

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

'04 NOV -3 A11:12

Senate

RECEIVED BY: 

S.B. No. 1841

Introduced by **Senator Francis N. Pangilinan**

EXPLANATORY NOTE

This is a refilled Bill previously passed by the Senate Committee on Labor and Employment covered by Senate Committee Report No. 149 co-authored by seventeen (17) Senators after consolidating Senate Bills Nos. 416, 849, 1975 and 1880 authored by Senators Franklin M. Drilon, Aquilino Pimentel, Jr., Francis N. Pangilinan and Ramon B. Revilla, respectively. The said Committee Report No. 149 was scheduled for plenary sponsorship when Congress adjourned for the 2004 national elections.

An identical Bill was likewise passed by the House Committee on Labor and Employment and the Substituted 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 the Congress adjourned a few weeks later for the 2004 national election.

Both versions of the Senate and the 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, the present Bill 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.

The bill is long overdue and its passage in the present Congress cannot be over emphasized.

Hence, approval of his bill is earnestly sought.


FRANCIS N. PANGILINAN
Senator

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AN ACT
TO RATIONALIZE THE COMPOSITION AND FUNCTIONS OF THE NATIONAL LABOR
RELATIONS COMMISSION, AMENDING FOR THE 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 the program and policy coordination only, composed of the Chairman and **TWENTY THREE (23)** [fourteen (14)] Members. **EIGHT (8)** [five (5)] 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** recommended by 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 federation or association to which they belong.

"This 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] 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 shall handle cases coming from the National Capital Region and other parts of Luzon; and the **SEVENTH and EIGHT** [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 maybe 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 EIGHT** 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 EIGHT** 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 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 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 in the Cities of Cebu and Cagayan de Oro, respectively. The Commission shall establish as many regional branches as there are 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 217. 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 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 be affected thereby.

SEC. 6. Repealing Clause. - 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 publication in the Official Gazette or in at least two (2) national newspapers of general circulation, whichever comes earlier.

Approved