

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



Senate
Office of the Secretary

'16 SEP 22 A11 :00

SENATE

RECEIVED BY: 

S. B. No. 1169

Introduced by Senator JOEL VILLANUEVA

AN ACT
FURTHER STRENGTHENING WORKERS' RIGHT TO SELF-
ORGANIZATION BY AMENDING FOR THIS PURPOSE ARTICLES
240[234](c), 242[235], 243[236], 244[237] AND 285 [270] OF
PRESIDENTIAL DECREE NO. 442, OTHERWISE KNOWN AS THE
LABOR CODE OF THE PHILIPPINES, AS AMENDED

EXPLANATORY NOTE

This bill proposes to amend Articles 240[234](c), 242[235], 243[236], 244[237] and 285 [270] of the Labor Code of the Philippines, as amended. The proposed amendments are meant to deliver the long overdue commitment of the Philippine Government to bring national legislation in conformity with Articles 2, 3 and 5 of International Labor Organization Convention No. 87 (Freedom of Association and Protection of the Right to Organize, ratified by the Philippines on December 29, 1953). This bill seeks to ensure "no prior restraint or authorization" in the exercise of workers right to self-organization with endorsement from the National Tripartite Industrial Peace Council (NTIPC) during the 15th and 16th Congress. The bill proposes to:

- (1) Ease the minimum membership requirements for registration of independent unions under Article 240[234](c), from 20% to 5%, and for federations under Article 244[237], from 10 to 5 duly recognized bargaining agent-local chapters;
- (2) Institutionalize online registration, decentralization of registration process to DOLE Provincial or Field Offices and the one-day process cycle time by amending Articles 242[235] and 243[236]; and
- (3) Remove the "prior authority" requirement on foreign assistance to local trade union activities under Article 285[270].

The need to align the said provisions of the Labor Code, as amended, emanated from the observation of the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) that the existing 20% membership requirement for registration of an independent union and the ten (10) locals minimum requirement for registration of federations or national unions are excessively high constituting prior-restraint. The Committee of Experts also noted that the requirement of prior authorization from the Secretary of Labor and Employment on foreign assistance, donations, cash or other forms to trade unions or employers' organization under Article 285[270] of the Philippine Labor Code imposes a restraint on trade union and employers' organization's legitimate activities.

These observations and the Philippine Government commitment was reiterated in the "double-footnoting" of the Philippines on compliance with ILO Convention No. 87 and the sending of a "direct contacts mission" to the country during the 105th International Labour Conference in June 2016.

By lowering the minimum requirements for registration of independent union and federation, workers' right to self-organization will be strengthened and would allow workers, through their union representatives, the opportunity to participate in policy and decision making processes which translates to better protection of their rights and benefits including from exploitative work arrangements such as "ENDO". With respect to the removal of prior-authorization on foreign assistance or donations, the repeal of Article 285[270], which is a dead provision, would help strengthen the capacities of both trade unions and employers' organizations.

In view of this, the approval of this bill is requested.


SENATOR JOEL VILLANUEVA

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

1 **SEC. 1.** Article 240 [234] (c) of the Labor Code, as amended by Republic Act 9481, is
2 hereby amended to read as follows:

3 “(c) In case the applicant is an independent union, the names of all its members
4 comprising at least **FIVE PERCENT (5%)** of all the employees in the bargaining unit
5 where it seeks to operate;”
6

7 **SEC. 2.** Article 244 [237] of the Labor Code, as amended, is hereby renumbered as
8 Article 242 [235] and amended to read as follows:

9 “**ARTICLE 242 [235]** Requirements for Federations or National Unions. – If the
10 applicant for registration is a federation or a national union, it shall, in addition to the
11 requirements of the preceding Articles, submit the following:

12 (a) Proof of affiliation of at least **FIVE (5) LOCAL CHAPTERS**, each of which
13 must be duly recognized collective bargaining agent in the establishment or
14 industry in which it operates; and

15 (b) The names and the addresses of the companies where the **LOCAL**
16 **CHAPTERS** operate and the list of all the members in each company
17 involved.”
18

1 **SEC. 3.** Article 242 [235] of the Labor Code, as amended, is hereby renumbered as
2 Article 243[236] and amended to read as follows:

3 **“ARTICLE 243 [236]. SUBMISSION AND ACTION ON APPLICATION. –**
4 **APPLICATIONS FOR REGISTRATION MAY BE SUBMITTED IN PERSON OR**
5 **ONLINE TO THE APPROPRIATE DOLE REGIONAL OFFICE OR FIELD OFFICE**
6 **OR THE BUREAU OF LABOR RELATIONS SUBJECT TO VERIFICATION BY THE**
7 **APPROPRIATE OFFICE. THE BUREAU SHALL PRESCRIBE SUCH FORMS AS**
8 **MAY BE NECESSARY FOR THIS PURPOSE.”**

9 The Bureau **OR THE APPROPRIATE DOLE REGIONAL OFFICE OR FIELD**
10 **OFFICE** shall act on all applications for registrations **WITHIN ONE (1) CALENDAR**
11 **DAY FROM RECEIPT THEREOF.”**

12
13 **SEC. 4.** Article 243[236] of the Labor Code, as amended, is hereby renumbered as Article
14 244[237] and amended to read as follows:

15 **“ARTICLE 244 [237]. Denial of Registration; Appeal. –** The decision of the **DOLE**
16 **REGIONAL OFFICE OR APPROPRIATE FIELD OFFICE** denying the registration
17 may be appealed by the applicant union to the Bureau within ten (10) days from
18 receipt of notice hereof.”

19
20 **SEC. 5.** Article 285 [270], “Regulation of Foreign Assistance” of the Labor Code is hereby
21 **REPEALED.**

22
23 **SEC. 6. *Implementing Rules and Regulations.* –** The Secretary of Labor and
24 Employment shall promulgate the necessary rules and regulations to implement the
25 provisions of this Act.

26
27 **SEC. 7. *Separability Clause.* –** If any part, section or provision of this Act shall be held
28 invalid or unconstitutional, the other provisions not affected by such declaration shall
29 remain in full force and effect.

30
31 **SEC. 8. *Repealing Clause.* –** All laws, acts, decrees, executive orders, rules and
32 regulations or other issuances or parts thereof, which are consistent with this Act, are
33 hereby modified and repealed.

34
35 **SEC. 9. *Effectivity.* –** This Act shall take effect fifteen (15) days after its publication in
36 the Official Gazette or in at least two (2) newspapers of national circulation.

37
38 *Approved,*