

16 SEP 22 A11:00

SENATE

S. B. No. <u>116</u>9

RECT PRY:

## 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 15<sup>th</sup> and 16<sup>th</sup> 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].

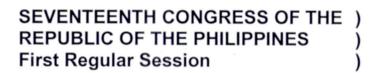
The need to align the said provisions of the Labor Code, as amended, emanated from the observation of the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) that the existing 20% membership requirement for registration of an independent union and the ten (10) locals 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 105<sup>th</sup> 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 OEL VILLANUEVA





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

- SEC. 1. Article 240 [234] (c) of the Labor Code, as amended by Republic Act 9481, is hereby amended to read as follows:
  - "(c) In case the applicant is an independent union, the names of all its members comprising at least **FIVE PERCENT (5%)** of all the employees in the bargaining unit where it seeks to operate;"
  - **SEC. 2.** Article 244 [237] of the Labor Code, as amended, is hereby renumbered as Article 242 [235] and amended to read as follows:
    - "ARTICLE **242 [235]** Requirements for Federations or National Unions. If the applicant for registration is a federation or a national union, it shall, in addition to the requirements of the preceding Articles, submit the following:
      - (a) Proof of affiliation of at least FIVE (5) LOCAL CHAPTERS, each of which must be duly recognized collective bargaining agent in the establishment or industry in which it operates; and
      - (b) The names and the addresses of the companies where the LOCAL CHAPTERS operate and the list of all the members in each company involved."

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- SEC. 3. Article 242 [235] of the Labor Code, as amended, is hereby renumbered as Article 243[236] and amended to read as follows:
- "ARTICLE 243 [236]. SUBMISSION AND ACTION ON APPLICATION. –
  APPLICATIONS FOR REGISTRATION MAY BE SUBMITTED IN PERSON OR
  ONLINE TO THE APPROPRIATE DOLE REGIONAL OFFICE OR FIELD OFFICE
  OR THE BUREAU OF LABOR RELATIONS SUBJECT TO VERIFICATION BY THE
  APPROPRIATE OFFICE. THE BUREAU SHALL PRESCRIBE SUCH FORMS AS
  MAY BE NECESSARY FOR THIS PURPOSE."
- The Bureau OR THE APPROPRIATE DOLE REGIONAL OFFICE OR FIELD OFFICE shall act on all applications for registrations WITHIN ONE (1) CALENDAR DAY FROM RECEIPT THEREOF."
- SEC. 4. Article 243[236] of the Labor Code, as amended, is hereby renumbered as Article 244[237] and amended to read as follows:
- "ARTICLE 244 [237]. Denial of Registration; Appeal. The decision of the DOLE
  REGIONAL OFFICE OR APPROPRIATE FIELD OFFICE denying the registration
  may be appealed by the applicant union to the Bureau within ten (10) days from
  receipt of notice hereof."
- SEC. 5. Article 285 [270], "Regulation of Foreign Assistance" of the Labor Code is hereby REPEALED.
- SEC. 6. *Implementing Rules and Regulations.* The Secretary of Labor and Employment shall promulgate the necessary rules and regulations to implement the provisions of this Act.
- SEC. 7. Separability Clause. If any part, section or provision of this Act shall be held invalid or unconstitutional, the other provisions not affected by such declaration shall remain in full force and effect.
- 31 **SEC. 8.** *Repealing Clause.* All laws, acts, decrees, executive orders, rules and regulations or other issuances or parts thereof, which are consistent with this Act, are hereby modified and repealed.
- SEC. 9. *Effectivity.* This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of national circulation.
- 38 Approved,

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