

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

NINETEENTH CONGRESS
First Regular Session

House Bill No. 8574



Introduced by Representative Ron P. Salo

EXPLANATORY NOTE

Overseas Filipino Workers (OFWs) are integral to the growth and development of the Philippines, contributing significantly to the economy through their hard work, remittances, and sacrifices. Their dedication and perseverance often come at a great personal cost, as they face unique challenges and vulnerabilities while working abroad.

In consultations conducted by the author in different parts of the world, it has become apparent that the establishment of a unique pension system for OFWs is one of their most enduring and urgent aspirations. After years of toiling in foreign lands and diligently sending their hard-earned money to their loved ones in the Philippines, they find themselves without adequate social protection in the twilight of their years. Therefore, their heartfelt aspiration is for the Philippine Government to establish a retirement plan that specifically caters to their needs and concerns.

Currently, the Social Security System allows OFWs to become voluntary members through specific schemes. However, this approach does not fully resonate with the OFW community. Their resounding clamor is for a specific and distinct social security system designed explicitly for them—an exclusive framework that acknowledges the unique circumstances and vulnerabilities they face as overseas workers.

Thus, it is imperative to establish a separate and dedicated Social Security and Retirement System specifically tailored to the needs of OFWs. This system would provide comprehensive social protection, ensuring their overall well-being. It would offer financial support in the event of job loss, disability, or death, providing a safety net for OFWs and their families during challenging times. Additionally, the system would establish a retirement fund, enabling OFWs to secure social and financial protection in their old age, granting them the dignity and peace of mind they deserve.

The establishment of a separate system holds significant importance for multiple reasons. Firstly, it provides OFWs with a much-needed safety net, shielding them from the risks associated with their overseas employment. Secondly, it ensures the availability of a retirement fund, mitigating uncertainties regarding their post-employment years. Lastly, it instills confidence in OFWs and their families, assuring

them that a comprehensive social safety net is in place to protect their rights and welfare.

By establishing and implementing a Kabayan OFW Pension System (KOPS), the government takes a substantial step towards safeguarding the rights and welfare of OFWs. This dedicated system reflects the government's commitment to providing comprehensive social protection tailored to the unique circumstances and vulnerabilities of OFWs. Moreover, it underscores the significance of a social security and retirement system in promoting overall well-being and economic stability within society. Through the enactment of this bill, the government reaffirms its dedication to protecting and empowering our modern-day heroes—the OFWs who have contributed so significantly to the nation's progress.

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



RON P. SALO
KABAYAN Party List

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AN ACT
ESTABLISHING THE KABAYAN OVERSEAS FILIPINO WORKERS PENSION
SYSTEM AND APPROPRIATING FUNDS THEREFOR

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 "*Kabayan OFW Pension Act.*"

SEC. 2. Declaration of Policy. – It is hereby declared the policy of the State to protect and promote the welfare of overseas Filipino workers. Towards this end, the State shall establish a social security protection system that specifically considers their peculiar work conditions and caters to their needs.

SEC. 3. Definition of Terms. – For purposes of this Act, the following terms shall mean:

- a) "*Overseas Filipino Worker (OFW)*" refers to a Filipino citizen with a valid overseas employment certificate, or to a Filipino citizen employed abroad, whether documented or non-documented;
- b) "*Non-documented OFW*" refers to an OFW who does not have valid contract of employment nor possesses the necessary documents to work abroad;
- c) "*Member*" refers to an OFW who is enrolled in the System and is qualified to receive the benefits and privileges provided in this Act;
- d) "*Beneficiaries*" refers to the dependent spouse of an OFW, his dependent children, whether legitimate or illegitimate who are the primary beneficiaries; or in their absence, the dependent parents; or in the absence of the foregoing, the person designated by the OFW;
- e) "*Dependent*" refers to the legitimate, legitimated, or legally adopted child who is unmarried, not gainfully employed, and not over twenty - one (21) years of age; or over twenty-one (21) years of age, *Provided*, That he is congenitally incapacitated and incapable of self-support, physically

or mentally; legitimate spouse dependent for support upon the OFW; and the legitimate parents wholly dependent upon the covered OFW for regular support.

f) “*System*” refers to the Kabayan Overseas Filipino Workers Pension System.

SEC. 4. Kabayan OFW Pension System (KOPS). – To carry out the purposes of this Act, there is hereby established a Kabayan Overseas Filipino Workers Pension System (KOPS), hereinafter referred to as the “*System*”, which shall cover all documented OFWs.

The benefits under the System shall be separate and distinct from other benefits that the OFWs are receiving from other programs of the government.

The System shall be a corporate body, with principal place of business in Metro Manila, Philippines. In the discharge of its mandates under this Act, the System shall function and operate as an independent and accountable government-owned and -controlled corporation (GOCC) within the corporate governance standards and principles of Republic Act No. 10149 (GCG Law), except as otherwise provided herein.

SEC. 5. Objectives. – The System shall have the following objectives:

a) Provide retirement benefits and social security assistance to OFWs and their dependents against various contingencies resulting in loss of income or financial burden;

b) Develop and manage a sound social security system which shall promote social justice and provide adequate protection to the OFWs and their dependents against the risks of old-age, disability, sickness, death, unemployment and other contingencies;

c) Ensure the financial viability of the System;

d) Provide world class assistance to the OFWs and their dependents availing of the services of the System; and

The System shall endeavor to strike a right balance in management and safekeeping of the funds contributed by OFWs while extending the benefits of the System to the OFW beneficiaries.

SEC. 6. Board of Trustees. – The System shall be directed and administered by a Board of Trustees, hereinafter referred to as the Board, which shall be composed of the following members:

- a) Secretary of Migrant Workers, as ex-officio chairman;
- b) Secretary of Finance, as ex-officio vice chairman;
- c) the Administrator of the Overseas Workers Welfare Administration (OWWA), as ex-officio member;
- d) the President of the System;
- e) one (1) representative from the land-based overseas workers;

- f) one (1) representative from the sea-based overseas workers; and
- g) one (1) representative from the manning agency sector;
- h) one (1) representative from the recruitment agency sector; and
- i) one (1) representative from the actuarial or finance industry.

The representative of the land-based overseas workers, sea-based overseas workers, manning agency and the recruitment agency shall be appointed by the President of the Philippines upon the recommendation of their respective organizations. They shall be of known competence, probity and integrity. In this regard, the DMW Secretary shall transmit to the President the recommendees of their respective organizations.

The representative from the actuarial or finance industry shall be appointed by the President upon recommendation of the GCG, and must be of recognized expertise in any of the fields of social security, pension fund, insurance, investment, banking and finance, economics, or actuarial science, and with at least ten (10) years of managerial or leadership experience.

The term of office of the regular appointive members of the Board shall be three (3) years, which can be extended for another term of three (3) years: *Provided*, That they shall continue to hold Office until their successors shall have been appointed and duly qualified. All vacancies, prior to the expiration of the term, shall be filled for the unexpired term only.

The compensation, per diems, allowances, and incentives of the appointive members of the Board shall be in accordance with and subject to GCG Law.

SEC. 7. Powers and Functions of the Board of Trustees. – The Board of Trustees shall have the following powers and functions:

- a) Provide strategic leadership, guidance and direction to the System;
- b) Formulate and adopt measures to ensure the attainment of the System's mandate, objectives and purposes;
- c) Determine and fix the monthly contribution of the OFWs and their employers, consistent with provisions of this Act;
- d) Determine the benefits that will be received by the members, which shall be proportionate to their contributions and in accordance with the provision of this Act;
- e) Determine and approve increases in contributions and benefits of members;
- f) Issue rules and regulations to carry out the objectives and purposes of the System;
- g) Approve the organizational structure of the System, including the positions and salaries of personnel, or initiate the reorganization of the same;

- h) Establish offices locally or abroad, preferably within the MWOs, to ensure effective collection of contribution or availment of benefits by its members;
- i) Enter into agreements or contracts for such service and aid, as may be necessary for the proper and effective administration of the System;
- j) Manage the retirement fund and other sources of the System subject to pertinent accounting rules and regulations issued by the Commission on Audit (COA);
- k) Invest reserve funds in accordance with Section 18 of this Act;
- l) Approve its annual budget;
- m) Acquire property, real or personal, which may be necessary for the attainment of the purposes of this Act;
- n) Sue and be sued in court;
- o) Confirm the appointment, transfer or removal of personnel occupying managerial positions and higher;
- p) Establish a performance-based system on the personnel; and
- q) Perform such other acts as may be necessary for the effective implementation of this Act.

SEC. 8. Fiduciary Duties of the Board of Trustees. – The fiduciary duties of a member of the Board include the following:

- a) Act with utmost and undivided loyalty to the System;
- b) Act with due care, extraordinary diligence, and skill in the conduct of business and exercise utmost good faith in all transactions relating to his/her duties to the System and its properties, and in his/her dealings with and for the System he/she is held to the same strict rule of honesty and fair dealing between himself/herself and his/her principal as other agent;
- c) Act for the benefit of the System and not for his/her own benefit;
- d) Not to profit as individual by virtue of his/her position and ensure that profits received by him/her from the System properties or businesses revert to the System and to hold the same as trustee for the benefit of the System and its members;
- e) Avoid conflicts of interest and not to acquire an interest adverse to or in conflict with that of the System while acting for the System or when dealing individually with third persons and declare any interest he/she may have in any particular matter before the Board; and

- f) Apply sound business principles to ensure the financial viability of the System.

SEC. 9. President of the System. – The President shall be appointed by the President of the Philippines and shall be a person of known competence, probity, integrity and recognized expertise in social security, pension fund, insurance, investment, banking and finance, economics, law, or actuarial science and with at least ten (10) years of managerial or leadership experience. He shall be the chief executive officer of the System.

He shall serve for a term of four (4) years, which can be extended for another term of four (4) years. *Provided*, That he shall continue to hold office until his successors shall have been appointed and duly qualified. All vacancies, prior to the expiration of the term, shall be filled for the unexpired term only.

The President may be removed for a valid cause, or for any of the following reasons in accordance with the requirement of due process:

- a) If he or she becomes physically or mentally incapacitated from discharging the duties and responsibilities of the office, and such incapacity has lasted for more than six (6) months;
- b) If he or she is guilty of acts or omissions which are of fraudulent or illegal or which are manifestly opposed to the aims and interests of the System;
- c) If he or she no longer possess the qualifications specified in this Act;
- d) Upon vote of loss of confidence by the absolute majority of the Board, including the Chairman and Vice-Chairman of the Board; or
- e) If he or she does not meet the standards of performance based on the evaluation by the Governance Commission for GOCCs under the GCG Law.

SEC. 10. Powers and Functions of the President of the System. – The President shall have powers and functions of exercising the following powers and functions:

- a) Ensure the efficient and effective administration of the System;
- b) Ensure that the welfare of the members is taken-care of through efficient and effective implementation of the programs and benefits of the System;
- c) Implement policies and programs formulated by the Board to attain the objectives and purposes of the System;
- d) Ensure that the process of the System is streamlined, particularly in the availment of benefits by the members;
- e) Recommend policies and programs for approval by the Board;

- f) Administer the System's resources efficiently, effectively and economically, and recommend to the Board of Trustees the annual budget of the System;
- g) Determine the functions, composition, and compensation of the personnel of the System for approval of the Board;
- h) Recommend to the Board the appointment, transfer or removal of officers occupying managerial positions or higher;
- i) Appoint, transfer or remove personnel of the System occupying those lower than managerial positions;
- j) Recommend to the Board the amount of contributions of employers of land-based and sea-based OFWs after thorough consultations with stakeholders, including the DMW;
- k) Issue membership cards or assign membership numbers to OFW members, consistent with guidelines to be issued by the Board; and
- l) Such other powers and functions necessary to achieve the objectives of this Act.

SEC. 11. Personnel. – Subject to Republic Act No. 10149 or the GOCC Governance Act of 2011, the Board shall determine its own staffing patterns and the number of personnel in the System. The Board shall, in accordance with existing laws and policies, select, appoint, employ, and fix the compensation of such officers and employees as may be necessary to carry out its powers and functions.

SEC. 12. Compulsory Coverage. – The System shall be compulsory upon all documented OFWs: *Provided*, That if an OFW is a member of Social Security System (SSS) or any similar entity as provided under existing laws, the same may be transferred to the System, in accordance with Republic Act No. 7699 otherwise known as the Portability Law, and any benefit or benefits accruing to the OFW from such membership shall be integrated into the System, upon application by the OFW. The OFW, however, may opt to retain his membership with the SSS or any similar entity, but the OFW shall still be mandatorily covered by the System.

Compulsory coverage of the OFW under this System shall take effect on the first day of his employment in the foreign country.

Non-documented OFWs may avail themselves of coverage under the System on a voluntary basis. The rules on voluntary coverage shall be determined by the Board.

Nothing in this Act shall be construed to prevent an OFW from availing of separate membership with other social security or retirement systems, whether public or private.

SEC. 13. Contribution of Members. – Beginning on the last day of the calendar month when an OFW's compulsory coverage takes effect and every month thereafter during his employment, the employer of the OFW shall deduct and withhold from such monthly salary, wage, compensation or earnings, the OFW's contribution in an amount corresponding to his salary, wage, compensation or earnings during the month in accordance with the monthly salary credits, the schedule and the rate of contributions as may be determined and fixed by the Board.

SEC. 14. Contribution of Employers. – Beginning on the last day of the month when an OFW's compulsory coverage takes effect and every month thereafter during his employment, his employer shall pay, with respect to such covered employee, the employer's contribution in accordance with the schedule provided in this Act.

Notwithstanding any contract to the contrary, an employer shall not deduct, directly or indirectly, from the compensation of the OFW.

For purposes of this Act, the term employer may refer to the OFW's direct employer, the foreign recruitment agency (FRA), the Philippine recruitment agency (PRA), or the manning agency as determined by the DMW.

The FRA, PRA, and manning agency shall establish mechanisms to ensure the appropriate deduction and remittance of the OFW and the employer's contribution to the System.

The implementation of this paragraph shall be subject to Sections 20 and 21 of this Act.

SEC. 15. Separation from Employment. – When a covered OFW is separated from employment, the obligation to pay contributions from that employment shall cease at the end of the month of separation, but he shall be credited with all contributions paid and shall be entitled to all benefits provided in this Act.

However, the OFW concerned may continue his contribution to the fund on a voluntary basis. The Board shall issue the necessary guidelines on this matter.

SEC. 16. Benefits. – The Board shall set the schedule of benefits and guidelines for availment. The benefits shall be proportionate to their contributions, as well as to the contributions made by their employers.

The following shall be considered mandatory benefits to the members, subject to the Guidelines by the Board:

- a. Retirement benefits
- b. Monthly pension
- c. Death benefits
- d. Permanent disability benefits
- e. Funeral benefits

When feasible and financially viable, the Board shall also provide the following benefits to the members:

- a. Sickness benefit
- b. Maternity leave benefit
- c. Repatriation benefit
- f. Dependent's pension
- g. Unemployment or involuntary separation benefits

Finally, the Board may adopt other benefits for the members.

SEC. 17. Sources of Fund. – In addition to the monthly contribution of the OFWs to the Fund, the Fund shall be financed from the following sources:

- a) Fifty percent (50%) from the fees charged by the DMW from all PRAs, FRAs and manning agencies, including fees from penalties or other charges;
- b) Fifty percent (50%) from fees charged by the DMW from the Overseas Employment Certificate (OEC);
- c) Ten percent (10%) of the net income of the OFW Bank;
- d) Savings from the Assistance to Nationals (ATN) administered by the DFA, and Aksyon Fund by the DMW, if there are any;
- e) Grants or bequests from donors, local or foreign, to the System; and
- f) One Hundred Million Pesos (P100,000,000.00) annually for ten (10) years to be appropriated by the National Government as its contribution to the Fund of the System.

The Guidelines shall consider best practices of the Social Security System (SSS) and the Government Service Insurance System (GSIS).

SEC. 18. Investment of Reserve Funds. – All revenues of the System that are not needed to meet the current administrative and operational expenses incidental to the carrying out of this Act shall be accumulated in a fund to be known as the "Reserve Fund".

Any investments shall be approved by the Board upon recommendation of the President of the System, which shall also bear the recommendation of an investment expert or firm on the soundness of the transaction, taking into account the financial position of the System and best practices of other security system, such as the SSS or the GSIS.

No portion of the Investment Reserve Fund or income thereof shall accrue to the general fund of the National Government, or to any of its agencies or instrumentalities, including government-owned or -controlled corporations, except as may be allowed under this Act: Provided, That no portion of the Investment Reserve Fund shall be invested for any purpose or any instrument, institution, or industry over and above the following cumulative ceilings as follows:

- 60% in private securities
- 5% in housing
- 30% in real estate related investments

25% in short and medium-term member loans
30% in government financial institutions and corporations
15% in any particular industry
7.5% in foreign-currency denominated investments
5% in private-sponsored infrastructure projects without guarantee
5% private and government sponsored infrastructure projects with guarantee
5% in private and government sponsored infrastructure projects.

SEC. 19. Exemption from Tax, Legal Process and Lien. – All laws to the contrary notwithstanding, the System and all its assets and properties, all contributions collected and all accruals thereto and income or investment earnings therefrom as well as all supplies, equipment, papers or documents shall be exempt from any tax, assessment, fee, charge, or customs or import duty; and all benefit payments made by the System shall likewise be exempt from all kinds of taxes, fees or charges, and shall not be liable to attachments, garnishments, levy or seizure by or under any legal or equitable process whatsoever, either before or after receipt by the person or persons entitled thereto, except to pay any debt of the member to the System. No tax measure of whatever nature enacted shall apply to the System, unless it expressly revokes the tax-exemption to the System. Any tax assessment imposed against the System shall be null and void.

SEC. 20. DMW and MWO Coordination. – The DMW and its MWOs shall coordinate with their counterparts in the countries where OFWs are deployed to secure the concurrence of the officials of the country on the contributions to be made by the foreign employers. In this regard, the DMW shall ensure that the mandatory contribution from employers is included in the country specific standard contract entered into by the OFWs or with the manning agencies.

SEC. 21. DMW Certification. – In the implementation of the mandatory contributions of employers, the DMW shall certify which countries or sectors it shall be implemented, consistent with the preceding paragraph.

SEC. 22. Non-Transferability of Benefits. – The System, shall promptly pay the benefits provided in this Act to such persons as may be entitled thereto in accordance with the provisions of this Act: *Provided*, That the System shall pay the retirement benefits on the day of contingency to qualified members who have submitted the necessary documents at least six (6) months before: *Provided, further*, That the beneficiary who is a national of a foreign country which does not extend benefits to a Filipino beneficiary residing in the Philippines, or which is not recognized by the Philippines, shall not be entitled to receive any benefit under this Act: *Provided, further*, That notwithstanding the foregoing, where the best interest of the System will be served, the Board may direct payments without regard to nationality or country of residence: *Provided, further*, That if the recipient is a minor or a person incapable of administering his own affairs, the President or authorized official of the System shall appoint a representative under such terms and conditions as it may deem proper: *Provided, further*, That such appointment shall not be necessary in case the recipient is under the custody of or living with the parents or spouse of the member in which case the benefits shall be paid to such parents or spouse, as representative payee of the recipient. Such benefits are not transferable 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, except when they are physically unable to collect personally such benefits: *Provided*, further That in case of death benefits, if no beneficiary qualifies under this Act, said benefits shall be paid to the legal heirs in accordance with the law of succession.

SEC. 23. Appropriations and Government Contribution. – To effectively implement the provisions of this Act, there is hereby appropriated the amount of One Hundred Million Pesos (P100,000,000.00) for the initial capitalization of the System. Thereafter, the amount necessary for the continuous operation of the System, but excluding benefits to the members, shall be included in the annual General Appropriations Act, until such time that the Department of Finance certifies that the System can already operate on its own.

This amount shall be separate from the Government's contribution as stated in Section 26 of this Act.

SEC. 24. Records and Reports. – The President of the System shall keep and cause to keep records of operations of the funds of the System and of disbursements thereof and all accounts of payments made out of said funds. During the month of January of each year, the President of the System shall prepare for submission to the President of the Philippines and to Congress of the Philippines a report of operations of the System during the preceding year, including statistical data on the number of persons covered and benefited, their occupations and employment status, the duration and amount of benefits paid, the finances of the System at the close of the said year, and recommendations. He shall also cause to be published in two (2) newspapers of general circulation in the Philippines a synopsis of the annual report, showing in particular the status of the finances of the System and the benefits administered.

SEC. 25. Implementing Rules and Regulations. – The DMW, in consultation with the OWWA, the Department of Finance (DOF), the BSP, and the SSS shall, within sixty (60) days after the effectivity of this Act, promulgate the necessary rules and regulations for the implementation of this Act.

SEC. 26. Repealing Clause. – Any provision of laws, decrees, executive orders, proclamations, rules and regulations, or parts thereof, which are inconsistent with this Act are hereby repealed, amended, or modified accordingly.

SEC. 27. Separability Clause. – If any portion of this Act is declared unconstitutional or invalid, the other provisions not affected shall continue in full force and effect.

SEC. 28. Effectivity Clause. – This Act shall take effect fifteen (15) days following the completion of its publication in two (2) newspapers of general circulation.

Approved.