

EIGHTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
First Regular Session

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Senate
Office of the Secretary

20 JAN 20 P 3:57

SENATE

RECEIVED BY: 

S. No. 1277

Introduced by SENATOR RONALD "BATO" DELA ROSA

AN ACT
AUGMENTING THE EMPLOYEE BENEFITS FOR THE SOLICITORS OF THE
OFFICE OF THE SOLICITOR GENERAL BY PROVIDING RETIREMENT, DEATH
AND SURVIVORSHIP BENEFITS, AND APPROPRIATING FUNDS THEREFOR.

EXPLANATORY NOTE

The 1987 Philippine Constitution, Article XVI, Section 8 thereof explicitly provides that:

"The State shall, from time to time, review to increase the pensions and other benefits due to retirees of both the government and the private sectors."

The Office of the Solicitor General (OSG) was created to function as the primary "law firm" of the Government of the Republic of the Philippines, its agencies and instrumentalities and its officials and agents in handling constitutional and other important litigations and proceedings before the Supreme Court and other courts or tribunals.

In the current framework of the OSG, the Senior State Solicitors and State Solicitors are deprived of retirement and other benefits and privileges compared to their counterpart lawyers in the government, even considering the importance of the functions performed by the office. It is for this reason that the trend in the OSG is that senior lawyers leave the office before their retirement and transfer to a more high-paying position which offers a more competitive retirement benefits.

It is already stated in Republic Act 9417, otherwise known as the Act Strengthening the Office of the Solicitor General, Section 3 thereof, that Senior State Solicitor and the State Solicitors of the OSG shall have the same rank, salaries and privileges as that of the trial court judges. However, there is a disparity in the grant of retirement and other benefits. The benefits provided under Republic Act 9946 or the Act Granting Additional Retirement, Survivorship and other Benefits to Members of the Judiciary, is applicable only for the members of the Judiciary, and does not include the lawyers of the OSG.

In consonance with the Constitutional provision, the proposed measure aims to grant retirement benefits, as well as death and survivorship benefits for the Assistant Solicitor General, Senior State Solicitor, State Solicitor II and State Solicitor I. Moreso, the bill will likewise bridge the gap by providing the officers and employees of the OSG the same grants and benefits that their counterpart in the government service are receiving. This is in order to encourage proficient lawyers to enter and remain in government service.

In view of the foregoing, the approval of this proposed measure is earnestly sought.


RONALD "BATO" DELA ROSA

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**AUGMENTING THE EMPLOYEE BENEFITS FOR THE SOLICITORS OF THE
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AND SURVIVORSHIP BENEFITS, AND APPROPRIATING FUNDS THEREFOR.**

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

Section. 1. *Retirement Benefits.* – When the Solicitor General has served in such capacity continuously for at least three (3) consecutive years, regardless of age or years in government service, he or she shall likewise be entitled to the retirement benefits under this Act.

When an Assistant Solicitor General, Senior State Solicitor, State Solicitor II or a State Solicitor I, who has rendered at least fifteen (15) years of service in the OSG or in any other branch of the Government, or in both, (a) retires for having attained the age of sixty-five (65) years, or (b) resigns by reason of his or her incapacity to discharge the duties of his or her office as certified by the Solicitor General, he or she shall receive, during the residue of his or her natural life, in the manner hereinafter provided, a retirement pension based on the highest monthly salary plus the highest monthly aggregate of transportation, living and representation allowances, which he or she was receiving at the time of his or her retirement or resignation.

When an Assistant Solicitor General, Senior State Solicitor, State Solicitor II or a State Solicitor I 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 rendered in the OSG, he or she shall likewise be entitled to retire and receive,

1 during the residue of his or her natural life the same benefits provided for in this
2 section: *Provided, however,* That those with less than fifteen (15) years of service in
3 the Government shall be entitled to a *pro rata* pension computed as follows:

$$\frac{\text{No. of years in government service}}{15 \text{ years}} \times (\text{Highest Monthly Salary plus the Highest Monthly Aggregate of Transportation, Living and Representation Allowance})$$

10 Upon retirement, an OSG official or employee covered by this Act shall
11 automatically be entitled to a lump sum of five (5) years gratuity computed on the
12 basis of the highest monthly salary plus the highest monthly aggregate of
13 transportation, living, and representation allowances, which he or she was receiving
14 on the date of his or her retirement and, thereafter, upon survival after the expiration
15 of five (5) years to further annuity payable monthly during the residue of his or her
16 natural life pursuant to the preceding paragraphs: *Provided, however,* That if the
17 reason for the retirement be any total permanent disability, as certified by the Solicitor
18 General, contracted during his or her incumbency in the office and prior to the date
19 of retirement, he or she shall receive a gratuity equivalent to ten (10) years' salary
20 and allowances aforementioned: *Provided, further,* That should the retirement be with
21 the attendance of any partial permanent disability, as certified by the Solicitor General,
22 contracted during his or her incumbency in the office and prior to the date of
23 retirement, he or she shall receive an additional gratuity equivalent to two (2) years
24 lump sum that he or she is entitled to under this Act: *Provided, furthermore,* That if
25 he or she survives after ten (10) years or seven (7) years, as the case may be, he or
26 she shall continue to receive a monthly retirement pension as computed under this
27 Act during the residue of his or her natural life. Nothing in this Act shall be construed
28 as to prevent the President of the Philippines from appointing any person sixty-five
29 years of age or older as Solicitor General.

30 Sec. 2. *Conditions.* While receiving the pension and benefits granted herein, no
31 retired or resigned official or employee covered in the immediately preceding section
32 shall appear as counsel before any judicial or quasi-judicial agency in any civil case
33 wherein the Government or any agency, subdivision, or instrumentality thereof is an

1 adverse party, or in any criminal case where any officer or employee of the
2 Government is accused of an offense committed in relation to their office, or collect
3 any fee for appearance in any administrative proceedings to maintain an interest
4 adverse to the Government, whether national, provincial, or municipal, or to any of its
5 legally constituted officers.

6 When a Solicitor General, Assistant Solicitors General, and State Solicitors
7 covered by and receiving any benefit under this Act shall assume an elective position
8 in Government, he or she shall not, upon assumption of office and during his or her
9 tenure as an elective official, receive the monthly pension or any of the allowances
10 due him or her.

11 Sec. 3. *Death Benefits* – In case a Solicitor General, Assistant Solicitor General,
12 Senior State Solicitor, State Solicitor II or State Solicitor I dies while in actual service,
13 regardless of his or her age and length of service as required in the preceding section,
14 his or heirs shall receive a lump sum of five (5) years gratuity computed on the basis
15 of the highest aggregate of transportation, living and representation allowances
16 received by the concerned Solicitor as such: *Provided, however,* That where said
17 Solicitor has rendered at least fifteen (15) years of government service, either in the
18 OSG or in any branch of the Government, or both, his or her heirs shall instead be
19 entitled to a lump sum of ten (10) years gratuity computed on the same basis as
20 indicated in this provision: *Provided, further,* That the lump sum of ten (10) years
21 gratuity shall be received by the heirs of the Solicitor who was killed by reason of his
22 or her duties as such: *Provided, furthermore,* That the Solicitor has served in the OSG
23 for at least five (5) years, regardless of age, at the time of death. When a Solicitor is
24 killed intentionally while in service, the presumption is that the death is work-related.

25 Sec. 4. *Survivorship Benefits; Coverage.* – In case a Solicitor General, Assistant
26 Solicitor General, Senior State Solicitor, or a State Solicitor covered by this Act dies
27 during his or her retirement, or was eligible to retire optionally at the time of death,
28 the surviving legitimate spouse of said Solicitor shall be entitled to receive all the
29 retirement benefits that the deceased Solicitor was receiving or entitled to receive.
30 Said surviving legitimate spouse shall continue to receive such retirement benefits
31 during his or her lifetime or until he or she remarries: *Provided,* That if the surviving
32 spouse is receiving benefits under existing retirement laws, he or she shall only be

1 entitled to the difference between the amount provided for in this Act and the benefits
2 that he or she is receiving.

3 The conditions provided under Section 2 of this Act shall likewise apply to the
4 surviving spouse herein.

5 Sec. 5. *Funding.* - The funds required for the implementation of this Act for the
6 retirement benefits, death benefits, and survivorship benefits shall be provided for in
7 the General Appropriations Act.

8 Sec. 7. *Automatic Increase.* — All retirement benefits of Solicitors General,
9 Assistant Solicitors General, and State Solicitors shall be automatically increased
10 whenever there is an increase in the salary and allowance in the same position from
11 which they retired.

12 Sec. 8. *Repealing Clause.* All laws, decrees, orders, rules and regulations or
13 parts thereof which are contrary to or inconsistent with the provisions of this Act are
14 hereby amended, repealed or modified accordingly.

15 Sec. 9. *Separability Clause.* If any provision of this Act is declared invalid or
16 unconstitutional, the provisions not affected thereby shall continue to be in full force
17 and effect.

18 Sec. 10. *Effectivity.* This Act shall take effect immediately after fifteen (15) days
19 from its publication in the Official Gazette or in at least two (2) newspapers of general
20 circulation.

21
22 Approved,