
Introduced by Senator JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

This measure was previously embodied under Senate Committee on Labor and Employment under **Senate Committee Report No. 149** co-authored by seventeen (17) Senators after consolidating Senate Bill Nos. 416, 849, 1975 and 1880 authored by Senators Drilon, Pimentel, Jr., Pangilinan and Revilla, Sr., respectively. Unfortunately, before said Committee Report could be deliberated upon, Congress adjourned for the 2004 national elections.

An identical Bill was likewise passed by the House Committee on Labor and Employment and the **Substitute Committee Bill** co-authored by fifty three (53) Representatives was referred to the House Committee on Appropriations for the funding provision. The Department of Budget and Management (DBM), in its letter dated January 9, 2004 addressed to Hon. Rolando G. Andaya, Jr., Chairman of the House Appropriations Committee, stated therein that the DBM poses no objection to the passage of the Bill but for the meantime there are funds available for the creation of only one (1) Division. Unfortunately, the said funding certification came rather late since Congress adjourned a few weeks later for the 2004 national elections.

Moreover, both versions of the Senate and House bills were adopted and endorsed by the Congressional Oversight Committee on Labor and Employment (COCLE) in its Report to Congress proposing an omnibus amendment to the Labor Code.

With the legislative history above-mentioned, this legislative measure has already been thoroughly discussed and deliberated on during the various public hearings conducted by both Houses of Congress and the latter has already determined the necessity and urgency in the passage of this proposed measure.

This Measure is long overdue and its passage in this Congress cannot be overemphasized. Hence, approval of this legislation is earnestly sought.


JINGGOY EJERCITO ESTRADA
Senator

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

SENATE

S. B. No. 1771

Introduced by: Senator **JINGGOY EJERCITO ESTRADA**

AN ACT
TO RATIONALIZE THE COMPOSITION AND FUNCTIONS OF THE
NATIONAL LABOR RELATIONS COMMISSION, AMENDING FOR THIS
PURPOSE ARTICLES 213, 214, 215, AND 216 OF P.D. 442, AS AMENDED,
OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES.

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

SECTION 1. Article 213 of P.D. No. 442, as amended, otherwise known as
the Labor Code of the Philippines, is hereby amended to read as follows:

“ARTICLE 213. *National Labor Relations Commission.* - There
shall be a National Labor Relations Commission which shall be attached to the
Department of Labor and Employment **SOLELY** for program and policy
coordination only, composed of the Chairman and **TWENTY THREE (23)**
[fourteen (14)] Members. [Five (5)] **EIGHT (8)** members each shall be chosen
ONLY from among the nominees of the workers and employers organizations,
respectively. The Chairman and the **SEVEN (7)** [four (4)] remaining members
shall come from the public sector, with the latter to be chosen **PREFERABLY**
from among the **INCUMBENT LABOR ARBITERS AS** recommendees of the
Secretary of Labor and Employment.

“Upon assumption into office, the members nominated by the workers
and employers organizations shall divest themselves of any affiliation with or
interest in the labor federation or labor association to which they belong.

“The Commission may sit *en banc* or in **EIGHT (8)** [five (5)] divisions, each composed of three (3) members. [Subject to the penultimate sentence of this paragraph, t] The Commission shall sit *en banc* only for purposes of promulgating rules and regulations governing the hearing and disposition of cases before any of its divisions and regional branches and formulating policies affecting its administration and operations. The Commission shall exercise its adjudicatory and all other powers, functions and duties through its divisions. Of the **EIGHT (8)** [five (5)] divisions, the first, second, [and] third, **FOURTH, FIFTH AND SIXTH** divisions shall handle cases coming from the National Capital Region and the other parts of Luzon; and the **SEVENTH AND EIGHTH** [fourth and fifth] divisions, cases from the Visayas and Mindanao, respectively; Provided, that the Commission sitting *en banc* may, on temporary or emergency basis, allow cases within the jurisdiction of any division to be heard and decided by any other division whose docket allows the additional workload and such transfer will not expose litigants to unnecessary additional expense. The divisions of the Commission shall have *exclusive appellate jurisdiction* over cases within their respective territorial jurisdictions.

“The concurrence of two (2) Commissioners of a division shall be necessary for the pronouncement of judgment or resolution. Whenever the required membership in a division is not complete and the concurrence of two (2) Commissioners to arrive at a judgment or resolution cannot be obtained, the Chairman shall designate such number of additional Commissioners from the other divisions as may be necessary.

“The conclusions of a division on any case submitted to it for decision shall be reached in consultation before the case is assigned to a member for the writing of the opinion. It shall be mandatory for the division to meet for purposes of the consultation ordained therein. A certification to this effect signed by the Presiding Commissioner of the division shall be issued and a copy thereof attached to the record of the case and served upon the parties.

“The Chairman shall be the Presiding Commissioner of the first division and the **SEVEN (7)** [four (4)] other members from the public sector shall be the Presiding Commissioner of the second, third, fourth, [and] fifth, **SIXTH,**

SEVENTH AND EIGHTH divisions, respectively. In case of the effective absence or incapacity of the Chairman, the Presiding Commissioner of the second division shall be the Acting Chairman.

"The Chairman, aided by the Executive Clerk of the Commission, shall have **EXCLUSIVE** administrative supervision over the Commission and its regional branches and all its personnel, including the [~~Executive Labor Arbiters and~~] Labor Arbiters.

The Commission, when sitting *en banc*, shall be assisted by the same Executive Clerk and, when acting through its divisions, by said Executive Clerk for its first division and **SEVEN (7)** [~~four (4)~~] other Deputy Executive Clerks for the second, third, fourth, [~~and~~] fifth, **SIXTH, SEVENTH AND EIGHTH** divisions, respectively, in the performance of such similar or equivalent functions and duties as are discharged by the Clerk of Court and Deputy Clerks of Court of the Court of Appeals.

THE COMMISSION AND ITS EIGHT (8) DIVISIONS SHALL BE ASSISTED BY THE COMMISSION ATTORNEYS IN ITS APPELLATE AND ADJUDICATORY FUNCTIONS WHOSE TERM SHALL BE CO-TERMINUS WITH THE COMMISSIONERS WITH WHOM THEY ARE ASSIGNED. THE COMMISSION ATTORNEYS SHALL BE MEMBERS OF THE PHILIPPINE BAR WITH AT LEAST ONE (1) YEAR EXPERIENCE OR EXPOSURE IN THE FIELD OF LABOR-MANAGEMENT RELATIONS. THEY SHALL RECEIVE ANNUAL SALARIES AND SHALL BE ENTITLED TO THE SAME ALLOWANCES AND BENEFITS AS THOSE FALLING UNDER SALARY GRADE TWENTY SIX (SG 26). THERE SHALL BE AS MANY COMMISSION ATTORNEYS AS MAY BE NECESSARY FOR THE EFFECTIVE AND EFFICIENT OPERATION OF THE COMMISSION BUT IN NO CASE LESS THAN THREE (3) ASSIGNED TO THE OFFICE OF THE CHAIRMAN AND EACH COMMISSIONER.

SEC. 2. Article 214 of the Labor Code is hereby amended to read as follows:

“ARTICLE 214. *Headquarters, Branches and Provincial Extension Units.* The Commission and its First, Second, [and] Third, **FOURTH, FIFTH AND SIXTH** divisions shall have their main offices in Metropolitan Manila, and the **SEVENTH AND EIGHTH** [Fourth and Fifth] divisions in the Cities of Cebu and Cagayan de Oro, respectively. The Commission shall establish as many regional branches as there are regional offices of the Department of Labor and Employment, sub-regional branches or provincial extension units. There shall be as many Labor Arbiters as may be necessary for the effective and efficient operation of the Commission. [Each regional branch shall be headed by an Executive Labor Arbiter.]

SEC. 3. Article 215 of the Labor Code is hereby amended to read as follows:

“ARTICLE 215. *Appointment and Qualifications.* - The Chairman and other Commissioners shall be members of the Philippine Bar and must have been engaged in the practice of law in the Philippines for at least fifteen (15) years, with at least five (5) years experience or exposure in the field of labor-management relations, and shall preferably be residents of the region where they shall hold office. The [Executive Labor Arbiters and] Labor Arbiters shall likewise be Members of the Philippine Bar and must have been engaged in the practice of law in the Philippines for at least **TEN (10)** [seven (7)] years, with at least **FIVE (5)** [three (3)] years experience or exposure in the field of labor-management relations. [Provided, however, that incumbent Executive Labor Arbiters and Labor Arbiters who have been engaged in the practice of law for at least five (5) years may be considered as already qualified for purposes of reappointment as such under this Act.]

“The Chairman, [and] the other Commissioners, **AND** the [Executive Labor Arbiters and] Labor Arbiters shall hold office during good behavior until they reach the age of sixty-five (65) years, unless sooner removed for cause as provided by law or become incapacitated to discharge the duties of their office.

“The Chairman, the Division Presiding Commissioners and other Commissioners shall be appointed by the President. [, subject to confirmation by the Commission on Appointments.] Appointment to any vacancy **IN A**

SPECIFIC DIVISION shall come **ONLY** from the nominees of the sector which nominated the predecessor. The [Executive Labor Arbiters and] Labor Arbiters shall also be appointed by the President, upon recommendation of the Secretary of Labor and Employment, **TO A SPECIFIC ARBITRATION BRANCH PREFERABLY IN THE REGION WHERE THEY ARE RESIDENTS**, and shall be subject to the Civil Service Law, rules and regulations; **PROVIDED, THAT THE LABOR ARBITERS WHO ARE PRESENTLY HOLDING OFFICE IN THE REGION WHERE THEY ARE RESIDENTS SHALL BE DEEMED APPOINTED THEREAT.**

“The Secretary of Labor and Employment shall, in consultation with the Chairman of the Commission, appoint the staff and employees of the Commission and its regional branches as the needs of the service may require, subject to the Civil Service Law, rules and regulations, and upgrade their current salaries, benefits and other emoluments in accordance with law.

SEC. 4. Article 216, as amended, is hereby further amended to read as follows:

“**ARTICLE 216. Salaries, benefits and emoluments.** - The Chairman and members of the Commission shall **HAVE THE SAME RANK**, receive an annual salary [at least] equivalent to, and be entitled to the same allowances, **RETIREMENT**, and benefits as [.] Those of the *Presiding Justice and Associates of the Court of Appeals, respectively.* The [Executive Labor Arbiters] **LABOR ARBITERS** shall **HAVE THE SAME RANK**, receive an annual salary [at least] equivalent to **AND BE ENTITLED TO THE SAME RETIREMENT AND OTHER BENEFITS AS THOSE OF THE JUDGES OF THE REGIONAL TRIAL COURTS.** [That of an Assistant Regional Director of the Department of Labor and Employment and shall be entitled to the same allowances and benefits as that of the Regional Director of the said Department. The Labor Arbiters shall receive an annual salary at least equivalent to, and be entitled to the same allowances and benefits as, that of an Assistant Regional Director of the Department of Labor and Employment.] In no case, however, shall the provisions of this Article result in the *diminution of the existing salaries, allowances and benefits of the above-mentioned officials.*

SEC. 5. *Separability Clause.* - If any part, section, or provision of this Act shall be held invalid or unconstitutional, the other provisions shall not be affected thereby.

SEC. 6. *Repealing Clause.* - The pertinent provisions of P.D. 442, as amended, otherwise known as the Labor Code of the Philippines, and all other Acts, laws, executive orders, presidential issuances, rules and regulations or any part thereof which are inconsistent herewith are hereby deemed repealed or modified accordingly.

SEC. 7. *Effectivity.* - This Act shall take effect fifteen (15) days after its complete publication in the *Official Gazette* or in at least two (2) national newspapers of general circulation, whichever comes earlier.

Approved,