

FOURTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
First Regular Session

7 JUN 30 P1:19

SENATE

S. B. No. 70RECEIVED BY: 

Introduced by SENATOR EDGARDO J. ANGARA

EXPLANATORY NOTE

Retirement is the culmination of a person's endeavors. It is the time when he is supposed to relax and enjoy the fruits of his labor as he is relieved from the pressures of daily work. Relaxation and enjoyment during the retirement stage, however, largely depend on the availability of finances. An ordinary employee who used to depend on his salary for his daily subsistence will now have to rely on other sources of fund. A dependable retirement plan will be a big help in alleviating the retiree's financial needs.


At present, only a small portion of the population avails of retirement plans. The 1998 National Statistical Information Center data show that only 1.25 million are covered by Government Service Insurance System (GSIS) Funds, 19 million are members of the Social Security System (SSS) and approximately 4 million are beneficiaries of the Pag-IBIG Fund. This means that only around 24.25 million out of the 73.13 million Filipinos have retirement plans. Thus, there are still millions of Filipinos who are facing uncertain retirement.

The Personal Equity Retirement Account (PERA), as proposed in this bill, promises to be a valuable tool to remedy the situation. PERA is a long-term savings plan designed to achieve a comfortable and financially secure retirement through planned savings, sound investment and tax exemptions. It will encourage Filipinos to save because contributions to the savings funds are deductible from taxable income, and earnings from said savings are tax exempt.

This proposed bill makes the PERA a more attractive retirement plan for the Filipinos by the introduction of valuable features such as withdrawability of funds in case of certain emergencies, transparency of investment records and government-regulated and contributor-influenced investment decisions of the PERA administrators.

While the proposed PERA Act will reduce government tax revenues, the increase in savings mobilization will result to a concomitant deepening of the capital market that will eventually result to a reduced interest costs.

With the aforementioned premises, approval of this bill is earnestly sought.


EDGARDO J. ANGARA
Senator

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**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:*

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

3
4 **SECTION 2. Declaration of Policy.** - It is declared the policy of the
5 State to promote capital market development and savings mobilization by
6 establishing a legal and regulatory framework of retirement plans for
7 persons, comprised of voluntary personal savings and investments. The State
8 recognizes the potential contribution of PERA to long-term fiscal
9 sustainability through the provision of long-term financing and reduction of
10 social pension benefits.

11
12 **SECTION 3. Definition of Terms.** - Unless the context requires
13 otherwise, the following terms shall have the following significance as used in
14 this Act:

- 15 (a) "**Administrator**" is an entity accredited by the Bureau of Internal
16 Revenue (BIR), after pre-qualification by the concerned Regulatory
17 Authority. The Administrator shall be responsible for overseeing
18 the PERA, whose core functions shall include, but not limited to:
19 reporting on contributions made to the account, computing the
20 values of investments, educating the Contributor, enforcing PERA
21 contributions and withdrawal limits, collecting appropriate taxes
22 and penalties for the government, issuing BIR Income Tax Credit
23 *Certificates to the Contributor*, consolidating reports on all
24 investments, income, expenses and withdrawals on the account

1 and ensuring that PERA contributions are invested in accordance
2 with the prudential guidelines set by the Regulatory Authorities.

3 (b) **“Contributor”** is any person of legal age who is a duly registered
4 taxpayer. The Contributor establishes and makes contributions to
5 a PERA.

6 (c) **“Custodian”** is a separate and distinct entity unrelated to the
7 Administrator, accredited by the Bangko Sentral ng Pilipinas,
8 providing services in connection with the custodianship of funds
9 and securities comprising the PERA investments. The Custodian
10 shall be responsible for receiving all funds in connection with the
11 PERA, maintaining custody of all original securities, evidence of
12 deposits or other evidence of investment. The Custodian shall
13 operate independently from the Administrator. The Custodian is
14 required to report to the Contributor and the concerned Regulatory
15 Authority at regular intervals all financial transactions and all
16 documents in its custody under a PERA.

17 (d) **“Early withdrawal”** shall pertain to any withdrawal prior to the
18 period of distribution as set forth under SECTION 12 hereof.

19 (e) **“Investment Manager”** is a regulated person or entity
20 authorized by a contributor to make investment decisions for his
21 PERA. As such, it shall assume fiduciary duty and responsibility
22 for PERA investments. An Investment Manager shall act with
23 utmost fidelity by observing policies directed towards
24 confidentiality, scrupulous care, safety and prudent management
25 of PERA funds. An Administrator may also act as an Investment
26 Manager.

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

33 (g) **“PERA Investment Product”** refers to a unit investment trust
34 fund, mutual fund, annuity contract, insurance pension products,
35 pre-need pension plan, shares of stock listed in exchange,
36 exchange-traded bonds or any other investment product or outlet

1 which the concerned Regulatory Authority may allow for PERA
2 purposes.

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

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

11
12 **SECTION 4. *Establishment of a PERA*** - A Contributor may create
13 and maintain a maximum of five (5) PERA, at any one time, provided that
14 the Contributor shall designate and maintain only one Administrator for all
15 his PERA.

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

20
21 **SECTION 5. *Maximum Annual PERA Contributions***. - A
22 Contributor may make an aggregate maximum contribution of Fifty
23 Thousand Pesos (P50,000.00) to his/her PERA per year; provided that if the
24 Contributor is married, each of the spouses shall be entitled to make a
25 maximum contribution of Fifty Thousand Pesos (P50,000.00) per year to
26 his/her respective PERA. The Secretary of Finance may adjust the maximum
27 contribution from time to time, taking into consideration the present value of
28 the said maximum contribution using the Consumer Price Index as published
29 by the National Statistics Office, fiscal position of the government and other
30 pertinent factors.

31
32 **SECTION 6. *Employer's Contribution***. - A private employer may
33 contribute to its employee's PERA to the extent of the amount allowable to
34 the Contributor; *Provided*, however, that the employer complies with the
35 mandatory Social Security System (SSS) contribution and retirement pay
36 under the Labor Code of the Philippines. Such contribution shall be allowed

1 as a deduction from the employer's gross income, but shall be treated as part
2 of the employee's compensation for tax purposes. The Contributor, however,
3 retains the prerogative to make investment decisions pertaining to his PERA.
4

5 **SECTION 7. *Separate Asset.*** - The PERA shall be kept separate from
6 the other assets of an Administrator/Custodian and shall not be part of the
7 general assets of the Administrator/Custodian for purposes of insolvency.
8

9 **SECTION 8. *Tax Treatment of Contributions.*** - The Contributor
10 shall be given an income tax credit equivalent to five percent (5%) of the total
11 PERA contribution; *Provided*, however, that in no instance can there be any
12 refund of the said tax credit arising from the PERA contributions.
13

14 **SECTION 9. *Tax Treatment of Investment Income.*** - All income
15 earned by a PERA is tax exempt.
16

17 **SECTION 10. *Tax Treatment of Distributions.*** - All distributions
18 in accordance with SECTION 12 hereof are tax exempt.
19

20 **SECTION 11. *Termination.*** - Any premature termination shall be
21 treated as an Early Withdrawal under SECTION 13 hereof, provided that the
22 penalties thereunder shall not apply if the entire proceeds therefrom are
23 immediately transferred to another PERA investment and/or another
24 Administrator
25

26 **SECTION 12. *Distributions Upon Retirement/Death.*** -
27 Distributions may be made upon reaching the age of fifty-five (55) years,
28 provided that the Contributor has made contributions to the PERA for at
29 least five (5) years. The distribution shall be made in either lump sum or
30 pension for a definite period or lifetime pension, the choice of which shall be
31 at the option of the Contributor. The Contributor, however, has the option to
32 continue the PERA. Complete distribution shall be made upon the death of
33 the Contributor, irrespective of the age of the Contributor *at the time of his*
34 death.
35

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

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

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

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

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

19
20 **SECTION 15. *Rules and Regulations.*** - Consistent with the policy
21 of promoting transparency in PERA investment and thereby affording
22 protection to the Contributor, the Department of Finance and the concerned
23 Regulatory Authorities, with the Bangko Sentral ng Pilipinas as lead agency,
24 shall coordinate to establish uniform rules and regulations pertaining to the
25 following subject matters:

26 (a) Qualification and disqualification standards for Administrators,
27 Custodians and Investment Managers, including directors and
28 officers thereof;

29 (b) Qualified and/or eligible PERA investment products;

30 (c) Disclosure requirements on the terms and conditions of the PERA
31 investments;

32 (d) Minimum requirements imposed on the Administrators as regards
33 inculcating financial literacy in investors;

34 (e) Ascertainment of client suitability for PERA products;

1 (f) Record-keeping, reporting and audit requirement .of
2 Administrators and Custodians pertaining to records for all
3 contributions, earnings and total account balances; and

4 (g) Other pertinent matters to be determined by the Regulatory
5 Authorities.
6

7 **SECTION 16. *Administration of Tax Incentives.*** - The BIR shall
8 issue the implementing rules and regulations regarding all aspects of tax
9 administration relating to PERA. The BIR shall coordinate the qualification
10 standards of the Administrator with the Regulatory Authorities.
11

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

18 (a) Act as Administrator, Custodian or Investment Manager without
19 being properly qualified or without being granted prior
20 accreditation by the concerned Regulatory Authority;

21 (b) Invest the contribution without written or electronically
22 authenticated authority from the Contributor, or invest the
23 contribution in contravention of the instructions of the Contributor;

24 (c) Knowingly and willfully make any statement in any application,
25 report, or document required to be filed under this Act, which
26 statement is false or misleading with respect to any material fact;

27 (d) Violate any provision of this Act or rules and regulations issued
28 pursuant to this Act.

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

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

4
5 **SECTION 18. *Abuse of the Tax Exemption And Privileges.*** – Any
6 person, natural or juridical, who unduly avails of the tax exemption
7 privileges herein granted, possibly by co-mingling PERA accounts in an
8 investment with other investments, when such person is not entitled hereto,
9 shall be subject to the penalties provided in Sec. 17 hereof. In addition, the
10 offender shall refund to the government double the amount of the tax
11 exemptions and privileges enjoyed under this Act, plus interest of twelve per
12 cent (12%) per year from the date of enjoyment of the tax exemptions and
13 privileges to the date of actual payment.

14
15 **SECTION 19. *Separability Clause.*** - If any provision or part hereof,
16 is held invalid or unconstitutional, the remainder of the law or the provision
17 not otherwise affected shall remain valid and subsisting.

18
19 **SECTION 20. *Repealing Clause.*** - All laws, decrees, orders, rules
20 and regulations or parts thereof, inconsistent with this Act are hereby
21 amended or modified accordingly.

22
23 **SECTION 21. *Effectivity.*** This Act shall take effect 15 days following
24 its publication in a newspaper of general circulation.

25
26 *Approved,*