

REPUBLIC OF THE PHILIPPINES

S e n a t e

Pasay City

Journal

SESSION NO. 86

Tuesday, May 17, 2005

**THIRTEENTH CONGRESS
FIRST REGULAR SESSION**

SESSION NO. 86
Tuesday, May 17, 2005

CALL TO ORDER

At 3:54 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.

PRAYER

Sen. Sergio R. Osmeña III led the prayer, to wit:

Dear Lord,

Thank you for all the wondrous gifts that You have bestowed upon us: the gift of life, the gift of good health, the gift of friendship, the gift of trials and challenges. Thank You for having given us so many chances to right what has been wronged, occasions to redeem ourselves, and opportunities to be of service to our country and people.

Teach us to serve our fellowmen as You have served; to give and not to count the cost; to fight and not to heed the wounds; to toil and not to seek for rest; to labor and ask not for rewards save that of knowing that we will have done Your will.

Amen.

ROLL CALL

Upon direction of the Chair, the Secretary of the Senate, Oscar G. Yabes, called the roll, to which the following senators responded:

Arroyo, J. P.	Flavier, J. M.
Cayetano, C. P. S.	Lacson, P. M.
Defensor Santiago, M.	Lapid, M. L. M.
Drilon, F. M.	Magsaysay Jr., R. B.
Ejercito Estrada, J.	Osmeña III, S. R.
Ejercito Estrada, L. L. P.	Pimentel Jr., A. Q.
Enrile, J. P.	

With 13 senators present, the Chair declared the presence of a quorum.

Senators Gordon, Lim, Recto, Revilla and Villar arrived after the roll call.

Senators Angara, Biazon and Pangilinan were on official mission abroad.

Senator Roxas was on official mission.

Senator Madrigal was absent on account of illness.

APPROVAL OF THE JOURNAL

Upon motion of Senator Cayetano, there being no objection, the Body dispensed with the reading of the Journal of Session No. 85 and considered it approved.

REFERENCE OF BUSINESS

The Secretary of the Senate read the following matters and the Chair made the corresponding referrals:

COMMITTEE REPORT

Committee Report No. 23 prepared and submitted jointly by the Committees on Constitutional Amendments, Revision of Codes and Laws; and Local Government on Senate Bill No. 2000 with Senators Angara, Pangilinan, Gordon, Lim and the Members of the Committees as authors thereof, entitled

AN ACT AMENDING REPUBLIC ACT
NO. 9164, RESETTING THE
BARANGAY AND SANGGUNIANG
KABATAAN ELECTIONS, AND FOR
OTHER PURPOSES,

recommending its approval in substitution of Senate Bill Nos. 1074, 1741 and 1756, taking into consideration House Bill No. 3742

Sponsors: Senators Gordon, Lim, Angara, Pangilinan and the Members of the Committees

To the Calendar for Ordinary Business *RS*

RS

ADDITIONAL REFERENCE OF BUSINESS**BILLS ON FIRST READING**

Senate Bill No. 2001, entitled

AN ACT DEFINING THE JURISDICTION OF LABOR CASES BETWEEN THE NATIONAL LABOR RELATION COMMISSION AND THE REGIONAL OFFICES OF THE DEPARTMENT OF LABOR AND EMPLOYMENT, AMENDING FOR THIS PURPOSE, ARTICLES 129 AND 217 OF PRESIDENTIAL DECREE FOUR HUNDRED FORTY TWO (PD 442), AS AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES

Introduced by Senator Flavier

To the Committee on Labor, Employment and Human Resources Development

Senate Bill No. 2002, entitled

AN ACT PROVIDING FOR A WORKING TIME FLEXIBILIZATION IN THE PRIVATE SECTOR AND FOR OTHER PURPOSES, THEREBY AMENDING ARTICLES 83, 85 AND 87 OF PRESIDENTIAL DECREE FOUR HUNDRED FORTY TWO (PD 442), AS AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES

Introduced by Senator Flavier

To the Committee on Labor, Employment and Human Resources Development

Senate Bill No. 2003, entitled

AN ACT PRESCRIBING WORK ARRANGEMENTS BASED ON SECURITY OF TENURE

Introduced by Senator Flavier

To the Committee on Labor, Employment and Human Resources Development

Senate Bill No. 2004, entitled

AN ACT CREATING THE LOCAL EMPLOYMENT AUTHORITY, DEFINING ITS POWERS AND FUNCTIONS AND APPROPRIATING FUNDS THEREFOR

Introduced by Senator Flavier

To the Committees on Labor, Employment and Human Resources Development; Civil Service and Government Reorganization; and Finance

Senate Bill No. 2005, entitled

AN ACT EXPANDING THE EXCEPTIONS FROM THE NIGHT WORK PROHIBITION OF WOMEN EMPLOYEES, THEREBY AMENDING ARTICLE 131 OF PRESIDENTIAL DECREE FOUR HUNDRED FORTY TWO (PD 442), AS AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES

Introduced by Senator Flavier

To the Committee on Labor, Employment and Human Resources Development

Senate Bill No. 2006, entitled

AN ACT ESTABLISHING THE WORKERS' COMPENSATION PROGRAM, THE WORK CONTINGENCY INSURANCE FUND, THE PHILIPPINE WORKERS' COMPENSATION AUTHORITY AND DEFINING ITS POWERS AND FUNCTIONS AND AMENDING FOR THIS PURPOSE ARTICLES 166 TO 208-A OF PRESIDENTIAL DECREE FOUR HUNDRED FORTY TWO (PD 442), AS AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES AND APPROPRIATING FUNDS THEREFOR

Introduced by Senator Flavier

To the Committees on Labor, Employment and Human Resources Development; Ways and Means; and Finance

SUSPENSION OF SESSION

Upon motion of Senator Cayetano, the session was suspended.

It was 3:59 p.m.

Abstention

None

With 16 senators voting in favor, none against, and no abstention, the Chair declared Proposed Senate Resolution No. 242 approved on Third Reading.

RESUMPTION OF SESSION

At 4:01 p.m., the session was resumed.

APPROVAL OF PROPOSED SENATE RESOLUTION NO. 243 ON THIRD READING

APPROVAL OF PROPOSED SENATE RESOLUTION NO. 242 ON THIRD READING

Upon motion of Senator Cayetano, there being no objection, the Body considered, on Third Reading Proposed Senate Resolution No. 243, printed copies of which were distributed to the senators on May 12, 2005.

Upon motion of Senator Cayetano, there being no objection, the Body considered, on Third Reading, Proposed Senate Resolution No. 242, printed copies of which were distributed to the senators on May 12, 2005.

Pursuant to Section 67, Rule XXIII of the Rules of the Senate, upon motion of Senator Cayetano, there being no objection, Secretary Yabes read only the title of the resolution, to wit:

Pursuant to Section 67, Rule XXIII of the Rules of the Senate, upon motion of Senator Cayetano, there being no objection, Secretary Yabes read only the title of the resolution, to wit:

RESOLUTION CONCURRING IN THE RATIFICATION OF THE INTERNATIONAL LABOUR ORGANIZATION CONVENTION CONCERNING FORCED OR COMPULSORY LABOUR (FORCED LABOR CONVENTION).

RESOLUTION CONCURRING IN THE RATIFICATION OF THE CONVENTION OF THE CONSERVATION AND MANAGEMENT OF HIGHLY MIGRATORY FISH STOCKS IN THE WESTERN AND CENTRAL PACIFIC OCEAN AND ITS ANNEXES.

Secretary Yabess called the roll for nominal voting.

Secretary Yabes called the roll for nominal voting.

RESULT OF THE VOTING

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The result of the voting was as follows:

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In favor

In favor

Arroyo	Gordon
Cayetano	Lacson
Defensor Santiago	Lapid
Drilon	Lim
Ejercito Estrada, (J)	Magsaysay
Ejercito Estrada, (L)	Osmeña
Enrile	Pimentel
Flavier	Revilla

Arroyo	Gordon
Cayetano	Lacson
Defensor Santiago	Lapid
Drilon	Lim
Ejercito Estrada, (J)	Magsaysay
Ejercito Estrada, (L)	Osmeña
Enrile	Pimentel
Flavier	Revilla

Against

None

Against

None

Abstention

None

KS

With 16 senators voting in favor, none against, and no abstention, the Chair declared Proposed Senate Resolution No. 243 approved on Third Reading.

QUESTION OF PRIVILEGE OF SENATOR ENRILE

Rising to a question of personal privilege, Senator Enrile called the attention of the Members to the fact that ten months have passed since the start of the Thirteenth Congress but hardly any of the numerous bills filed in the various committees have been reported out by the respective chairs.

Senator Enrile observed that the proceedings have become dull and he lamented that the Senate is losing time in addressing many of the problems of the country. He suggested that the committee chairs work overtime and prepare their reports so that the Body could discuss something on the floor rather than listen to privilege speeches on matters that are never resolved.

Expressing his appreciation to Senator Pimentel for bringing the matter to the attention of the Rules Committee, Senator Enrile wondered why to this day the committee has not made its report to the Body, especially with regard to his suggestion that the committees be discharged for not performing their jobs in reporting out the bills referred to them. He pointed out that under the Rules, a committee has 30 working days to dispose of the various bills.

Thereafter, Senator Enrile asked that the Rules Committee inform the Body on the status of his suggestion, otherwise, he would ask that the committees be discharged.

REMARKS OF SENATOR CAYETANO

Responding to the query of Senator Enrile, Senator Cayetano stated that Senate President Drilon and she, on behalf of Senator Pangilinan, met with all the committee secretaries two weeks ago during which time, the latter were asked to submit a report on the status of all the pending bills in their respective committees. Further, she said that they went through the list of priority bills that the Senate had put together at the start of the 13th Congress and that the committee secretaries were asked to advise their committee chairs on the need to expedite the reports on said bills.

The Chair stated that it had called the committee secretaries precisely to ask them to give a status report on the bills referred to their committees and to encourage them to discuss with the committee chairs the status of said bills. Cognizant of the need to report out the measures, the Chair thanked Senator Enrile for the timely reminder for the second time as it requested the committee chairs to expedite the submission of committee reports on bills that should be given priority, using as basis the workshop of the senators last August.

Senator Cayetano added that the Committee on Rules distributed letters to all the senators reminding them of their responsibilities to conduct hearings and to expedite the submission of reports.

Senator Enrile said that if the committee chairs are overworked or if they find that managing their committees is beyond their capacity, then they must yield the responsibility and let others who can handle the work do it. He added that a committee chair must show that he/she can handle the bills that are brought before the committee. Furthermore, he underscored that the output of the Senate is the measure of its efficiency.

REMARKS OF SENATOR DEFENSOR SANTIAGO

Expressing her support for the remarks of Senator Enrile, Senator Defensor Santiago opined that it could be useful to set a reasonable standard of having the committee meet at least once a month or that the committee chair submit one report a month.

SPECIAL ORDER

Upon motion of Senator Cayetano, there being no objection, the Body approved the transfer of Committee Report No. 23 on Senate Bill No. 2000 to the Calendar for Special Orders.

COMMITTEE REPORT NO. 23 ON SENATE BILL NO. 2000

Upon motion of Senator Cayetano, there being no objection, the Body considered, on Second Reading, Senate Bill No. 2000 (Committee Report No. 23), entitled

AN ACT AMENDING REPUBLIC ACT
NO. 9164 RESETTING THE
BARANGAY AND SANGGUNIANG

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KABATAAN ELECTIONS, AND FOR OTHER PURPOSES.

Pursuant to Section 67, Rule XXIII of the Rules of the Senate, with the permission of the Body, upon motion of Senator Cayetano, only the title of the bill was read without prejudice to the insertion of its full text into the Record of the Senate.

The Chair recognized Senator Gordon for the sponsorship.

PARLIAMENTARY INQUIRY OF SENATOR PIMENTEL

Senator Pimentel noted that as Minority Leader, he was surprised that the committee report was not routed to him. He stated that he was not in favor of the postponement of the Sangguniang Kabataan elections, nonetheless, he should have been accorded the courtesy of going through the report. Senator Gordon believed that the bill was sent to all the members as well as Senator Pimentel for signature. Noting that a member must sign the committee report whether or not he concurred with it, he added that it was not his intention to ignore Senator Pimentel whose objection to the bill was quite known.

Invoking Section 24 of the Rules of the Senate, Senator Pimentel pointed out that the Secretariat should observe the procedures on the filing of the committee report by ensuring that all *ex officio* and regular committee members are given the chance to sign the report.

SUSPENSION OF SESSION

With the permission of the Body, the Chair suspended the session.

It was 4:16 p.m.

RESUMPTION OF SESSION

At 4:18 p.m., the session was resumed.

Stressing that he does not shirk from his responsibility, Senator Gordon apologized and took full responsibility for the lapses in the routing of the report, specifically for the failure to get the signature of Senator Pimentel thereto. As regards the statement of Senator Enrile that the bills must be reported out on the floor, he observed that sometimes bills are very difficult to tackle.

Thereafter, Senator Gordon proceeded to sponsor the bill.

SPONSORSHIP SPEECH OF SENATOR GORDON

In sponsoring Senate Bill No. 2000, Senator Gordon delivered the following speech:

It is the distinct honor of this Representation and the members of the Committee on Constitutional Amendments, Revision of Codes and Laws, together with the Committee on Local Government, chaired by my colleague Sen. Alfredo S. Lim, to submit for the consideration of this Chamber Senate Bill No. 2000 under Committee Report No. 23 entitled:

AN ACT AMENDING REPUBLIC ACT NO. 9164, RESETTING THE BARANGAY AND SANGGUNIANG KABATAAN ELECTIONS, AND FOR OTHER PURPOSES.

This bill seeks to reset the Barangay and Sangguniang Kabataan elections scheduled for the last Monday of October this year to the second Monday of May 2007, to coincide with the national and local elections.

The first barangay elections were held on March 25, 1982, pursuant to Batas Pambansa Blg. 222, and provided for a 6-year term for barangay officials. In 1985, Batas Pambansa Blg. 881, otherwise known as the Omnibus Election Code reiterated the six-year term and set the elections for the second Monday of May 1988 and every six years thereafter. This was, however, postponed by Republic Act No. 6653 to the second Monday of November 1988, and the term was shortened to five years. Subsequently, Republic Act No. 6679 again postponed the elections to March 28, 1989, and provided that the succeeding election would be held on the second Monday of May 1994 and every five years thereafter. The second and third barangay elections were then held on March 1989 and 1994, respectively.

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In 1991, Republic Act No. 7160, otherwise known as the Local Government Code, reduced the term to three years, counted from the 1994 elections. Consequently, the fourth barangay elections were held on May 12, 1997. Although the next elections should have been held in May 2000, Republic Act No. 8524 effectively postponed the same and reset it to 2002 when it increased the term to five years, reckoned from the 1997 elections. Finally, Republic Act No. 9164 enacted on March 2002 provided for synchronized barangay and SK elections on July 2002, and brought back the three-year term of barangay officials.

Since 1982, the barangay elections have been postponed and reset three times. The next barangay elections are scheduled for the last Monday of October this year. However, we are constrained to reset anew the holding of the barangay elections – preferably to the second Monday of May 2007 to coincide with the national and local elections – for the reason that the administration is financially strapped and unprepared to conduct the elections.

This Representation is not here to make excuses for the failure of the government to appropriate the necessary funds for the timely conduct of elections – elections which had been scheduled since 2002. This Representation believes that the exercise of the right to suffrage is a vital pillar in a democracy such as ours, and that elections should be held when they are scheduled, as it creates a dangerous precedent to postpone elections on the basis of lack of funds.

The first problem is that the government simply does not have P2.8 billion in spare change needed to finance the barangay and SK elections. During the public hearings conducted by the Committees – about four of them – Mr. Pio Josen, executive director of the Commission on Elections, testified that there are no available funds to hold the elections since no budget provisions were included in this year's appropriations. While the Comelec had submitted a budget to the

Department of Budget and Management, the same was not recommended by the DBM to the Committee on Appropriations. The DBM has confirmed the unavailability of funds. Even the ARMM elections scheduled for August this year, by virtue of Republic Act No. 9333, and which this Representation had also sponsored and defended in this Chamber, is now in the same boat and in danger of not pushing through because of the same reason: the government has no money. Finally this very Chamber is completely aware of the financial strain the government is under, for up until last week, it has been toiling over a significant piece of legislation precisely designed to, and which we hope will answer the fiscal crisis looming over the country: the VAT bill. The bottom line is this: the government's financial resources are severely depleted and the administration is unprepared to hold the elections this October. The Comelec and the DBM are in support of this postponement, as officials of the leagues of provinces, municipalities, cities and barangays.

The second problem is one that goes deeper and strikes at the core of our electoral process and the government's duty to the people. Our focus is misdirected: elections are held too frequently that the country's leaders are more focused on the matter of funding and preparing for elections than on their constitutionally mandated duty to uphold public office as a public trust; deliver basic services to the people; and serve them with utmost responsibility, integrity, loyalty, and efficiency. Since 1986, this country has held elections almost every year, no doubt adding to the strain on government coffers. The result is a hand-to-mouth existence: as soon as one election is over, our attention is focused on how to conduct the next one and where to get the money for it. In fact, our attention and focus are blasted away by the fact that we are forever trying to go and divide ourselves because of the too many elections we hold in this country.

We constantly look for means to raise revenue, meet the deficit, and address the

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fiscal crisis, that the improvement of our country, the delivery of much needed basic services to the people becomes a mere afterthought. This Representation believes that these ills brought about by frequent elections will be addressed by the postponement of the barangay and SK elections this year, and resetting them to coincide with the national and local elections on May 2007.

Coincidentally, the Lower House has filed a bill that has been approved there but the difference is that they will have the elections again on 2008. Once again, not synchronized.

In conclusion, it is our committees' finding that the most prudent course of action is the postponement and resetting of the barangay and SK elections. We are resetting it to coincide with the national and local elections in 2007 in response to the glaring fact that the government is financially unprepared to hold the elections this year, and to give the Comelec ample time to prepare for simultaneous elections in 2007. We also hope that the Comelec, by that time, will be able to get approval to use the computerized electoral process that has been designed and which had been set aside by the Supreme Court and it is now the subject of a motion for reconsideration in the Supreme Court.

We are synchronizing the elections in accordance with the policy of holding simultaneous elections as envisioned by our Constitution. And we are resetting it to redirect the focus of government from money to the delivery of basic services to our people. It is our committees' hope that this will be the last time we postpone and reset elections.

With the foregoing explanations, coupled with the urgency of this proposed legislation, approval of this bill is essentially sought.

SUSPENSION OF SESSION

Upon motion of Senator Cayetano, the session was suspended.

It was 4:27 p.m.

RESUMPTION OF SESSION

At 4:40 p.m., the session was resumed with Senate President Pro Tempore Flavio presiding.

INTERPELLATION OF SENATOR EJERCITO ESTRADA (J)

Asked by Senator Ejercito Estrada (J) why the barangay elections are being reset to 2007, Senator Gordon replied that government is not prepared to hold the elections as the DBM does not have P2.8 billion to fund the elections. He said that while he feels that lack of funds is not an excuse, it would be best to synchronize the elections to give government enough time to prepare. It would be the fourth postponement of the barangay elections, he stated, but it would be the very first time elections are synchronized until the barangay level.

On the concern that the synchronization would politicize an otherwise nonpartisan barangay elections, Senator Gordon said that barangay elections have actually been a partisan exercise. He suggested that the Omnibus Election Code be amended before 2007 to provide that barangay elections are electoral exercises which cannot be nonpartisan.

On the observation that the synchronization of the elections in 2007 would require longer ballots, Senator Gordon said that government would be saving money and the electoral process would be more efficient. However, he stated that if Comelec could not synchronize the elections in 2007, he would propose a law that there should be three color-coded ballot boxes: one for the Senate, one for the local officials, and one for the barangays and Sangguniang Kabataan. He pointed out that this would allow the easy canvassing of returns in the 2010 elections.

Asked how much government would be spending for the synchronized elections, Senator Gordon replied that it would be P2.8 billion, excluding the senatorial elections. He believed that it would be wise for government to spend one time so long as it could simplify the elections and get results faster than before.

As regards the reaction of the barangay officials to the issue, Senator Gordon stated that municipal and provincial officials are in favor of postponing the elections for the obvious reason that their

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terms would be extended. However, he said that government should decide on the basis of a vision on how it should conduct elections.

Asked what would prevent government from postponing the elections in 2007, Senator Gordon pointed out that it is provided in the bill that this would be the final postponement.

In reply to further query, Senator Gordon acknowledged that there is always a possibility that government could be in a deep financial crisis in 2007 but that, he said, should not be used as an excuse to reset the elections.

Asked if a constitutional issue would not arise if the terms of barangay and Sangguniang Kabataan officials are extended, Senator Gordon replied in the negative, pointing out that there is a hold-over provision in the law that allows the officials to retain their positions until such time that the law provides.

Upon further query, Senator Gordon stated that the citizens could file a case against an inefficient barangay official or cause his recall.

On whether there has been an instance when a barangay chairman was recalled, Senator Gordon said that he was not sure about barangay officials but he pointed out that certain governors and mayors had been recalled.

Asked if government is sure that it shall have enough money to proceed with the barangay, local and national elections in 2007, Senator Gordon maintained that while government would save money with the synchronization, it would also have a one-time investment in ballot boxes.

On whether he is for the abolition of SK positions, Senator Gordon said that he would leave the matter to the Body. He recalled that during the hearings, even barangay captains and mayors were no longer in favor of the SK. He believed that the SK is a superfluity and that young people should be involved in volunteer work and not in politics.

Asked whether the Comelec computerization program would push through, Senator Gordon said that he was not very hopeful since the Office of the

Solicitor General has proposed stringent requirements for the bidders to follow.

For his part, Senator Ejercito Estrada (J) stated that he was hoping that the computerization program would push through in time for the elections in 2007 so that government would not have to invest too much on ballot boxes.

Senator Gordon suggested that it would be better to use smaller ballot boxes in the synchronized barangay, local and national elections in 2007 to simplify and speed up the counting of votes in the precinct level and the canvassing of election returns in the municipal level. The results, he added, would no longer have to pass through the provincial board of canvassers where election fraud or cheating such as *dagdag-bawas* occurs as they would be forwarded directly to the Comelec. He clarified, however, that his suggestion is not contained in the proposed Act but he believed that it would make the entire electoral process more efficient in the long run. Senator Ejercito Estrada (J) expressed his support for the suggestion of Senator Gordon.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2000


Upon motion of Senator Cayetano, there being no objection, the Body suspended consideration of the bill.

ADJOURNMENT OF SESSION

Upon motion of Senator Cayetano, there being no objection, the Chair declared the session adjourned until three o'clock in the afternoon of the following day.

It was 4:56 p.m.

I hereby certify to the correctness of the foregoing.


OSCAR G. YABES
Secretary of the Senate
YS *tlr* *me*

Approved on May 18, 2005