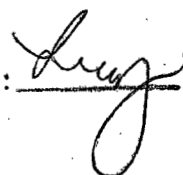


13th Congress of the Republic)
of the Philippines)
First Regular Session)

'04 JUN 30 P11:13

SENATE

RECEIVED BY: 

S. No. **1148**

Introduced by Senator Aquilino Q. Pimentel, Jr.

EXPLANATORY NOTE


The mandate of the constitution, under Art. XIII, Sec. 3, is clear "The State shall afford full protection to labor, local and overseas, organized, and promote full employment and equality of employment opportunities for all".

This bill seeks to amend Article 106 of Presidential Decree 442, as amended, otherwise known as the Labor Code of the Philippines.

The bill mandates indirect employers to ensure that all benefits of employees hired through job contractors are paid.

If the employees cannot get their benefits from their agencies, they can turn to the company for relief.

Its passage is earnestly requested.


AQUILINO Q. PIMENTEL, JR.

13th Congress of the Republic)
of the Philippines)
First Regular Session)

'04 JUN 30 P11:13

SENATE RECEIVED BY: 

S. No. 1148

Introduced by Senator Aquilino Q. Pimentel, Jr.

AN ACT
EXPANDING THE LIABILITIES OF INDIRECT EMPLOYERS IN JOB
CONTRACTING, COVERING OTHER BENEDITS DUE THEIR
EMPLOYEES, FOR THIS PURPOSE AMENDING ARTICLE 106 OF
PRESIDENTIAL DECREE 442, AS AMENDED, OTHERWISE KNOWN AS
THE LABOR CODE OF THE PHILIPPINES

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

SECTION 1. Article 106 of Presidential Decree 442, as amended is hereby
further amended by adding a paragraph, to read as follows:

"ART. 106. Contractor or subcontractor - Whenever an
employer enters into a contract with another person for the
performance of the former's work, the employees of the contractor
and of the latter's subcontractor, if any, shall be paid in accordance
with the provisions of this Code.

In the event that the contractor or subcontractor fails to pay
the wages of his employees in accordance with this Code, the
employer shall be jointly and severally liable with his contractor or
subcontractor to such employees to the extent of the work
performed under the contract, in the same manner and extent that
he is liable to employees directly employed by him.

IF THE EMPLOYEES OF THE CONTRACTOR OF SUBCONTRACTOR HAVE RENDERED AT LEAST ONE YEAR OF SERVICE TO THE SAME EMPLOYER, WHETHER OR NOT SUCH EMPLOYMENT IS CONTINUOUS, SUCH EMPLOYER SHALL ALSO BE JOINTLY AND SEVERALLY BE LIABLE WITH THE CONTRACTOR OR SUBCONTRACTOR FOR THE PAYMENT OF THE EMPLOYEES' BENEFITS, INCLUDING, BUT NOT LIMITED TO THEIR SEPARATION OR RETIREMENT BENEFITS, PROVIDED, THAT THE LIABILITY OF THE INDIRECT EMPLOYER SHALL BE LIMITED ONLY TO THE PERIOD THAT SUCH EMPLOYEE RENDERED SERVICES TO THE SAID INDIRECT EMPLOYER, THE AVAILMENT AND GRANT OF SEPARATION, RETIREMENT AND OTHER BENEFITS SHALL BE IN ACCORDANCE WITH EXISTING LAWS.

The Secretary of Labor may, by appropriate regulations, restrict or prohibit the contracting out of labor to protect the rights of workers established under this Code. In so prohibiting or restricting, he may make appropriate distinctions between labor-only contracting and job contracting as well as differentiations within these types of contracting and determine who among the parties involved shall be considered the employer for purposes of this Code. There is "labor only" contracting where the person supplying workers to an employer does not have substantial capital or investment in the form of tools, equipment, machineries, work

premises, among others, and the workers recruited and be placed by such persons are performing activities which are directly related to the principal business of such employer. In such cases, the person or intermediary shall be considered merely as an agent of the employer who shall be responsible to the workers in the same manner and extent as if the latter were directly employed by him."

SECTION 2. If any provision of this Act is held unconstitutional, other provisions not affected thereby shall remain valid and binding.

SECTION 3. All laws, presidential decrees, rules and regulations insofar as they are inconsistent with this Act, are hereby repealed, amended or modified accordingly.

SECTION 4. This Act shall take effect fifteen (15) days following its publication in the Official Gazette or two (2) newspapers of general circulation, whichever comes first.

Approved,