

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

'04 JUL 22 AIO:46

SENATE
S. B. No. 1454

RECEIVED BY: _____

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Presidential Decree No. 442, also known as the Labor Code, Art. 248, makes it an unfair labor practice for employees "to contract out services or functions being performed by union members...". Clearly, the provision does not cover situations where employers merely threaten to contract out services being performed by the latter. A threat has the same coercive effect as actually contracting out services as it instills fear in the laborer of losing his job.

This bill extends the protection of Art. 248, by making it unlawful for employers to threaten to contract out services being performed by union members.


MIRIAM DEFENSOR SANTIAGO

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**AN ACT
AMENDING PRESIDENTIAL DECREE NO. 442 ALSO KNOWN
AS THE LABOR CODE, ART. 248**

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

SECTION 1. P.D. No. 448 also known as the Labor Code, Art. 248, is amended by deleting paragraph (c) and replacing it with a new paragraph to read as follows:

“(c) TO PROMISE, TO THREATEN, OR TO TAKE OTHER ACTION (1) TO HIRE A PERMANENT REPLACEMENT OR AN EMPLOYEE WHO

(A) AT THE COMMENCEMENT OF A LABOR DISPUTE WAS AN EMPLOYEE OF THE EMPLOYER IN A BARGAINING UNIT WHICH A LABOR ORGANIZATION —

(I) WAS THE CERTIFIED OR RECOGNIZED EXCLUSIVE BARGAINING REPRESENTATIVE; OR

(II) AT LEAST THIRTY (30) DAYS PRIOR TO THE COMMENCEMENT OF THE DISPUTE HAD FILED A PETITION FOR CERTIFICATION ELECTION PURSUANT TO ARTICLES 256 AND 257 OF THIS CODE, AND THE BUREAU OF LABOR RELATIONS HAS NOT

COMPLETED THE REPRESENTATION
PROCEEDING; AND

“(B) IN CONNECTION WITH THAT DISPUTE HAS ENGAGED IN CONCERTED ACTIVITIES FOR THE PURPOSE OF COLLECTIVE BARGAINING OR OTHER MUTUAL AID OR PROTECTION OR DENY ANY OTHER EMPLOYMENT RIGHT OR PRIVILEGE TO AN EMPLOYEE WHO IS WORKING FOR OR HAS UNCONDITIONALLY OFFERED TO RETURN TO WORK FOR THE EMPLOYER, OUT OF A PREFERENCE FOR ANY OTHER INDIVIDUAL, THAT IS BASED ON THE FACT THAT THE INDIVIDUAL IS PERFORMING, HAS PERFORMED, OR HAS INDICATED A WILLINGNESS TO PERFORM BARGAINING UNIT WORK FOR THE EMPLOYER DURING THE LABOR DISPUTE.”

SECTION 2. *Separability Clause.* - If any provision or part hereof is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SECTION 3. *Repealing Clause.* - Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to, or inconsistent with, the provision of this Act is hereby repealed, modified or amended accordingly.

SECTION 4. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved.