

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 4272

Introduced by **HONORABLE ROMERO "MIRO" S. QUIMBO**

EXPLANATORY NOTE

The daunting and sensitive legal duties of the Office of the Solicitor General (OSG) show that there is an imperative need for the amendment of Republic Act No. 9417 or "An Act to Strengthen the Office of the Solicitor General by Expanding and Streamlining its Bureaucracy, Upgrading Employee Skills and Augmenting Benefits, and Appropriating Funds Therefor and For Other Purposes." This bill seeks for the further strengthening of the OSG as an institution, as well as providing its lawyers and employees benefits and privileges already being enjoyed by their counterparts in other government offices.

In particular, this bill aims to upgrade the rank of the Solicitor General from Presiding Justice of the Court of Appeals to an Associate Justice of the Supreme Court. The Solicitor General is the government official authorized to appear before the courts and defend the government, its departments, agencies and instrumentalities, Congress included. This crucial role played by the Solicitor General substantiates the upgrading of the qualifications for appointment, rank, category, prerogatives, allowances, emoluments, benefits and privileges of the Solicitor General to that of an Associate Justice of the Supreme Court.

And while R.A. No. 9417 already provides that Senior State Solicitors and State Solicitors of the OSG shall have the same rank, salaries, and privileges as that of trial court judges, many benefits provided for by R.A. No. 9946, otherwise known as an Act Granting Additional Retirement, Survivorship, and other Benefits to Members of the Judiciary, like retirement under R.A. No. 910, are reserved for members of the judiciary only.

Ironically, the counterparts of Senior OSG lawyers in the National Prosecution Service (NPS) and Public Attorney's Office (PAO) already enjoy many other benefits, which senior OSG lawyers are deprived of. There is a need, therefore,

to equalize the benefits and privileges received by these government lawyers by similarly affording them the same prerogatives, salaries, allowances, benefits and privileges given to their counterparts in the Judiciary, NPS and the PAO.

Being the most heavily case laden lawyers of the government, OSG lawyers carry many responsibilities and face hazards to health and limb. The brutal and cold-blooded assassination of model public servant Assistant Solicitor General Nestor J. Ballacillo, a Civil Service *Dangal ng Bayan* Awardee, and of his son Benedict last 06 December 2006 is clear proof of this.

The amendments on survivorship, authority to borrow and increase of the OSG's share in monetary awards or assets given by courts to client departments and assets awarded to the government in forfeiture proceedings to 20% also serve to further strengthen the OSG by increasing its source of income for the payment of the mandated benefits and expansion under R.A. No. 9417.

In view thereof, the expedient approval of this bill is strongly recommended.



ROMERO "MIRO" S. QUIMBO
Representative
Second District, Marikina City

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Introduced by **HONORABLE ROMERO "MIRO" S. QUIMBO**

**AN ACT
TO FURTHER STRENGTHEN THE OFFICE OF THE SOLICITOR GENERAL,
AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9417 AND
APPROPRIATING FUNDS THEREFOR**

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

SECTION 1. Section 3 of Republic Act No. 9417 is hereby amended
to read as follows:

"SEC. 3. Standards. - The Solicitor General shall have cabinet rank and the same qualifications for appointment, rank, CATEGORY, prerogatives, salaries, allowances, [benefits] EMOLUMENTS, [and] privileges, AND RETIREMENT AND ALL OTHER BENEFITS of [a Presiding Justice of the Court of Appeals] AN ASSOCIATE JUSTICE OF THE SUPREME COURT; an Assistant Solicitor General, those of an Associate Justice of the Court of Appeals.

The qualifications for appointment, rank, CATEGORY, prerogatives, salaries, ALLOWANCES, EMOLUMENTS, [benefits] privileges, AND RETIREMENT AND ALL OTHER BENEFITS of Solicitors shall be the same as judges, specified as follows:

Senior State Solicitor	- Regional Trial Court Judge
State Solicitor II	- Metropolitan Trial Court Judge
State Solicitor I	- Municipal Trial Court in Cities Judge

The Solicitor General shall determine the qualifications, prerogatives and responsibilities of the Associate Solicitors."

SECTION 2. Section 5 of Republic Act No. 9417 is hereby amended to read as follows:

"SEC. 5. *Benefits and Privileges.* - Subject to the availability of funds, the Office of the Solicitor General may provide its employees with the following:

(1) Health care service through a health maintenance organization (HMO), Expenses for the mandatory annual executive check-up of the Solicitor General, the Assistant Solicitors General, and the Service Heads, shall be for the account of the office;

(2) All employees shall be covered by accident insurance policies procured by the office at its own expense during travels while in the performance of their official duties and functions;

(3) Without prejudice to efficiency in the service, scholarship to deserving employees on official time and at the expense of the Office of the Solicitor General to enhance their academic growth and upgrade their knowledge and skills. Scholars under this provision shall be selected on the basis of competitive examination;

(4) A provident fund which shall consist of contributions made both by the Office of the Solicitor General and by its lawyers and employees to a common fund for the payment of benefits to such lawyers or employees or their heirs; and

(5) OTHER PERQUISITES AND BENEFITS AS MAY BE DETERMINED BY THE SOLICITOR GENERAL IN THE EXIGENCIES OF THE SERVICE."

SECTION 3. Section 10 of Republic Act No. 9417 is hereby deleted and replaced by a new Section 10 to read as follows:

"SEC. 10. *[Grant of Special Allowances.* - The Solicitor General, Assistant Solicitor General, Senior State Solicitor, State Solicitors I and Associate Solicitors I to III shall be granted special allowances in amounts to be determined by the Secretary of the Department of Budget and Management and the Solicitor General. The grant of special allowances shall be implemented uniformly in such sums and amounts and up to the extent only that can be supported by the funding source specified in Section 11 hereof: *Provided,* That the said special allowance shall not exceed one hundred percent (100%) for the basic salary of solicitors as provided in Republic Act No. 6758, otherwise known as the Salary Standardization Law.] **SURVIVORSHIP BENEFITS.** - UPON DEATH OF A SOLICITOR GENERAL, ASSISTANT SOLICITOR GENERAL, SENIOR STATE SOLICITOR OR STATE

SOLICITOR OF THE OSG, IF SAID OSG OFFICIAL HAD RETIRED OR WAS IN THE SERVICE AT THE TIME OF DEATH, THE SURVIVING LEGITIMATE SPOUSE AND DEPENDENT CHILDREN OF SAID OSG OFFICIAL SHALL BE ENTITLED TO RECEIVE ON A MONTHLY BASIS ALL THE RETIREMENT BENEFITS THAT THE DECEASED WAS RECEIVING OR ENTITLED TO RECEIVE AT THE TIME OF DEATH UNDER THE PROVISIONS OF THE APPLICABLE RETIREMENT LAWS THEN IN FORCE. A 'DEPENDENT' MEANS A LEGITIMATE, ILLEGITIMATE OR LEGALLY ADOPTED CHILD WHO IS CHIEFLY DEPENDENT WITH THE ABOVE-ENUMERATED DECEASED OSG OFFICIALS IF SUCH DEPENDENT IS NOT MORE THAN TWENTY-ONE (21) YEARS OF AGE, UNMARRIED AND NOT GAINFULLY EMPLOYED OR IF SUCH DEPENDENT, REGARDLESS OF AGE, IS INCAPABLE OF SELF-SUPPORT BECAUSE OF MENTAL OR PHYSICAL DEFECT. THE SAID SURVIVING LEGITIMATE SPOUSE SHALL CONTINUE TO RECEIVE SUCH RETIREMENT BENEFITS DURING HIS/HER LIFETIME OR UNTIL HE/SHE REMARRIES: *PROVIDED*, THAT IF THE SURVIVING LEGITIMATE SPOUSE IS RECEIVING BENEFITS UNDER EXISTING RETIREMENT LAWS, HE/SHE SHALL ONLY BE ENTITLED TO THE DIFFERENCE BETWEEN THE AMOUNT PROVIDED FOR IN THIS ACT AND THE BENEFITS HE/SHE IS RECEIVING: *PROVIDED FURTHER*, THAT SAID BENEFITS SHALL BE GRANTED TO ALL AFOREMENTIONED MEMBERS OF THE OFFICE OF THE SOLICITOR GENERAL WHO DIED OR RETIRED PRIOR TO THE EFFECTIVITY OF THIS ACT.

FUNDS FOR THE INITIAL IMPLEMENTATION OF THIS SECTION SHALL BE TAKEN OUT OF THE CURRENT APPROPRIATIONS FOR THE RETIREMENT OF THE OFFICERS AND EMPLOYEES OF THE OFFICE OF THE SOLICITOR GENERAL AND/OR SAVINGS OF SAID OFFICE. THEREAFTER, SUCH SUMS AS MAY BE NECESSARY FOR THE CONTINUED IMPLEMENTATION OF THIS SECTION SHALL BE INCLUDED IN THE ANNUAL GENERAL APPROPRIATIONS ACT."

SECTION 4. Section 11 of Republic Act No. 9417 is hereby amended to read as follows:

"SEC. 11. *Funding.* - The funds required for the implementation of this Act, including those for health care services, insurance premiums, professional, educational, registration fees, contracted transportation benefits, the other benefits above, shall be taken from:

- (i) [Five percent (5%)] TWENTY PERCENT (20%) of monetary awards OR ASSETS given by the

Court to client departments, agencies and instrumentalities of the Government, including those under court-approved compromise agreements AND TWENTY PERCENT (20%) OF ASSETS AWARDED TO THE GOVERNMENT IN FORFEITURE PROCEEDINGS;

- (ii) fifty percent (50%) of fees collected by the Special Committee on Naturalization; and
- (iii) all other income, fees and revenues earned and collected by the Office of the Solicitor General.

For this purpose, the Office of the Solicitor General is hereby authorized to charge deputation, certification and other similar fees in the cases that it handles.

The amounts collected pursuant to this section shall constitute a trust fund in the name of the Office of the Solicitor General to be managed and used by the Solicitor General to carry out the provisions of this Act.

THE OFFICE OF THE SOLICITOR GENERAL IS LIKEWISE, AUTHORIZED TO BORROW FUNDS AND DISPOSE OF ITS ASSETS TO CARRY OUT THE PROVISIONS OF THIS ACT."

SECTION 5. *Retroactivity.* – The retirement benefits provided for under Section 10 of this Act shall have retroactive effect as of the date of effectivity of Republic Act No. 9417.

SECTION 6. *Separability Clause.* – If any provision of this Act is declared unconstitutional or invalid, other parts or provisions hereof not affected shall continue in full force and effect.

SECTION 7. *Effectivity.* – This Act shall take effect fifteen (15) days following its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,