



REPUBLIC OF THE PHILIPPINES

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Journal

SESSION NO. 37

Tuesday, November 20, 2007

**FOURTEENTH CONGRESS
FIRST REGULAR SESSION**

SESSION NO. 37
Tuesday, November 20, 2007

CALL TO ORDER

At 3:12 p.m., the Senate President, Hon. Manny Villar, called the session to order.

PRAYER

Sen. Loren Legarda led the prayer, to wit:

Almighty God, who has given us this land for our heritage, we humbly beseech Thee that we may always prove ourselves a people mindful of Thy favor and glad to do Thy will.

You have bound us together in a common life. Help us, in the midst of our struggles for justice and truth, to confront one another without hatred or bitterness, and to work together with mutual forbearance and respect, that we may use our liberty in accordance with Your gracious will.

Bless our land and save us from violence, discord, and confusion; from pride and arrogance, and from every evil way.

In time of prosperity, fill our hearts with thankfulness, and in the day of trouble, suffer not our trust in Thee to fail, all which we ask through Jesus Christ, our Lord.

Amen.

ROLL CALL

Upon direction of the Chair, the Secretary of the Senate, Emma Lirio-Reyes, called the roll, to which the following senators responded:

Angara, E. J.	Lacson, P. M.
Aquino III, B. S. C.	Lapid, M. L. M
Arroyo, J. P.	Legarda, L.
Cayetano, A. P. C. S.	Madrigal, M. A.
Cayetano, C. P. S.	Pimentel Jr., A. Q.
Ejercito Estrada, J.	Revilla Jr., R. B.
Enrile, J. P.	Villar, M.
Honasan, G. B.	

With 15 senators present, the Chair declared the presence of a quorum.

Senators Biazon, Escudero, Pangilinan, Roxas and Zubiri arrived after the roll call.

Senators Defensor Santiago and Gordon were on official mission abroad.

Senator Trillanes was unable to attend the session.

APPROVAL OF THE JOURNAL

Upon motion of Senator Cayetano (A), there being no objection, the Body dispensed with the reading of the Journal of Session No. 36 and considered it approved.

REFERENCE OF BUSINESS

The Secretary of the Senate read the following matters and the Chair made the corresponding referrals:

BILL ON FIRST READING

Senate Bill No. 1883, entitled

AN ACT FURTHER AMENDING THE PROVISIONS OF PRESIDENTIAL *hel ps*

DECREE NO. 1866, AS AMENDED, ENTITLED CODIFYING THE LAWS ON ILLEGAL/UNLAWFUL POSSESSION, MANUFACTURE, DEALING IN, ACQUISITION OR DISPOSITION OF FIREARMS, AMMUNITION OR EXPLOSIVES OR INSTRUMENTS USED IN THE MANUFACTURE OF FIREARMS, AMMUNITION OR EXPLOSIVES, AND IMPOSING STIFFER PENALTIES FOR CERTAIN VIOLATIONS THEREOF, AND FOR OTHER PURPOSES

Introduced by Senator Enrile

**To the Committee on Public Order and
Illegal Drugs**

COMMUNICATIONS

Letter from Assistant Governor and General Counsel Juan De Zuñiga Jr. of the *Bangko Sentral ng Pilipinas*, dated 8 November 2007, furnishing the Senate with a certified copy of BSP Circular No. 587, S-2007, dated 26 October 2007, in compliance with Section 15(a) of Republic Act No. 7653 (The New Central Bank Act).

**To the Committee on Banks, Financial
Institutions and Currencies**

Letter from the Honorable Senator Aquilino Q. Pimentel Jr., dated 10 November 2007, submitting to the Senate his Report on the 4th International Conference on Federalism at New Delhi, India, on November 5 to 7, 2007.

To the Archives

SPECIAL ORDER

Upon motion of Senator Cayetano (A), there being no objection, the Body approved the transfer of Committee Report No. 18 on Senate Bill No. 1882 from the Calendar for Ordinary Business to the Calendar for Special Orders.

COMMITTEE REPORT NO. 18 ON SENATE BILL NO. 1882

Upon motion of Senator Cayetano (A), there being no objection, the Body considered, on Second

Reading, Senate Bill No. 1882 (Committee Report No. 18), entitled

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

Pursuant to Section 67, Rule XXIII of the Rules of the Senate, with the permission of the Body, upon motion of Senator Cayetano (A), only the title of the bill was read without prejudice to the insertion of its full text into the Record of the Senate.

The Chair recognized Senator Angara for the sponsorship.

SPONSORSHIP SPEECH OF SENATOR ANGARA

Senator Angara stated that last Sunday evening, he addressed the Filipino community in Hong Kong, that was attended by 130 major OFW organizations which fairly represented the 120,000 overseas Filipino workers in the region. He informed the Body that the one lament they shared was that while they send money to the Philippines, they do not have a pension program, being neither members of SSS nor the GSIS, so that upon retirement, they do not have a nest egg to fall back on.

The rest of his speech follows:

For many Filipinos, it is true what satirist Robert Orben said: "Retirement really does not change our lives that much. The biggest difference is that all those things you never had the time to do now become all those things you don't have the money to do."

Without a dependable retirement plan – and thus the financial uncertainty that goes with it – retirement could be a source of insecurity rather than comfort. Unlike their counterparts in developed countries such as the U.S. and Europe, Japan, Korea, Germany, etc., Filipino workers generally look at retirement with apprehension as it translates to a loss of income and the lack of retirement benefits.

Take for instance the experience of overseas Filipino workers who make a great contribution to our economy in terms of foreign remittances. Their remittances provide for their families' present consumption – the purchase of housing

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units, payment of tuition, and setting up of small-scale productive ventures – leaving very little savings for one's retirement.

These OFWs are not mandatorily covered under the Social Security System (SSS) retirement benefits. And those who do voluntarily contribute to the SSS cannot expect much in terms of monthly pension with averages of P2,546.00 per month.

Unsustainable government pension

Alarming, a World Bank study showed that reserves of the government-run SSS and the *Government Service Insurance System (GSIS)* would run out by years 2011 and 2040, respectively.

While the government guarantee of the SSS and GSIS obligations helps ease the retirement concern for workers, the same government guarantee also presents a potential fiscal liability, commonly known as implicit public debt, which puts excessive pressure on the country's national budget.

The lack of dependable retirement plan is true not only for OFWs but also for most of the domestic labor force. The National Statistics Office (NSO) reported that the country has a labor force of about 35.81 million.

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.

This means that about 7.92 million Filipinos, including their dependents, will have 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 work force have to rely solely on their measly SSS monthly pension ranging from P1,000 to P14,970 during their retirement.

This bill seeks to remedy the situation by institutionalizing the Personal Equity and Retirement Account (PERA) for public and private employees. It will supplement the existing government-sponsored pension scheme by setting up a privately sponsored retirement fund.

Legislative background

In the 13th Congress, the Senate passed on Third Reading "An Act Establishing a Provident

Personal Savings Plan, Known as the Personal Equity and Retirement Account (PERA)." The House of Representatives adopted it *in toto*, but it was not enacted due to lack of quorum.

The Personal Equity and Retirement Account bill or PERA has been pending before the Philippine Congress since the late 1990s. Its passage was largely hindered by fears of revenue loss arising from the tax incentives given to PERA products.

Fortunately, our fiscal position has considerably improved since then. We now have the unparalleled opportunity of offering tax-advantaged PERA products, which will trigger a virtuous cycle of more savings, increased investment and wider tax base.

The PERA bill: features and mechanics

Under the PERA bill, an individual contributor may make a total maximum annual contribution of P50,000.00 to his PERA account.

Contributions are required to be invested in a qualified "PERA Investment Product," which may be a unit investment trust fund, mutual fund, annuity contract, insurance or pension products, deposit product, pre-need pension plan, shares of stocks, exchange-traded bonds or any other investment product or outlet. The contributor shall be given an income tax credit equivalent to five percent (5%) of the total PERA contribution. Income from the contribution as well as the eventual distribution of the PERA to the contributor shall be tax-exempt.

PERA seeks to attract voluntary long-term savings, deepen the domestic capital market and over the long haul, reduce heavy reliance on the already-burdened, publicly funded retirement scheme.

A tool for developing contractual savings

Pension savers are looking at the longest time horizon compared to other types of investors. Investments in PERA products are, in fact, locked in for a long period, i.e. up to age 55 and held for a minimum of five years.

This could very well translate to 35 years of accumulated savings, assuming entry age into the labor force starts at age 20.

Savings generated from PERA accounts are necessarily long-term and can help mobilize domestic capital market investments, particularly in the fixed income and equity markets. The remarkable growth of educational plans and other pre-need products during the past 15 years

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tells us that there are funds available for long-term products.

Today, banks hold more than 90% of the financial system's resources, largely funded by short-term deposits. This is not a healthy profile for the financial system. Moreover, bank savings are easily withdrawn and do not always encourage long-term saving.

That is the sad situation in the Philippines. Nine of ten people who want to start a business go to the bank and the remaining person goes to a "5-6." The nine people who go to the banks would have to submit everything they own as collateral, that is why bank borrowing to finance a business is not the most desirable. That is the unhealthy situation in the Philippines because 95% of enterprise financing in the country is through bank borrowing because we are not able to develop long-term savings like this from which entrepreneurs and businessmen can get enterprise financing.

The introduction of PERA products will expand choices available to our savers. This financial diversification will empower our hard-working countrymen with the financial tools to enable them to manage their retirement benefits and look beyond present consumption needs.

Pillar for pension reform

PERA will contribute to the design of a stable retirement income architecture, complemented by reforms in the pension sector.

For one, it will address the pension needs of our OFWs who remitted US\$12.7 billion last year. From January to July 2007, OFWs remitted US\$8.1 billion back to the economy. While these remittances fund immediate needs, a substantial part should also be devoted to saving for one's retirement.

OFWs are also not covered by mandatory public pension programs. They should be given more opportunities to make provisions for their old age, which most likely will be spent in the Philippines.

Capital market development

The PERA bill provides for a well-coordinated regulatory framework and standards in the administration of PERA products.

The different regulatory agencies, namely, the *Bangko Sentral ng Pilipinas* (BSP), Securities and Exchange Commission (SEC) and the Insurance Commission (IC) will issue harmonized rules

governing PERA products, in coordination with the BIR.

The introduction of PERA products will serve as catalyst for the development of more long-dated financial instruments in the domestic capital market. These can be used to fund developmental requirements such as housing and infrastructure projects.

PERA has the potential to drive down the cost of government borrowings.

It is evident in other countries that government securities attract a large share of pension fund investments. With enhanced depth and liquidity in the market, government could enjoy reduced cost of domestic borrowings, improve its ability to source funds locally, and lengthen its debt maturity profile.

This is consistent with the overall public debt management policy of reducing cost of borrowings, tapping the domestic capital market to eliminate foreign exchange vulnerabilities, and re-profiling the maturity structure of government debt.

Aside from government securities, investment in equities will be encouraged with the passage of PERA. Enterprises will be motivated to source their financial requirements from the equities market rather than from traditional bank loans.

At present, the Philippines lags behind its Asian neighbors in terms of market capitalization of 34% of GDP, compared to 154% for Malaysia, 197% for Singapore, and 528% for Hong Kong. As a developing economy, we need long-term resources to match the long-term requirements of growth and development.

Retirement is a stage in one's life when one can relax and enjoy the convenience of time for oneself and one's family, away from the pressures of daily work.

Let us give the hardworking Filipinos something to look forward to in his retirement years. By assuring their financial stability during retirement, we allow them to enjoy the fruits of many years of labor.

In view of the obvious benefits of PERA—both to the individual and to our country's financial system in general—I ask my colleagues in this Chamber to pass this urgent measure.

REMARK OF SENATOR ROXAS

Senator Roxas expressed support for the bill which he first filed when he was a congressman.

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SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1882

Upon motion of Senator Roxas, there being no objection, the Body suspended consideration of the bill.

MANIFESTATION OF SENATOR ROXAS

Senator Roxas recalled that when Proposed Senate Resolution No. 203 was filed last week questioning the intent to privatize the PNOC-EDC, he stood up and concurred with the observation of Senator Arroyo that the sale might be unwise considering that the price of oil in the New York Mercantile Exchange (NYMEX) is approaching US\$95 to US\$96 per barrel. He pointed out that the newly rising economies of China and India are exerting pressure on the supply chain for oil and other energy resources.

However, Senator Roxas stated that while doing additional research on the matter, he found out that the sale would not jeopardize the country's ability to independently search for indigenous renewable energy. Thus, he said that while he agrees with the thrust of the resolution, he would stake out a different interpretation of the same based on the findings from his independent studies.

First, he said that the PNOC-EDC, a subsidiary of the Philippine National Oil Company, established and continues to operate geothermal plants in Tongonan, Leyte, Palimpinon in Negros Oriental, Bacon-Manito and several other geothermal companies. However, he pointed out that at the time PNOC-EDC explored, exploited and developed the geothermal resources, it apparently started to perform the role of a generation company operating the steam fields, creating energy, and selling the same to the National Power Corporation (Napocor). For lack of funds, lack of interest and new initiatives, he said that the company is no longer active in the exploration of green fields *vis-à-vis* geothermal energy. At present, he said that the mandate to explore, develop, produce and distribute energy resources has been reverted to the PNOC. Thus, he expressed the belief that the fear of Senator Arroyo that the sale would prevent the country from independently having the capability to explore indigenous national energy resource is unfounded.

Senator Roxas said that he had established through his interviews with PNOC officials and people from

the energy sector that notwithstanding the sale of PNOC-EDC, this capability to explore indigenous energy sources would remain with PNOC which is still very much capable of pursuing the activities as it has retained 83 experienced geologists, engineers and specialized technical people. Moreover, he noted that the proceeds from the sale of PNOC-EDC would be partially retained by PNOC so that it could undertake exploration activities.

On the other hand, Senator Roxas revealed that the price per unit of energy produced by PNOC-EDC is subject to long-term fixed price power contracts, thus, whether it is 100% partially or not at all owned by the government, the prices that stretch out more than a decade would be the same prices that would prevail upon purchase by Napocor.

Senator Roxas likewise disclosed that PNOC-EDC is now 60% owned by the private sector, while the government owns only 40%. In view of his findings, he said that while he concurs with the views of Senator Arroyo in the resolution that the government must maintain an independent capability to explore domestic indigenous energy resources, particularly hydro and geothermal power, the sale of the PNOC-EDC would not necessarily compromise the government's capability to do this since it is a mature company behaving as a genco and is earning from the sale of the electricity that it has long discovered and long developed.

Senator Roxas expressed hope that in the next day's bidding, the government could retain as high a price as possible as this would redound to the benefit of the National Treasury.

MANIFESTATION OF SENATOR PANGILINAN

Senator Pangilinan recalled that in the previous day's session, Senator Arroyo inquired on the status of his privilege speech and the resolution which he filed, the reply to which was that the resolution had been referred primarily to the Committee on Government Corporations and Public Enterprises chaired by Senator Gordon.

Senator Pangilinan said that in reply to further inquiries, he manifested that he would make the necessary representations with the office of Senator Gordon as to the direction, if any, he would take on the resolution. He said that in a communication, Senator Gordon had created a subcommittee to be chaired by Senator Arroyo.

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MANIFESTATION OF SENATOR ARROYO

At this juncture, Senator Arroyo informed the Body that Senator Gordon, who is on official leave from November 19 to 30, 2007, has written Senator Pangilinan "signifying his intention to designate Senator Arroyo as vice chair of the Committee on Government Corporations and Public Enterprises, so as to enable him to hold a public hearing on Proposed Senate Resolution No. 203."

In this regard, Senator Arroyo stated that he has always been against presiding over a committee hearing on a resolution that he himself initiated since it makes him the judge and accuser at the same time. He believed that someone who has no interest in the subject matter should preside over a committee hearing.

Saying that he was not prepared to preside over the committee but would rather be a participant, Senator Arroyo reminded the Body nonetheless that the bidding of the remaining majority shares of the PNOC-EDC would be held tomorrow.

Apropos to the remarks of Senator Roxas, Senator Arroyo bared that the ownership structure of PNOC-EDC at present is that 40% was offered through an initial public offering (IPO) last December 2006, at P4.00 per share, but only 70% thereof or 28% was sold, 20% to the PNOC-EDC pension fund, leaving the 40% held by PNOC. He said that the remaining 40%, therefore, together with the 12% from the original 40% or 52% would be sold at the current selling price of P6.70 per share. He pointed out that whoever buys the 52% would naturally have control of the PNOC-EDC considering that 20% is held by the PNOC-EDC pension fund. He noted that in less than nine months, the selling price of every share has been more than 50%.

Senator Arroyo deplored the practice of government corporations of establishing pension funds where employees are being asked to contribute to the funds but have no say where the funds would be invested, and are being used as leverage to control the corporations.

Senator Arroyo reiterated that when he filed the resolution, his only interest was to find out which entity would now fund the exploration of indigenous sources of energy. He expressed doubt that the PNOC could handle that task, as Senator Roxas

pointed out, because as its former chair, he knew that PNOC has really no funds for exploration. He stated that the sale of EDC would leave the PNOC a shell corporation as it had already sold Petron, one of its few profitable subsidiaries.

As matters stand, Senator Arroyo wondered whether there is still time for the Senate and the President, who is out of the country, to hold in abeyance the bidding of the PNOC-EDC. He said that he would leave it up to the Body to decide the matter as he underscored that the Senate should not abdicate its function as a policy-maker, in this instance, on alternative sources of energy.

MANIFESTATION OF SENATOR ROXAS

Senator Roxas suggested that even if the bidding took place tomorrow, the winning bidder would be required to pay in full by November 30, 2007.

But Senator Arroyo posited that it would not make sense to allow the bidding to take place as scheduled and at the same time require the winning bidder to pay starting November 30, 2007, but later, the Senate would throw a monkey wrench on it.

Senator Roxas stated that there could be some remedial action not necessarily blocking the bidding or overturning the financial close but allowing the Committee, through Senator Arroyo, to validate the PNOC-EDC claim that it is no longer involved in the exploration of indigenous sources of energy and to ascertain how proceeds from the sale would be used — whether it would be remitted to the National Treasury, remain with the PNOC, or spent to continue the exploration of indigenous alternative sources of energy.

SUSPENSION OF SESSION

With the permission of the Body, the Chair suspended the session.

It was 4:02 p.m.

RESUMPTION OF SESSION

At 4:09 p.m., the session was resumed.

Upon resumption, Senator Roxas expressed the view that the most useful exercise of the policy-making function of the Senate is to ensure the proper

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disposition of the proceeds from the sale of the remaining PNOC-EDC shares. He asserted that the resolution should be directed not so much to the sale of PNOC-EDC but to how the proceeds would be spent. He argued that the resolution should ensure that the government retains the ability to explore and develop indigenous alternative sources of energy.

SUGGESTION OF SENATOR PANGILINAN

Thereupon, at the suggestion of Senator Pangilinan, the Chair directed that discussions on the issue and the transcripts of the plenary proceedings be forwarded to the Committee on Government Corporations and Public Enterprises.

Senator Pangilinan stated that the Body would await any communication from Senator Gordon should he wish to designate another vice-chair.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 4:11 p.m.

RESUMPTION OF SESSION

At 4:13 p.m., the session was resumed.

CHANGE OF REFERRAL

Upon motion of Senator Pangilinan, there being no objection, the Body approved the change of referral of Senate Bill No. 1824 (granting financial assistance and benefits to the family or beneficiary of police or military personnel or firemen killed or permanently incapacitated) from the Committee on National Defense and Security to the Committee on Public Order and Illegal Drugs.

CONGRESSIONAL OVERSIGHT COMMITTEE ON THE OPTICAL MEDIA BOARD

Upon motion of Senator Pangilinan, there being no objection, Senators Revilla, Roxas, Zubiri and Legarda, (in lieu of Senator Madrigal) were designated as members of the Congressional Oversight Committee on the Optical Media Board.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 4:14 p.m.

RESUMPTION OF SESSION


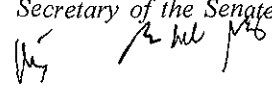
At 4:15 p.m., the session was resumed.

ADJOURNMENT OF SESSION

Upon motion of Senator Pangilinan, there being no objection, the Chair declared the session adjourned until three o'clock in the afternoon of the following day.

It was 4:15 p.m.

I hereby certify to the correctness of the foregoing.


EMMA LIRIO REYES
Secretary of the Senate


Approved on November 21, 2007