

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

House Bill No. 1830

Introduced by Honorable Rex Gatchalian

EXPLANATORY NOTE

We may know what reasons our fellow Filipinos must have to leave the all too familiar environment of their homeland to seek work in a foreign land, among a cultural mix of employers. Bitter to the cold climate, indifferent to the racial slurs, and painfully ignoring the angst of loneliness just to be able to earn that extra money for the education of their children or in order to build that new house which roof doesn't get blown away by the passing storms. But we cannot really assume to know what each of them goes through to fulfill these dreams.

Sometimes, these OFW's get lucky and through wise management of their hard-earned money, they are able to establish small businesses or are able to save up after their obligations are fulfilled. However, at the rate that our Philippine peso is weakening in the world market, affected by the global increase of petroleum products and the spiraling increase of the prices of our basic commodities, the amount of remittances to the families of the OFW's now barely covers for their needs. It has become more difficult to sustain the financial demands of daily living much less project to expect savings for the proverbial rainy days. Some of them come home, their bodies worn and tired with nary a single centavo to spare.

It is this concern for the welfare of our OFW's that we propose to initiate this piece of legislation. In order to maximize the mantle of protection on our Overseas Filipino Workers, we must extend to them the special benefit of a Retirement Fund. Although this concept is not novel, as in fact a Provident Fund was initiated by President GMA before, we propose herein a pecuniary aid that will be set aside from the \$25 contribution they put in to the Overseas Workers Welfare Administration (OWWA) every time they depart from the Philippines or by voluntary payment in job-sites overseas.

The objective of the bill is to provide the OFW's who meet the requirements set forth, to acquire the additional benefit when for some reasons, physical or otherwise, they can no longer be further employed as an overseas worker. This likewise provide as an incentive for our OFW's to diligently pay for their dues in

order that they may fall under the coverage of the Retirement Fund. This amount although very meager, may come in handy in case of any financial set back that the OFW may face when he returns to the Philippines.

The retirement fund does not seek any additional contribution from the OFW. It only requires the payment of the \$25 membership dues to the OWWA. This bill will guarantee the payment of the retirement fund by the allocation of One Billion Pesos (Php1,000,000,000) from the coffers of the now existing OWWA funds amounting to over Ten Billion Pesos. The OWWA shall from time to time replenish such sum or sums made from the grant of these retirement benefit, to maintain the existing amount of one billion pesos.

If the OWWA Administration can spend hundreds of millions for mere administrative expenses, all the more that in times when these OFW's return home, their bodies worn and tired from physical and emotional struggles of working overseas, and they need our hand to help them, our government should guarantee them of the support.

Lest we forget, the Overseas Workers Welfare Administration is a membership based institution. It was created to manage the funds of the OFW. Its mandate then is to provide services to the OFW's.


REX GATCHALIAN
1st District, Valenzuela City

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AN ACT
TO PROVIDE A RETIREMENT BENEFIT FOR
THE OVERSEAS FILIPINO WORKERS OTHERWISE KNOWN AS
"THE MIGRANT WORKER'S RETIREMENT ACT OF 2010"

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

Section 1. Short Title. - This Act shall be known as the "Migrant Worker's Retirement Act of 2010".

Section 2. Declaration of Policy. - It is the policy of the State to afford full protection to labor, local and overseas, and towards this end, the State shall provide adequate and timely social and economic services to Filipino Overseas Workers'. The State shall endeavor to extend social security protection to OFW's and their beneficiaries for contingencies that result in loss of income by reason of inability to find another gainful employment overseas due to old age, disability and/or sickness.

Section 3. To carry out the purposes of this Act, the Overseas Workers Welfare Administration (OWWA) is the agency duly designated to administer the management of the retirement fund.

Section 4. Duties of the OWWA. - For the attainment of its main objectives as set forth in Section 2 hereof, the OWWA shall have the following powers and duties:

a) To adopt implementing rules, create guidelines as maybe necessary to carry out the provisions of this Act, subject to the approval of Congress;

b) To establish a retirement fund for the members which will be set aside from the \$25 membership fee of the Overseas Filipino Worker, for the payment of benefits to such members or their beneficiaries, subject to such rules and

regulations as it may promulgate;

c) To maintain this fund for the payment of benefits to such members;

d) To establish offices and authorize collecting agents in embassies or consulates, wherever it maybe expedient and feasible provided that the persons authorized to collect are bonded;

e) To submit annually, not later than April 30, a public report to Congress covering its activities in the enforcement of this Act during the preceding year including recommendations on policies for the development and perfection of the Retirement Fund;

f) To require an actuarial reporting on the retirement benefit every four (4) years, or more frequently as may be necessary, to undertake the necessary studies and calculations concerning increases in benefits taking into account inflation and the financial stability of the OWWA: Provided, That such increase in benefits shall not require any increase in the rate of contribution;

g) To perform such other corporate acts as it may deem appropriate for the proper enforcement of this Act.

Section 5. Definition of Terms. - For purposes of this Act, the following terms shall, unless the context indicates otherwise, have the following meanings:

a) OWWA – An attached agency of the Department of Labor and Employment, is the lead government agency tasked to protect and promote the welfare and well-being of Overseas Filipino Workers and their dependents.

b) Overseas Filipino Worker – refers to a worker who is to be engaged , is engaged or has been engaged in a remunerated activity in a state of which he or she is not a legal resident; to be used interchangeably with a Migrant Worker.

c) Beneficiary – refers to an individual designated by the OFW to receive the retirement benefit provided under this Act, upon his death. In the absence of an express designation, the legal heirs provided in accordance with the law on succession shall receive the retirement benefit.

d) Contributions – the amount of \$25 paid to the OWWA by the OFW, 1) through enrollment, upon processing of the contract or; 2) by voluntary registration at job-sites overseas, entitling him to various benefits and services. These are properly receipted upon payment.

e) Member – an OFW who has paid his yearly contributions and whose name has been registered with the OWWA and the Philippine Overseas Employment Administration (POEA) in a database which is updated regularly.

Section 6. Coverage. - Coverage in the OWWA Retirement Fund shall be voluntary upon all Overseas Filipino Workers. Only those members who pay the contribution may avail of this benefit. Provided however, that any other benefit/privilege applied for or which otherwise may be availed of by the retiring OFW at the time of the approval of this Act shall be cancelled in lieu of his application for retirement. All other benefits/privileges which the migrant worker is entitled to under the OWWA program shall be construed as forfeited, once the application for the retirement benefits has been submitted. The OWWA member shall be granted the retirement benefit only once during his lifetime.

Section 7. Date of Coverage – Coverage for the retirement benefit upon all OWWA members shall commence upon the effectivity of this Act.

Section 8. Effect of Separation from Employment; grace period; – When a migrant worker under the coverage of this Act, is temporarily separated from employment, he may continue to pay his contributions in the same manner, in order to maintain his right to the full benefit of the retirement fund. This manner of contribution shall however be allowed for a period of two (2) years only. After the grace period of two (2) years, the right to the retirement benefit shall be forfeited unless gainful employment as an OFW, defined under the provisions of this Act, is regained.

Section 9. Effect of Death of the Migrant Worker. - A migrant worker who dies but is eligible to claim the retirement benefit provided under this Act, shall be substituted in his claim by the persons he has appointed as beneficiaries, or in the absence of such express provision, the legal heirs in accordance with the law on succession.

Section 10. Retirement Benefits. - A member who has paid at least ten (10) contributions of \$25 to the OWWA Fund as membership dues shall be entitled to a lump sum retirement amount of Fifty Thousand Pesos (P50,000.00).

The contribution shall be continuous and no retroactive payments shall be allowed.

Any member who shall have exceeded the ten minimum contributions shall be entitled to an additional ten percent (10%) increase of the retirement benefit for every contribution made thereafter.

Section 11. Non-transferability of Benefits. - The OWWA shall promptly pay the benefits provided for in this Act to the OFW or to such persons as maybe entitled thereto. Such benefits are not transferable and is exclusive to the beneficiaries appointed by the member or by law and no power of attorney or other document executed by those entitled thereto, in favor of any agent, attorney, or any other person for the collection thereof on their behalf shall be recognized.

Section 12. OWWA Reserved Fund. - The OWWA shall appropriate the amount of One Billion Pesos (P1,000,000,000.00) to assure the maintenance of an

adequate balance for the operation of the Retirement Fund. This amount shall be held and applied exclusively for the retirement benefit of the OFW. Notwithstanding any provision of law to the contrary, this amount shall not be diminished nor be made chargeable with the liabilities arising out of any other business or programs that the OWWA may conduct.

Section 13. Government Guarantee. - The benefits prescribed in this Act shall not be diminished and to guarantee said benefits, the Government of the Republic of the Philippines accepts general responsibility for the solvency of the OWWA Retirement Fund.

Section 14. Remittance of Contributions. - The ten (10) minimum contributions imposed in this Act shall be due from every departing OFW upon enrollment or , by voluntary registration on job-sites overseas. The contributions may be made on a contract basis, with renewal of memberships yearly or every two years, depending on the stipulations in the contract of the OFW or in its absence, as may be imposed by the OWWA or POEA.

Section 15. Method of Collection and Payment. - The OWWA shall require a complete and proper collection and payment of contributions. It shall likewise authorize collecting agents in embassies or consulates, provided that the persons so authorized shall be bonded. Payment may be made in cash or check.

Section 16. Records and Reports. - The OWWA Administrator shall keep and cause to keep records of operations of the funds of the OWWA and of disbursements thereof and all accounts of payments made out of said funds. He shall prepare for submission to the Congress of the Philippines a report of the operations during the preceding year including the statistical data on the number of persons covered and benefited. He shall likewise cause the publication in two (2) newspapers of general circulation in the Philippines, one of which is a tabloid, a synopsis of the annual report, showing in particular the status of the finances of the OWWA and the retirement benefits administered.

Section 17. Penal Clause. - a) Whoever for the purpose of causing any payment to be made under this Act, where none is authorized to be paid, or whoever makes or causes to be made any false statement of a material fact in any claim for the retirement benefit payable under this Act, shall suffer the penalties provided for under Article One Hundred Seventy-Two of the Revised Penal Code.

b) Whoever shall obtain or receive any money or check under this Act or any agreement there under, without being entitled thereto with intent to defraud any member or the OWWA, shall be fined not less than Twenty Thousand pesos (P20,000) or imprisoned for not less that six (6) years and one (1) day nor more than twelve (12) years.

c) Whoever, with intent to defraud, alters, forges, makes or counterfeits any receipt or any certification or document, issued by the OWWA or the employers of the migrant worker, as proof for the collection or payment of any contribution

required herein or makes, uses, sells or lends or has in his possession any such altered, forged or counterfeited materials shall be fined not less than Ten Thousand pesos (P10,000) nor more than Twenty Thousand (P20,000), or imprisoned for not less than six (6) years and one (1) day nor more than twelve (12) years, or both, at the discretion of the court.

d) Whoever fails or refuses to comply with the provisions of this Act or with the rules and regulations promulgated by OWWA, shall be punished by a fine of not less than Ten (10) thousand pesos nor more than Twenty (20) thousand pesos and imprisonment for not less than six (6) years and one (1) day nor more than twelve (12) years.

e) Any employee or authorized representative of the OWWA who receives or keeps funds or property belonging, payable or deliverable to the OWWA and who shall appropriate the same, or shall take, or misappropriate, or shall consent or through abandonment or negligence shall permit any other person to take such property or funds, wholly or partially, or shall otherwise be guilty of misappropriation of such funds or property, shall suffer the penalties provided in Article Two Hundred Seventeen of the Revised Penal Code.

f) Criminal action arising from a violation of the provisions of this Act may be commenced by the OWWA or the OFW concerned either under this Act or in appropriate cases under the Revised Penal Code.

Section 18. Government Aid. - The establishment of the OWWA Retirement Fund shall not disqualify the members from receiving such government assistance, financial or otherwise as may be provided, from any other government agency of the government.

Section 19. Separability Clause. - If any provision of this Act is declared invalid, the other provisions not affected thereby shall remain valid.

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

Section 21. Effectivity Clause. - This Act shall take effect fifteen (15) days after after its complete publication in the Official Gazette or in at least two (2) national newspapers of general circulation, one of which is a tabloid.

Approved,