

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

04 JUN 30 P4 59

RECEIVED BY: Osmeña

S E N A T E

S. No. 381

Introduced by Senator S. R. Osmeña III

EXPLANATORY NOTE

As prescribed in the Philippine Constitution, the State shall guarantee the rights of workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. Despite this guarantee there seems to be no provision in the Labor Code which explicitly prohibits the holding of a certification election more than once a year with the end in view of instilling industrial harmony among the different appropriate bargaining units. From the point of view of the Labor Code it may thus be argued that there is no such limit as to the number of times a losing labor union may file a certification election within a given year in order to test the choice of the members of an appropriate bargaining unit. As such the chosen labor union will always be on its guard to maintain its representative status to the detriment of its members.

Notwithstanding this apparent omission in the law, the Supreme Court in numerous cases has ruled that no certification elections in an appropriate bargaining unit may be held more than once a year.

In order to promote industrial harmony this bill seeks to legislate into law the provision on "certification election bar rule" and thereby eliminate all possible conflicts that may arise therefrom.

S. Osmeña III
SERGIO OSMEÑA III
Senator

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AN ACT
RATIONALIZING FURTHER THE CONDUCT OF CERTIFICATION
ELECTIONS BY PROVIDING THAT CERTIFICATION ELECTION IN
AN APPROPRIATE BARGAINING UNIT SHALL NOT BE OFTEN
THAN ONCE IN TWELVE (12) MONTHS, AMENDING FOR THIS
PURPOSES THE RELEVANT PROVISIONS OF THE LABOR CODE
OF THE PHILIPPINES

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

1 SECTION 1. It is hereby declared the policy of the State to promote free
2 trade unionism as an instrument for the enhancement of democracy and the
3 promotion of social justice and development; and ensure a stable but dynamic
4 and just industrial peace.

5 SEC. 2. There shall be incorporated after Article 231 of Presidential
6 Decree No. 442, as amended, otherwise known as the "Labor Code of the
7 Philippines" a new Article 231-A which shall be read as follows:

8 "ART. 231-A. CERTIFICATION ELECTION. – IN THE ABSENCE
9 OF A COLLECTIVE BARGAINING AGREEMENT DULY REGISTERED IN
10 ACCORDANCE WITH ARTICLE 231 OF THIS CODE, A PETITION FOR
11 CERTIFICATION ELECTION MAY BE FILED AT ANY TIME. HOWEVER,
12 NO CERTIFICATION ELECTION MAY BE HELD WITHIN ONE (1) YEAR
13 FROM THE DATE OF ISSUANCE OF A FINAL CERTIFICATION
14 ELECTION RESULT. NEITHER MAY A PRESENTATION QUESTION
15 BE ENTERTAINED IF, BEFORE THE FILING OF A PETITION FOR

1 CERTIFICATION ELECTION, A BARGAINING DEADLOCK TO WHICH
2 AN INCUMBENT OR CERTIFIED BARGAINING AGENT IS A PARTY
3 HAD BEEN SUBMITTED TO CONCILIATION OR ARBITRATION OR
4 HAD BECOME THE SUBJECT OF VALID NOTICE OR STRIKE OR
5 LOCKOUT.

6 IF A COLLECTIVE BARGAINING AGREEMENT HAS BEEN DULY
7 REGISTERED IN ACCORDANCE WITH ARTICLE 231 OF THIS CODE,
8 A PETITION FOR CERTIFICATION ELECTION OR A MOTION FOR
9 INTERVENTION CAN ONLY BE ENTERTAINED WITHIN SIXTY (60)
10 DAYS PRIOR TO THE EXPIRY DATE OF SUCH AGREEMENT.”

11 SEC. 3. Any provision of law, rule or regulation which is inconsistent with
12 the provision of this Act is hereby repealed or amended accordingly.

13 SEC. 4. This Act shall take effect fifteen (15) days after its publication in
14 the Official Gazette or in at least two (2) newspapers of general circulation
15 whichever comes earlier.

Approved,