


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

7 JUL -3 P5 553

S E N A T E
S. B. No. 887

FILED BY: 

Introduced by SENATOR EDGARDO J. ANGARA

EXPLANATORY NOTE

The liberalization of international economic trade has led to the advent of a global economy that is fast becoming one integrated unit. As a result of better communication and transportation facilities, business opportunities abroad are now within closer reach of local business entities. However, these opportunities may be lost if the local economy fails to adjust and cope with the new demands of the international market.


Thus, it is imperative that Government creates a business environment that allows the local economy to be more competitive in the global market.

Undoubtedly, there is a need to amend certain provisions of our labor laws to spur productivity and employment, afford flexibility to investors, and assure our workers reasonable benefits and security. The economic conditions that prevailed during the time PD 442 (Labor Code of the Philippines) was passed have drastically changed. Our labor laws must allow business to become more efficient, competitive, and flexible in responding to client needs, and at same time protect the interest of the workforce by providing for an enhanced work-life balance.

This bill, therefore, intends to strike a balance between the two competing interests. It will provide the necessary amendments to the Labor Code that will enable the local economy to be more competitive internationally while safeguarding the interests of the Filipino workers, *to wit:*

1. Allowing compressed workweek/flextime arrangements;
2. Revising the doctrine against the elimination/diminution of benefits under certain conditions;
3. Restructuring the visitorial and enforcement power of the Labor Secretary to allow for self-regulation; and
4. Excepting from the night work prohibition on women such industries or establishments operating on a continuous 24-hour schedule.

In view of the foregoing, approval of this bill is earnestly sought.


EDGARDO J. ANGARA
Senator

FOURTEENTH CONGRESS OF THE)
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**AN ACT AMENDING ARTICLES 83, 87, 100, 128, AND 131
OF PRESIDENTIAL DECREE 442,
OR THE LABOR CODE OF THE PHILIPPINES**

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

1 **SEC. 1.** Article 83, paragraph 1, of PD 442, as amended, is hereby
2 amended to read as follows:
3

4 “**ART. 83. NORMAL HOURS OF WORK.** - The normal hours of
5 work of any employee shall not exceed eight (8) hours a day [.],
6 **EXCEPT WHEN THE BUSINESS REQUIREMENTS OF THE**
7 **EMPLOYER REQUIRE THE ADOPTION OF A COMPRESSED**
8 **WORKWEEK ARRANGEMENT; PROVIDED, THAT THE**
9 **EMPLOYEE SHALL NOT BE SUFFERED TO WORK BEYOND**
10 **TWELVE (12) HOURS A DAY; PROVIDED FURTHER, THAT**
11 **THE NUMBER OF REGULAR HOURS OF WORK IN A WEEK**
12 **SHALL NOT EXCEED FORTY-EIGHT (48) HOURS.**
13

14 Xxx ”

15
16 **SEC. 2.** Article 87 of PD 442 is likewise hereby amended to read as
17 follows:
18

19
20 “**ART. 87. OVERTIME WORK.** - Work may be performed beyond
21 [eight (8) hours a day] **THE NUMBER OF HOURS A DAY**
22 **ALLOWED BY LAW** provided that the employee is paid for the
23 overtime work an additional compensation equivalent to his regular
24 wage plus at least twenty-five percent (25%) thereof. Work performed
25 beyond [eight (8) hours] **THE NUMBER OF HOURS A DAY**
26 **ALLOWED BY LAW** on a holiday or rest day shall be paid an
27 additional compensation equivalent to [the rate of the first eight hours
28 on a holiday or rest day plus at least thirty percent (30%) thereof]
29 **130% OF THE RATE FOR SUCH NUMBER OF HOURS**
30 **ALLOWED BY LAW.”**
31

1
2 SEC. 3. Article 100 of PD 442, as amended, is hereby amended to read
3 as follows:
4

5 "ART. 100. *PROHIBITION AGAINST ELIMINATION OR*
6 *DIMINUTION OF BENEFITS.* - Nothing in this Book shall be
7 construed to eliminate or in any way diminish supplements, or other
8 employee benefits being enjoyed at the time of promulgation of this
9 Code: **PROVIDED, THAT SUPPLEMENTS OR OTHER**
10 **BENEFITS THEREAFTER GIVEN MAY NOT BE ELIMINATED**
11 **OR DIMINISHED AFTER HAVING BEEN CONTINUOUSLY**
12 **GRANTED FOR AT LEAST FOUR (4) YEARS; PROVIDED**
13 **FURTHER, THAT SUPPLEMENTS OR BENEFITS MAY BE**
14 **SUBSTITUTED FOR OTHER SUPPLEMENTS OR BENEFITS**
15 **OF EQUIVALENT VALUE; PROVIDED FINALLY, THAT**
16 **SUPPLEMENTS OR BENEFITS MAY BE ELIMINATED IF**
17 **THESE RESULTED FROM AN ERRONEOUS**
18 **INTERPRETATION OF A DIFFICULT QUESTION OF LAW,**
19 **WITHIN A PERIOD OF ONE (1) YEAR FROM THE DISCOVERY**
20 **OF THE ERROR."**
21
22

23 SEC. 4. Art 128 (f) of PD 442, as amended, is hereby amended to read
24 as follows:
25

26 "ART. 128. *VISITORIAL AND ENFORCEMENT POWER . -*
27
28
29

30 x x x
31

32 (f) The Secretary of Labor may by appropriate regulations,
33 require employers to keep and maintain such employment records as
34 may be necessary in aid of his visitorial and enforcement powers under
35 this Code. **WHERE AN EMPLOYER HAS NOT BEEN CITED**
36 **FOR ANY VIOLATION OF LABOR STANDARDS LAWS OVER A**
37 **PERIOD OF TEN (10) YEARS, THE SECRETARY MAY,**
38 **PURSUANT TO SUCH REGULATIONS, EXEMPT SAID**
39 **EMPLOYER FROM INSPECTION FOR THE SUCCEEDING**
40 **YEAR: PROVIDED, THAT THE EMPLOYER SUBMITS**
41 **REPORTS, AS MAY BE REQUIRED BY THE SECRETARY OF**
42 **LABOR, TO VERIFY COMPLIANCE WITH LABOR AND**
43 **SOCIAL LEGISLATION.**
44
45
46

47 SEC. 5. Art. 131 of PD 442, as amended is hereby amended, to read as
48 follows:
49

50 "ART. 131. *EXCEPTIONS.* - The prohibitions prescribed by the
51 preceding Article shall not apply in any of the following cases:
52

53 (a) In cases of actual or impending emergencies caused by
54 serious accident, fire, flood, typhoon, earthquake, epidemic or other

1 disasters or calamity, to prevent loss of life or property, or in cases of
2 force majeure or imminent danger to public safety;

3
4 (b) In case of urgent work to be performed on machineries,
5 equipment or installation, to avoid serious loss which the employer
6 would otherwise suffer;

7
8 (c) Where the work is necessary to prevent serious loss of
9 perishable goods;

10
11 (d) Where the woman employee holds a responsible position of
12 managerial or technical nature, or where the woman employee has
13 been engaged to provide health and welfare service;

14
15 (e) Where the nature of the work requires the manual skill and
16 dexterity of women workers and the same cannot be performed with
17 equal efficiency by male workers;

18
19 (g) **WHERE THE ESTABLISHMENT IS OPERATING ON A**
20 **24-HOUR SCHEDULE;**

21
22 (h) [Under] Other analogous cases exempted by the Secretary of
23 Labor in appropriate regulations.”

24
25
26
27 **SEC. 6. *Separability Clause.*** If any part or provision of this Act
28 shall be held unconstitutional or invalid, other provisions thereof that are not
29 affected thereby shall remain in full force and effect.

30
31
32 **SEC. 7. *Repealing Clause.*** All laws, presidential decrees, executive
33 orders, presidential proclamations, rules and regulations or parts thereof
34 inconsistent with the provisions of this Act are hereby repealed, amended, or
35 modified accordingly.

36
37
38 **SEC. 8. *Effectivity Clause.*** This Act shall take effect fifteen (15) days
39 after its complete publication in the Official Gazette or in at least two (2)
40 newspapers of general circulation, whichever comes first.

41
42
43
44 *Adopted,*

11 January 2006

1
2
3 **MEMORANDUM FOR THE SENATOR**
4

5 **FROM : LOREEN**
6 **RE : PROPOSED AMENDMENTS TO THE LABOR CODE**
7

8 *Sir,*
9

10 Here is ACCRA's proposed bill on Labor Code amendments.
11

12 There were eight (8) provisions of the Code which were proposed to be
13 amended, they are:
14

15
16 1. *Compressed Workweek / Flextime Arrangements* (ART. 83)
17

18 *NORMAL HOURS OF WORK.* - The normal hours of
19 work of any employee shall not exceed eight (8) hours a day [.] ,
20 **EXCEPT WHEN THE BUSINESS REQUIREMENTS OF**
21 **THE EMPLOYER REQUIRE THE ADOPTION OF A**
22 **COMPRESSED WORKWEEK ARRANGEMENT;**
23 **PROVIDED, THAT THE EMPLOYEE SHALL NOT BE**
24 **SUFFERED TO WORK BEYOND TWELVE (12) HOURS A**
25 **DAY; PROVIDED FURTHER, THAT THE NUMBER OF**
26 **REGULAR HOURS OF WORK IN A WEEK SHALL NOT**
27 **EXCEED FORTY-EIGHT (48) HOURS.**
28

29 Action: Adopted.
30

31 Rationale: This shall now incorporate the compressed workweek
32 scheme adopted by many establishments, including the Senate, as a
33 capital-saving strategy in handling its business affairs.
34

35
36
37 2. "ART. 87. *OVERTIME WORK.* - Work may be performed beyond [eight
38 (8) hours a day] **THE NUMBER OF HOURS A DAY ALLOWED BY**
39 **LAW** provided that the employee is paid for the overtime work an
40 additional compensation equivalent to his regular wage plus at least
41 twenty-five percent (25%) thereof. Work performed beyond [eight (8)
42 hours] **THE NUMBER OF HOURS A DAY ALLOWED BY LAW** on
43 a holiday or rest day shall be paid an additional compensation
44 equivalent to [the rate of the first eight hours on a holiday or rest day
45 plus at least thirty percent (30%) thereof] **130% OF THE RATE FOR**
46 **SUCH NUMBER OF HOURS ALLOWED BY LAW.**"
47

48
49 Action: Adopted.
50

51 Rationale: To be consistent with the adoption of a new definition of
52 'normal hours of work' as put forth in No 1).
53
54

1
2 3. *Relaxation of the non-diminution rule* (ART. 100.)
3

4 **PROHIBITION AGAINST ELIMINATION OR**
5 **DIMINUTION OF BENEFITS.** - Nothing in this Book shall be
6 construed to eliminate or in any way diminish supplements, or
7 other employee benefits being enjoyed at the time of
8 promulgation of this Code: **PROVIDED, THAT**
9 **SUPPLEMENTS OR OTHER BENEFITS THEREAFTER**
10 **GIVEN MAY NOT BE ELIMINATED OR DIMINISHED**
11 **AFTER HAVING BEEN CONTINUOUSLY GRANTED FOR**
12 **AT LEAST FOUR (4) YEARS; PROVIDED FURTHER,**
13 **THAT SUPPLEMENTS OR BENEFITS MAY BE**
14 **SUBSTITUTED FOR OTHER SUPPLEMENTS OR**
15 **BENEFITS OF EQUIVALENT VALUE; PROVIDED**
16 **FINALLY, THAT SUPPLEMENTS OR BENEFITS MAY BE**
17 **ELIMINATED IF THESE RESULTED FROM AN**
18 **ERRONEOUS INTERPRETATION OF A DIFFICULT**
19 **QUESTION OF LAW, WITHIN A PERIOD OF ONE (1)**
20 **YEAR FROM THE DISCOVERY OF THE ERROR.”**
21

22 Action: Adopted

23
24 Rationale: This will afford employers the option to give supplements or
25 benefits to their employees other than those normally given provided
26 the substitution involve items of equal value, like cash for study
27 grants, or goods / gift certificates for cash and at the same time afford
28 employees the certainty that they will receive the benefits or
29 supplements received as practiced in the past.
30

31
32 4. *Lifting the labor contracting prohibition* (ART 106).
33

34 Action: Not Adopted. You have deleted this in the proposal.
35

36
37
38 5. *Ensuring due process in labor inspections and allowing self-*
39 *regulation* (ART. 128 (b) and (f)).
40

41
42 (b) Notwithstanding the provisions of Articles 129 and
43 217 of this Code to the contrary, and in cases where the
44 relationship of employer-employee still exists, the Secretary of
45 Labor and Employment or his duly authorized representatives
46 shall have the power to issue compliance orders to give effect to
47 the labor standards provisions of this Code and other labor
48 legislation based on the findings of labor employment and
49 enforcement officers or industrial safety engineers made in the
50 course of inspection; **PROVIDED, THAT THE**
51 **RESPONDENTS IN SUCH CASES SHALL BE ALLOWED**
52 **A REASONABLE PERIOD TO SUBMIT EVIDENCE TO**
53 **REFUTE THE FINDINGS OF THE SECRETARY OF**
54 **LABOR OR HIS DULY AUTHORIZED**

1 **REPRESENTATIVES BEFORE ANY COMPLIANCE**
2 **ORDER IS ISSUED.** The Secretary or his duly authorized
3 representatives shall issue writs of execution to the appropriate
4 authority for the enforcement of their orders, except in cases
5 where the employer contests the findings of the labor
6 employment and enforcement officer and raises issues supported
7 by documentary proofs which were not considered in the course
8 of inspection.
9

10 Action: Not Adopted.

11
12 Rationale: The demands of due process have already been met by the
13 succeeding line of the same section: "The Secretary or his duly
14 authorized representatives shall issue writs of execution to the
15 appropriate authority for the enforcement of their orders, **except in**
16 **cases where the employer contests the findings of the labor**
17 **employment and enforcement officer and raises issues**
18 **supported by documentary proofs which were not considered**
19 **in the course of inspection."** (emphasis supplied)
20

21 The principles of immediacy, efficacy and effectivity in handling
22 labor standards issues will be compromised if the proposal is adopted.
23 The likely scenario is that a statute will be giving future respondents
24 the necessary time to address their shortcoming before they be cited
25 for violation of labor standards laws, which run counter of the objective
26 of the visitorial power of the Secretary of Labor.
27

28
29 (f) The Secretary of Labor may by appropriate
30 regulations, require employers to keep and maintain such
31 employment records as may be necessary in aid of his visitorial
32 and enforcement powers under this Code. **WHERE AN**
33 **EMPLOYER HAS NOT BEEN CITED FOR ANY**
34 **VIOLATION OF LABOR STANDARDS LAWS OVER A**
35 **PERIOD OF TEN (10) YEARS, THE SECRETARY MAY,**
36 **PURSUANT TO SUCH REGULATIONS, EXEMPT SAID**
37 **EMPLOYER FROM INSPECTION FOR THE**
38 **SUCCEEDING YEAR: PROVIDED, THAT THE**
39 **EMPLOYER SUBMITS REPORTS, AS MAY BE**
40 **REQUIRED BY THE SECRETARY OF LABOR, TO**
41 **VERIFY COMPLIANCE WITH LABOR AND SOCIAL**
42 **LEGISLATION.**
43

44
45 Action: Adopted, with modification.
46

47
48 Rationale: I propose a ten-year period of non-violation of labor
49 standards laws, instead of three (3) years, as minimum requirement to
50 be exempted from the inspection of the Secretary of Labor for the
51 succeeding year.
52

53 With or without a complaint, job inspection is a routinary task
54 for the Secretary of Labor or his representatives in the observance of

1 labor standards laws, exception should thus be as restrictive as
2 possible.

3
4
5 **6. *Excepting establishments operating 24 hours a day from the***
6 ***nightwork prohibition.*** (ART. 131.)

7
8 Action : Adopted.

9
10 Rationale of the proposal: We have a proliferation of 24/7 businesses in
11 the country. To inhibit prospective female employees to take the job
12 because of the nightwork prohibition would unduly decrease their
13 employment opportunities.

14
15
16 **7. *Legitimizing Fixed-Term Employment*** (ART. 280.)

17 **REGULAR AND CASUAL EMPLOYMENT.** - The
18 provisions of written agreement to the contrary notwithstanding
19 and regardless of the oral agreement of the parties, an
20 employment shall be deemed to be regular where the employee
21 has been engaged to perform activities which are usually
22 necessary or desirable in the usual business or trade of the
23 employer, except: 1) where the employment has been fixed for a
24 specific project or undertaking the completion or termination of
25 which has been determined at the time of the engagement of the
26 employee, or 2) where the work or service to be performed is
27 seasonal in nature and the employment is for the duration of the
28 season [.] , **OR 3) WHERE THE EMPLOYMENT IS FOR A**
29 **FIXED OR DEFINITE PERIOD, WHEREBY BOTH THE**
30 **EMPLOYER AND THE EMPLOYEE FREELY AND**
31 **KNOWINGLY AGREED TO ENTER INTO A TERM**
32 **EMPLOYMENT CONTRACT.**

33
34 Action: Not Adopted.

35
36 Rationale: No 3) proposal is the same as the existing no 1), and the
37 language runs smack of contractualization. It implies that an employee
38 of any economic activity or profession, if covered by a mutually agreed
39 contract of employment, can be a casual employee, whether or not he is
40 performing tasks or activities necessary or desirable to the business or
41 trade of the employer.

42
43 We have not been able to come up with tangible solution to the
44 proliferation of contractualization in Philippine labor environment, to
45 put this to our existing statute would be to legalize contractualization
46 instead.

47
48
49 **8. Additional cause for termination of an employee** (ART. 282):

50
51 **GROSS INEFFICIENCY OR CONSISTENT FAILURE TO**
52 **PERFORM IN ACCORDANCE WITH SET REASONABLE**
53 **STANDARDS, OVER AT LEAST TWO (2) SUCCESSIVE**

1 **PERFORMANCE RATING PERIODS COVERING A**
2 **TOTAL PERIOD OF NOT LESS THAN ONE (1) YEAR.**

3
4 Action : NOT Adopted.

5
6 Rationale: Prone to abuse, as since there are no counter-measures that
7 would ensure that the standards set by the company are indeed
8 reasonable, the company may place subjective variables as standards
9 for overall employee performance.

10
11 At present, former and current employees of the GSIS expressly
12 denounce the new standards set by the GSIS management for
13 employee performance. They felt that those who rallied against the
14 present GSIS president were deliberately being given failed rating
15 successively in two rating periods to have a valid cause to terminate
16 the rallying employees.

17
18 If placed in the statute as a cause for dismissal, the scenario in
19 the GSIS would be widespread no doubt.

20
21 Summing thus, we have adopted five of the proposed amendments in
22 the proposal.

23
24 *For your consideration and approval.*
25