Certificates to the Contributor, consolidating reports on all investments, income, expenses and withdrawals on the account and ensuring that PERA contributions are invested in accordance with the prudential guidelines set by the Regulatory Authorities.

b. "Contributor" is any person of legal age who is a duly registered taxpayer. The Contributor establishes and makes contributions to a PERA.

c. "Custodian" is a separate and distinct entity unrelated to the Administrator, accredited by the Bangko Sentral ng Pilipinas, providing services in connection with the custodianship of funds and securities comprising the PERA investments. The Custodian shall be responsible for receiving all funds in connection with the PERA, maintaining custody of all original securities, evidence of deposits or other evidence of investment. The Custodian shall operate independently from the Administrator. The Custodian is required to report to the Contributor and the concerned Regulatory Authority at regular intervals all financial transactions and all documents in its custody under a PERA.

d. "Early withdrawal" shall pertain to any withdrawal prior to the period of distribution as set forth under Section 12 hereof.

e. "Investment Manager" is a regulated person or entity authorized by a contributor to make investment decisions for his PERA. As such, it shall assume fiduciary duty and responsibility for PERA investments. An Investment Manager shall act with utmost fidelity by observing policies directed towards confidentiality, scrupulous care, safety and prudent management of PERA funds. An Administrator may also act as an Investment Manager.

f. "Personal Equity Retirement Account (PERA)" refers to the voluntary retirement account established by and for the exclusive use and benefit of the Contributor for the purpose of being invested solely in PERA investment products in the Philippines. The Contributor shall retain the ownership, whether legal or beneficial, of funds placed therein, including all earnings of such funds.

g. "PERA Investment Product" refers to a unit investment trust fund, mutual fund, annuity contract, insurance pension products, pre-need pension plan, shares of stock listed in exchange, exchange-traded bonds or any other investment product or outlet which the concerned Regulatory Authority may allow for PERA purposes.

The concerned Regulatory Authority must first approve the product before being granted tax-exempt privileges by the BIR.

h. "Regulatory Authority" refers to the Bangko Sentral ng Pilipinas ("BSP") as regards banks, other supervised financial institutions and trust entities, the Securities and Exchange Commission ("SEC") for investment companies, investment houses, stockbrokerages and pre-need plan companies, and the Office of the Insurance Commissioner ("OIC") for insurance companies.

Section 4. Establishment of a PERA - A Contributor may create and maintain a maximum of five (5) PERA, at any one time, provided that the Contributor shall designate and maintain only one Administrator for all his PERA.

The Contributor shall make all investment decisions pertaining to his PERA. However, he has the option of appointing an Investment Manager, either in writing or in electronic form, to make investment decisions on his behalf without prior consultation.

Section 5. Maximum Annual PERA Contributions - A Contributor may make an aggregate maximum contribution of Fifty Thousand Pesos

(P50,000.00) or its equivalent in any convertible foreign currency at the prevailing rate during the actual contribution, to his/her PERA per year; provided that if the Contributor is married, each of the spouses shall be entitled to make a maximum contribution of Fifty Thousand Pesos (P50,000.00) or its equivalent in any convertible foreign currency per year to his/her respective PERA. The Secretary of Finance may adjust the maximum contribution from time to time, taking into consideration the present value of the said maximum contribution using the Consumer Price Index as published by the National Statistics Office, fiscal position of the government and other pertinent factors.

Section 6. Employer's Contribution – A private employer may contribute to its employee's PERA to the extent of the amount allowable to the Contributor; *Provided*, however, that the employer complies with the mandatory Social Security System (SSS) contribution and retirement pay under the Labor Code of the Philippines. Such contribution shall be allowed as a deduction from the employer's gross income, but shall be treated as part of the employee's compensation for tax purposes. The Contributor, however, retains the prerogative to make investment decisions pertaining to his PERA.

Section 7. Separate Asset – The PERA shall be kept separate from the other assets of an Administrator/Custodian and shall not be part of the general assets of the Administrator/Custodian for purposes of insolvency.

Section 8. Tax Treatment of Contributions - The Contributor shall be given an income tax credit equivalent to five percent (5%) of the total PERA contribution; *Provided*, however, that in no instance can there be any refund of the said tax credit arising from the PERA contributions.

Section 9. Tax Treatment of Investment Income - All income earned by a PERA is tax exempt.

Section 10. Tax Treatment of Distributions - All distributions in accordance with Section 12 hereof are tax exempt.

Section 11. Termination – Any premature termination shall be treated as an Early Withdrawal under Section 13 hereof, provided that the penalties thereunder shall not apply if the entire proceeds therefrom are immediately transferred to another PERA investment and/or another Administrator.

Section 12. Distributions Upon Retirement/Death- Distributions may be made upon reaching the age of fifty-five (55) years, provided that the Contributor has made contributions to the PERA for at least five (5) years. The distribution shall be made in either lump sum or pension for a definite period or lifetime pension, the choice of which shall be at the option of the Contributor. The Contributor, however, has the option to continue the PERA. Complete distribution shall be made upon the death of the Contributor, irrespective of the age of the Contributor at the time of his death.

Section 13. Penalty on Early Withdrawal - Any Early Withdrawal shall be subject to a penalty, the amount of which would be determined by the Secretary of Finance and payable to the Government; provided that the amount of the penalty shall in no case be less than the tax incentives enjoyed by the Contributor.

No early withdrawal penalty shall be imposed on any withdrawal of any funds for the following purposes:

a. For payment of accident or illness-related hospitalization in excess of 30 days; and
b. For payment to a Contributor who has been subsequently rendered permanently totally disabled as defined under the Employees Compensation Law, Social Security Law and Government Service Insurance System Law.

Section 14. Non-Assignability - No portion of the assets of a PERA may be assigned, alienated, pledged, encumbered, attached, garnished, seized or levied upon. PERA assets shall not be considered assets of the Contributor for purposes of insolvency and estate taxes.

Section 15. Rules and Regulations - Consistent with the policy of promoting transparency in PERA investment and thereby affording protection to the Contributor, the Department of Finance and the concerned Regulatory Authorities, with the Bangko Sentral ng Pilipinas as lead agency, shall coordinate to establish uniform rules and regulations pertaining to the following subject matters:

a. Qualification and disqualification standards for Administrators, Custodians and Investment Managers, including directors and officers thereof;
b. Qualified and/or eligible PERA investment products;
c. Disclosure requirements on the terms and conditions of the PERA investments;
d. Minimum requirements imposed on the Administrators as regards inculcating financial literacy in investors;

e. Ascertainment of client suitability for PERA products;
f. Record-keeping, reporting and audit requirement of Administrators and Custodians pertaining to records for all contributions, earnings and total account balances; and
g. Other pertinent matters to be determined by the Regulatory Authorities.

Section 16. Administration of Tax Incentives – The BIR shall issue the implementing rules and regulations regarding all aspects of tax administration relating to PERA. The BIR shall coordinate the qualification standards of the Administrator with the Regulatory Authorities.

Section 17. Penalty - A fine of not less than Fifty Thousand Pesos (P50,000.00) nor more than Two Hundred Thousand Pesos (P200,000.00) or imprisonment for not less than six (6) months nor more than two (2) years or both such fine and imprisonment, at the discretion of the court, shall be imposed upon any person, association, partnership or corporation, its officer, employee or agent, who shall:

a. Act as Administrator, Custodian or Investment Manager without being properly qualified or without being granted prior accreditation by the concerned Regulatory Authority;
b. Invest the contribution without written or electronically authenticated authority from the Contributor, or invest the contribution in contravention of the instructions of the Contributor,;
c. Knowingly and willfully make any statement in any application, report, or document required to be filed under this Act, which statement is false or misleading with respect to any material fact;

d. Violate any provision of this Act or rules and regulations issued pursuant to this Act.

Notwithstanding the foregoing, any willful violation by the accredited Administrator, Custodian or Investment Manager of any of the provisions of this Act, or its implementing rules and regulations, or other terms and conditions of the authority to act as Administrator, Custodian or Investment Manager may be subject to the administrative sanctions provided for in applicable laws.

The above penalties shall be without prejudice to whatever civil and criminal liability provided for under applicable laws for the same act or omission.

Section 18. Abuse of the Tax Exemption And Privileges - Any person, natural or juridical, who unduly avails of the tax exemption privileges herein granted, possibly by co-mingling PERA accounts in an investment with other investments, when such person is not entitled hereto, shall be subject to the penalties provided in Sec. 17 hereof. In addition, the offender shall refund to the government double the amount of the tax exemptions and privileges enjoyed under this Act, plus interest of twelve per cent (12%) per year from the date of enjoyment of the tax exemptions and privileges to the date of actual payment.

Section 19. Separability Clause - If any provision or part hereof, is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

Section 20. Repealing Clause - All laws, decrees, orders, rules and regulations or parts thereof, inconsistent with this Act are hereby amended or modified accordingly.

Section 21. Effectivity. This Act shall take effect 15 days following its publication in a newspaper of general circulation, provided that the tax incentives granted hereunder shall take effect on 01 January 2009.

Approved,

COMMITTEE ON BANKS, FINANCIAL INSTITUTIONS AND CURRENCIES

SUMMARY OF PROCEEDINGS

I. BACKGROUND:

The country's financial sector remains an important intermediation channel. However, unless critical reforms are undertaken to improve its efficiency and competitiveness, it will remain underdeveloped.

Statistics show that the Philippines lag behind other ASEAN and Asian economies in terms of savings and size of deposit.

	Gross National Savings/GDP[1], 2004
Philippines	**20.9**
Malaysia	43.8
Singapore	48.0
Thailand	33.4
Indonesia	25.3
Korea	35.0
Hong Kong	31.6
China	44.7

Public interest in savings instruments outside of the banking sector is low as the Philippine capital market is still in the early stages of development. Domestic credit depends largely on banks' lending and there is little participation in the equity market. In fact, as compared to the ASEAN and other Asian countries shown below, the Philippines showed as one of the least developed stock market.

Country	No. of listed companies (as of 2006)	Stock Market Importance (Stock Market Value as % of GDP) (2006)
Philippines	240	65.76
Indonesia	344	45.97
Malaysia	1,025	171.18
Singapore	708	178.39*
Thailand	518	75.61
Korea	1,689	100.99
China		
Shanghai (SSE)	842	}98.72
Taiwan (TSEC)	702	}
HongKong	1,173	566.24*

*As of 2005

Source: Centennial Database, based on World Bank Financial Structure Dataset

[1] Source: ADB: Philippine Data: NEDA

Moreover, in contrast to countries with more developed capital markets, the country's pension funds are primarily derived from mandatory schemes such as the GSIS and the SSS. To make it worse, the GSIS and the SSS are plagued with uncertainties. Studies show that the two institutions are suffering from poor financial health resulting in growing funding gaps, deficits and declining surpluses. Some estimates for SSS show that the fund is expected to last until 2015, assuming there are no pension increases. For the social insurance fund of GSIS, it was projected that expenses will exceed revenues by 2042. While these institutions are carrying out reforms to address these projections, the pension system problems pose a potential national government bail-out, with serious repercussions on fiscal consolidation efforts. The government guarantee of the SSS and GSIS obligations presents a potential fiscal liability, commonly known as implicit public debt, which would present a constraint on the country's national budget.

Furthermore, the pension system problem adversely affects not only the national government but more significantly, the aging work force whose source of sustenance during retirement would primarily be dependent on these government pensions. The pension benefits, particularly from the SSS, cannot be expected to sustain even the barest necessity. As of June 2006, the SSS monthly pension amounts to P2,546.00, at the average[2]. This is particularly disheartening for our hard-working OFWs, whose immense contribution, in terms of foreign remittances, have helped propel our economic growth. It is quite common and very sad to see our hard-working OFWs, old and tired from years of employment abroad, yet without any savings for their retirement. Much of the OFW earnings funds present consumption of the OFWs' families such as the purchase of housing units, payment of tuition, setting up of small-scale productive ventures, with very little left for any savings for one's retirement. It is even more unfortunate that these OFWs are not mandatorily covered under the Social Security System ("SSS") retirement benefits. This is true not only for OFWs but also for most of the domestic labor force. The National Statistics Office reported that the country has a labor force of about 35.81 million, representing a 64% labor participation rate. Unfortunately, of the total labor force, only 78% are members of government-initiated pension funds, broken down as follows: 26.49 million for SSS and 1.4 million for GSIS[3] . This means that about 7.92 million Filipinos, including their dependents, will have absolutely nothing to look forward to in their retirement years. Moreover, 70% of the domestic workforce is employed by micro, small, and medium enterprises, which more often than not, do not provide private retirement benefit plans for their employees. Thus, 70% of the domestic workforce have to rely solely on their measly SSS monthly pension ranging from P1,000 to P14,970 during their retirement.

These are just some of the myriad factors that hamper the growth of the country's financial sector. Several measures, legislative or otherwise, still have to be done to make the country's financial system as competitive as those of other countries.

Although this is not the single answer to the country's problems in the financial sector, the enactment of a law on the Personal Equity Retirement Account (PERA) is envisioned to provide an alternative financial instrument to augment non-bank savings. It will likewise address the need for an alternative

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[2] Social Security System - lowest monthly pension is P1,000 and highest is P14,970.

[3] As of June 2006

pension fund which will encourage the people to save up for their old age. It is intended to be the first step towards pension reform, establishing a multi-pillar retirement income structure.

The enactment of the PERA, however, will not be cost-free to the government. It is estimated that the revenue loss due to the tax benefits under the bill will amount to around P10 billion annually. The estimated loss of revenue from the tax incentive (tax credit) on the PERA contributions is P1.22 billion whereas the estimated loss from tax exemption of the investment income of the PERA is P1.16 to P8.82 billion[4].

Admittedly, the PERA can lead to short-term revenue losses to the government. However, the foreseen benefits that the PERA will bring to the country's financial system surely outweigh the perceived costs. Moreover, investments in PERA products will generate more tax revenues, in the form of turnover taxes. As firms are encouraged to list in the stock market, government will also earn substantial sums from the IPO tax which is from 1-4% of the gross selling price of offered shares. The IPOs issued during the last 4 years generated some P739 million in taxes. Additionally, 12% VAT is collected on processing, listing and maintenance fees.

II. COMMITTEE ACTION

The bill on the PERA has been pending in the Senate since the Twelfth Congress. The bill could have passed during the Thirteenth Congress, except for some technicalities in the passage thereof in the House of Representatives. The Fourteenth Congress seeks to build on the consensus during the thirteenth Congress by adopting substantially the bill approved on third reading during the Thirteenth Congress. The following bills on PERA has been filed with the Senate: Senate Bill No. 70 (Edgardo J. Angara), Senate Bill No. 1194 (Mar Roxas) and Senate Bill No. 1545 (Miguel Zubiri).

The PERA bills were heard by the Committee on Banks Financial Institutions and Currencies on (please specify date).

In drafting the proposed substitute bill, the Committee reviewed all the current PERA bills originating from the Senate, the proposed consolidated PERA bill originating from the House of Representatives during last congress, transcript of stenographic notes taken during the Senate deliberations last Congress, the Individual Retirement Accounts ("IRA") under U.S. jurisdiction and the position of the private sector, in particular that of the CMDC.

III. SUMMARY OF THE BILL

1. State Policy behind the enactment of the PERA bill:

   a. Establishment of supplementary retirement benefits for the working population.

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[4] Figures provided by the Department of Finance to Business World, as published on January 13-14, 2006.

The retirement benefit is especially helpful to SSS pensioners, who receive smaller pensions compared to GSIS pensioners, in achieving a minimum subsistence level during retirement.

b. Savings mobilization;

PERA is an alternative scheme, voluntary and private in character, designed to supplement the present public pension schemes administered by SSS and GSIS. Investments in PERA products are designed to be locked in on a long-term basis, i.e. up to age fifty- five (55) and held for at least a minimum of five (5) years. This could very well translate to thirty-five (35) years of accumulated savings assuming entry age in the labor force is 20.

c. Capital market development

The savings that may be generated from the establishment of PERA accounts are long-term and can be ideally invested in the domestic capital market. The underlying investment instruments can be in the form of unit investment trust fund, mutual fund, annuity contract, insurance pension products, pre-need pension plan, shares of stock listed in exchange, exchange-traded bonds or any other investment product or outlet, approved by the appropriate Regulatory Authority.

d. Long-term fiscal sustainability.

By empowering an individual to manage his retirement benefits, concerns regarding the actuarial fund life and viability of SSS and GSIS will be mitigated.

2. Mechanics:

Under the proposed Substitute bill on PERA,

a. *A contributor may establish a PERA with a* ***maximum annual contribution of P50,000.00****. In case of married individual,* each spouse shall be entitled to make a maximum annual contribution of P50,000.00. The Secretary of Finance may adjust the amount of annual contribution to reflect the present value of the proposed annual contribution.

For purposes of administrative simplicity, a contributor cannot contribute more than P50,000 to his PERA. The entire PERA account, at different stages, is subject to certain tax incentives, the administration of which will be easier if there will be no mixing of funds not entitled to the incentives.

b. *The contributor must be a taxpayer.*

A contributor must necessarily be a taxpayer in order to avail of the tax privileges of the PERA. Moreover, the TWG hopes to capture more taxpayers into the system with the introduction of these tax incentives.

c. *The annual contribution made shall be entitled to a* ***tax credit of 5%***.

Any contributions in excess of the maximum annual contribution shall not be entitled to a tax credit.

According to the BIR, the tax credit scheme is administratively feasible.

A tax credit was preferred, in lieu of a tax deduction, in order to level the impact of the tax privilege given to the contributors. A tax deduction would give higher tax benefits to the higher income group considering that they belong to a higher tax bracket. The tax impact of a deduction would depend on the tax bracket of the taxpayer.

d. *The contributor may establish a maximum of 5 PERA, at any one time with only one administrator.*

A contributor must have the flexibility to establish more than one PERA in order to have a wider choice of investment products and to spread his risk. As a new player in the market, he should be able to test the different product in the market. However, in order to simplify and facilitate the grant of tax incentives, he should maintain all his PERA with only one administrator, with the option of changing said administrator. These features would enable the contributor to better control his investments, without sacrificing administrative simplicity.

e. *A PERA must be under an Administrator.*

The administrator plays an important role in educating the contributor with respect to the choice, risk and rewards of his investments and in facilitating the grant of tax incentives. An administrator can also pool the investments in PERA in order to lower the administrative costs and get higher returns on the investment. Under the proposed substitute bill, the Administrator must necessarily be a regulated entity (either by the BSP, IC or SEC) to ensure that PERA contributions are invested in accordance with the prudential guidelines set by the Regulatory Authorities. The Administrator must be pre-qualified by its respective regulatory authority and accredited by the Bureau of Internal Revenue.

f. *A PERA may be constituted under either an agency or trust arrangement.*

In case of an agency arrangement, the contributor retains legal title to his investments. On the other hand, the contributor retains only beneficial title to his investments in case of a trust arrangement. The advantage of a trust arrangement, however, is the pooling of funds in order to get higher returns on the individual investments.

g. *PERA investment products must be pre-qualified by the Regulatory Authorities.*

Considering the level of contributor's financial sophistication, the investment products offered under the PERA must be pre-approved by the Regulatory Authorities.

*h. Private employers **may** contribute to its employee's PERA to the extent of the amount allowable to the contributor.*

The employer contribution should be in addition to the mandatory SSS contribution and retirement pay under the Labor Code of the Philippines. The employer's contribution to the PERA shall be treated as part of the employee's compensation for tax purposes.

i. The assets under PERA shall be kept separate from the other assets of an Administrator/Custodian.

The Committee adopted the provision of SB No. 1747 regarding the separation of the PERA assets from that of the Administrator/ Custodian. Accordingly, the PERA assets shall not be part of the general assets of the Administrator/Custodian for purposes of insolvency.

j. All income earned by PERA investment products are tax exempt.

Under current tax laws[5], only long term deposits or investment (with a maturity period of not less than 5 years and issued by banks only) in the form of savings, common or individual trust funds, deposit substitutes, investment management accounts and other investments evidenced by certificates in such form prescribed by the BSP shall be exempt from the 20% final tax.

Under the proposed provision, even other instruments offered by other institutions under the PERA shall likewise be entitled to the exemption. This would level the tax incentives given to the same products offered by different institutions.

k. All distributions from the PERA are tax-exempt.

The contributor should likewise be granted a tax incentive upon his receipt of the PERA benefits considering the required investment period. Otherwise, the tax incentives offered under the bill would not be sufficient to entice a contributor to tie-up his money for a considerable period of time.

However, distribution to the contributor is limited to only two instances: (a) when the contributor reaches 55 years old, provided that the contributor has made contributions to the PERA for at least 5 years; and (b) upon the death of the contributor, irrespective of the age of the contributor at the time of his death.

In case of the earlier instance mentioned, the distribution shall be made in either lump sum or pension for a definite period or lifetime pension, the choice of which shall be at the option of the contributor.

[5]Section 24 (B) of the 1997 National Internal Revenue Code

The contributor, however, has the option to continue on with the account.

In case of the latter instance, there shall be complete distribution of the benefits.

l. Distributions may not be made from the PERA until the contributor reaches the age of 55 and his contributions have been made for at least 5 years.

In order to ensure that contributions stay in the system on a long-term basis and reinforce the objective of making the PERA as a retirement pension fund, any withdrawal shall subject to an early withdrawal penalty. This will temper the tax incentives given to PERA investment products.

However, there will be no early withdrawal penalty for withdrawals made for the following purposes:

a). For payment of accident or illness-related hospitalization in excess of 30 days; and

b). For payment to a contributor who has been subsequently rendered permanently totally disabled as defined under the Employees Compensation Law, Social Security Law and Government Service Insurance System Law.

m. Rules and regulations on PERA, with the exception of the subject matter on tax incentives, shall be promulgated by the DOF and Regulatory Authorities, with BSP as lead agency. The BIR will be tasked to formulate rules and regulations on the grant of tax incentives.

The TWG thought it would be better not to create a new entity to supervise or oversee the implementation of this bill. Instead, a consortium of the Regulatory Authorities and the DOF will formulate the rules and regulations to govern the administration of the PERA. This consortium, however, would not have a separate legal personality. Thus, the rules and regulations shall be promulgated individually by the Regulatory Authorities to its respective supervised or regulated entities. The consortium was resorted to in order to ensure uniformity of rules and regulations over the different industries involved.