



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

Fifteenth Congress
First Regular Session

HOUSE BILL NO. 1993

Introduced by Honorable Rodante D. Marcoleta

EXPLANATORY NOTE

This bill seeks to repeal Republic Act (RA) No. 9279, otherwise known as "*An Act Granting Additional Compensation in the Form of Special Allowances for the Members of the National Prosecution Services and the State Counsels in the Department of Justice, and For Other Purposes.*"

On March 30, 2004, RA 9279 was enacted to provide for additional compensation in the form of special allowances to members of the National Prosecution Service and the State Counsels in the Department of Justice. Under Section 3 of the same law, the funding source of the additional compensation granted shall be from the collections of the National Prosecution Service and the Office of the Chief State Counsel of the Office of the Secretary of Justice from any increases in fees or new fees that they are authorized to assess for various services rendered in accordance with Section 54 of Executive Order No. 292 or the Administrative Code of 1987, and Batas Pambansa Blg. 325, among other laws. These collections shall be deposited as a Special Trust Fund which shall be administered by the Secretary of Justice for the benefit of the members of the National Prosecution Service, the Office of the Chief State Counsel and the undersecretaries concerned, and shall be made available for payments of benefits therein provided.

On the basis of the said law, the Department of Justice issued Department Order No. 42 on September 14, 2004 which prescribes the schedule of legal fees to be collected by the National Prosecution Service. Said fees apply to criminal complaints, appeals and petitions for review, motions or pleadings for consideration or comment of prosecutors and other services such as mediation, special proceeding, administration of oath and certification.

On April 08, 2010, however, Republic Act No. 10071, otherwise known as the "*Prosecution Service Act of 2010*," was enacted to strengthen and rationalize the National Prosecution Service. It created and established a National Prosecution Service to be composed of the prosecution staff in the Office of the Secretary of Justice, regional prosecution offices, offices of the provincial prosecution and offices of the prosecutor which shall be primarily responsible for the preliminary investigation and prosecution of all cases

involving violations of penal laws. Said law specifically mentions such special allowances, to wit:

"Sec. 20. Special Allowances. – The special allowances granted to the members of the National Prosecution Service under RA 9279 shall continue to be given them subject to the provisions hereof: Provided, That the amount not supported by the funding source specified in Section 3 thereof to complete the equivalent of hundred percent (100%) of the basic salary shall be paid through appropriations included in the budget of the DOJ: Provided, further, That when the amount being supported by the said funding source shall have been also included in the General Appropriations, the fees authorized under Section 3 shall no longer be collected."

Based on Section 20 of RA 10071, it is clear that the funds necessary to cover the special allowances granted to the members of the National Prosecution Service may be sourced from the budget of the DOJ and may be included in the General Appropriations, and do not have to come from the legal fees collected or increases assessed from various services rendered, which are prohibitive especially to litigants who can barely afford to file a lawsuit. Although the government is required to give free access to courts to poor litigants as enshrined under Section 11 of the Bill of Rights of the Constitution, even the DOJ acknowledges that certain prosecutors' offices refuse to exempt Public Attorney's Office clients from paying docket fees. Those who do not fall into the category of being "poor" and who wish to seek justice from the courts often feel discouraged to file lawsuits due to the ensuing legal fees.

Moreover, considering that criminal cases are prosecuted in the name of the "People of the Philippines," the State's support to litigants, especially the poor, is essential in ensuring that their right to seek redress for violations committed against them is upheld and that they are not discouraged to pursue their cases by reason of the corresponding legal fees and other subsequent costs that they may incur.

Prescribing higher legal fees for the purpose of providing special allowances "commensurate to their positions and functions" to the members of the National Prosecution Services and State Counsels in the DOJ runs counter to the Constitutional mandate to promulgate rules to foster inexpensive litigation and for the rendition of justice to be conveniently made accessible to all. Said special allowances should be made available through funds properly appropriated by the government for the purpose and should not be borne by the citizenry. On account of these fees, justice tends to become elusive and anti-poor.

In recognition of the age-old precept that the stability of the state depends on its capacity to dispense justice to its people, approval of this bill is earnestly sought.


RODANTE D. MARCOLETA



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AN ACT
ABOLISHING THE GRANT OF ADDITIONAL COMPENSATION IN
THE FORM OF SPECIAL ALLOWANCES TO THE MEMBERS OF THE
NATIONAL PROSECUTION SERVICES AND THE STATE COUNSELS
IN THE DEPARTMENT OF JUSTICE, REPEALING FOR THE PURPOSE
REPUBLIC ACT NO. 9279

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

SECTION 1. Republic Act No. 9279, entitled "*An Act Granting Additional Compensation in the Form of Special Allowances for the Members of the National Prosecution Services and the State Counsels in the Department of Justice, and For Other Purposes,*" is hereby repealed.

SEC. 2. Section 20 of Republic Act No. 10071 and all laws, decrees, executive orders, proclamations, rules and regulations, and issuances, or parts thereof, which are inconsistent with the provisions of this Act are hereby repealed or amended accordingly.

SEC. 3. This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.

Approved,