


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

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BY: 

SENATE

COMMITTEE REPORT NO. 103

Submitted by the Committees on Labor, Employment and Human Resources Development and Constitutional Amendments, Revision of Codes and Laws on 19 SEP 2006

RE : SB No. 2466 prepared by the Committees.

Recommending its approval in substitution of S. B. No. 1406 taking into consideration H. B. No. 1351.

Sponsor : Senator J. Estrada

MR. PRESIDENT:

The Senate Committees on Labor, Employment and Human Resources Development and Constitutional Amendments, Revision of Codes and Laws to which was referred Senate Bill No. 1406, introduced by Senator Pangilinan, *entitled*:

**“AN ACT
STRENGTHENING THE WORKERS’ CONSTITUTIONAL RIGHT TO
SELF-ORGANIZATION”**

taking into consideration H. B. No. 1351, introduced by Representatives De Guzman, Aguja, *et al.*, *entitled*:

**“AN ACT
STRENGTHENING THE WORKERS’ CONSTITUTIONAL RIGHT TO
SELF-ORGANIZATION, AMENDING FOR THE PURPOSE
PRESIDENTIAL DECREE NO. 442, AS AMENDED, OTHERWISE
KNOWN AS THE LABOR CODE OF THE PHILIPPINES”**

have considered the same and have the honor to report them back to the Senate with the recommendation that the attached SB No. 2466 prepared by the Committees, *entitled*:

**“AN ACT
STRENGTHENING THE WORKERS’ CONSTITUTIONAL RIGHT TO SELF
ORGANIZATION”**

be approved in substitution of S. B. No 1406 taking into consideration H. B. No. 1351 with Senators Pangilinan, Gordon and J. Estrada as authors thereof.

Respectfully submitted:

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Committee on Constitutional Amendments
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Member, Committee on Labor, Employment
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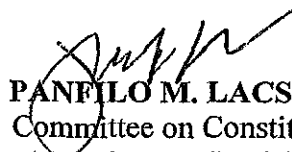


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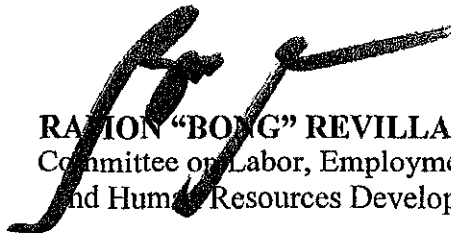
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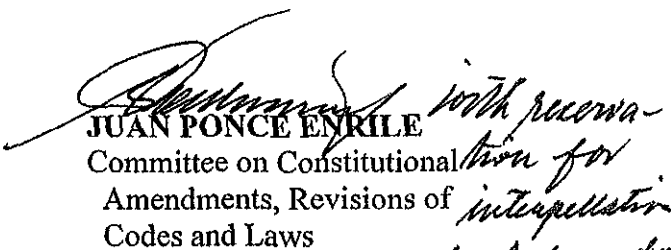
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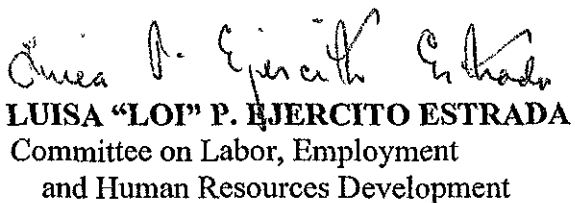


RATION "BONG" REVILLA, JR.
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JUAN PONCE ENRILE
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*with recoma-
tion for
interpellation
and amendments.*



LUISA "LOI" P. EJERCITO ESTRADA
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ALFREDO S. LIM

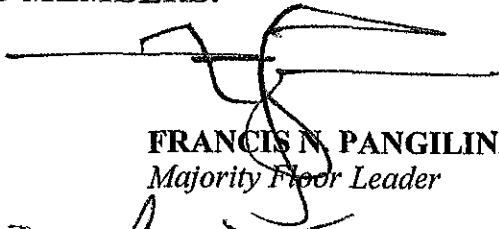
Committee on Labor, Employment and Human
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Committee on Constitutional Amendments, Revision
of Codes and Laws

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Pro-Tempore President



FRANCIS N. PANGILINAN

Majority Floor Leader



AQUILINO Q. PIMENTEL, JR.

Minority Floor Leader

MANNY VILLAR

Senate President

Pasay City

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

SENATE

S. B. No. 2466

Introduced by Senators Pangilinan, Gordon and J. Estrada

**AN ACT STRENGTHENING THE WORKERS' CONSTITUTIONAL
RIGHT TO SELF-ORGANIZATION**

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

1 **SECTION 1.** Article 234 of Presidential Decree No. 442, otherwise known as
2 The Labor Code of the Philippines, as amended, is hereby amended to read as
3 follows:

4 " ART. 234. Requirements of Registration. – [Any applicant labor
5 organization, association or group of unions or workers] A **FEDERATION,**
6 **NATIONAL UNION OR INDUSTRY OR TRADE UNION CENTER OR AN**
7 **INDEPENDENT UNION** shall acquire legal personality and shall be entitled to
8 the rights and privileges granted by law to legitimate labor organizations upon
9 issuance of the certificate of registration based on the following requirements:

10 XXX

11 (C) IN CASE THE APPLICANT IS AN INDEPENDENT UNION, [T]the
12 names of all its members comprising at least twenty percent (20%) of all the
13 employees in the bargaining unit where it seeks to operate;

14 XXX"

1 **SEC. 2.** A new provision is hereby inserted into the Labor Code as Article 234-A:

2 **“ART. 234-A. CHARTERING AND CREATION OF A LOCAL CHAPTER.**
3 **– A DULY REGISTERED FEDERATION OR NATIONAL UNION MAY**
4 **DIRECTLY CREATE A LOCAL CHAPTER BY ISSUING A CHARTER**
5 **CERTIFICATE INDICATING THE ESTABLISHMENT OF THE LOCAL**
6 **CHAPTER. THE CHAPTER SHALL ACQUIRE LEGAL PERSONALITY ONLY**
7 **FOR PURPOSES OF FILING A PETITION FOR CERTIFICATION FROM THE**
8 **DATE IT WAS ISSUED A CHARTER CERTIFICATE.**

9 **THE CHAPTER SHALL BE ENTITLED TO ALL OTHER RIGHTS AND**
10 **PRIVILEGES OF A LEGITIMATE LABOR ORGANIZATION ONLY UPON THE**
11 **SUBMISSION OF THE FOLLOWING DOCUMENTS IN ADDITION TO ITS**
12 **CHARTER CERTIFICATE:**

13 **(A) THE NAMES OF THE CHAPTER’S OFFICERS, THEIR**
14 **ADDRESSES, AND THE PRINCIPAL OFFICE OF THE CHAPTER; AND**

15 **(B) THE CHAPTER’S CONSTITUTION AND BY-LAWS: PROVIDED,**
16 **THAT WHERE THE CHAPTER’S CONSTITUTION AND BY-LAWS ARE THE**
17 **SAME AS THAT OF THE FEDERATION OR THE NATIONAL UNION, THIS**
18 **FACT SHALL BE INDICATED ACCORDINGLY.**

19 **THE ADDITIONAL SUPPORTING REQUIREMENTS SHALL BE**
20 **CERTIFIED UNDER OATH BY THE SECRETARY OR TREASURER OF THE**
21 **CHAPTER AND ATTESTED BY ITS PRESIDENT.**

22 **ANY FORM OF MISREPRESENTATION, FALSE STATEMENT OR**
23 **FRAUD COMMITTED BY INDIVIDUAL OFFICERS OR MEMBERS SHALL NOT**

1 BE A GROUND FOR CANCELLATION BUT SHALL SUBJECT THE ERRING
2 OFFICERS OR MEMBERS TO SUSPENSION, EXPULSION FROM
3 MEMBERSHIP, OR ANY APPROPRIATE PENALTY.”

4 **SEC. 3.** Article 239 of the Labor Code as amended is hereby further amended as
5 follows:

6 “ART. 239 Grounds for [Cancellation of Union Registration. – The
7 following shall constitute grounds for cancellation of union registration]
8 EXPULSION [DISMISSAL] AS UNION OFFICERS AND/OR MEMBERS UPON
9 PETITION BY MEMBERS - UNION OFFICERS AND/OR MEMBERS MAY BE
10 DISMISSED FROM THE UNION FOR THEIR DIRECT CULPABILITY FOR ANY
11 OF THE FOLLOWING ACTS:

12 XXX”

13 **SEC. 4.** A new provision, Article 239-A, is inserted into the Labor Code as
14 follows:

15 “ART. 239-A. VOLUNTARY CANCELLATION OF REGISTRATION. THE
16 REGISTRATION OF A LEGITIMATE LABOR ORGANIZATION MAY BE
17 CANCELLED ONLY BY THE ORGANIZATION ITSELF PROVIDED THAT AT
18 LEAST TWO THIRDS OF ITS GENERAL MEMBERSHIP VOTES, IN A
19 MEETING DULY CALLED FOR THAT PURPOSE, TO DISSOLVE THE
20 ORGANIZATION, PROVIDED FURTHER, THAT AN APPLICATION TO
21 CANCEL REGISTRATION IS THEREAFTER SUBMITTED BY THE BOARD OF
22 THE ORGANIZATION, ATTESTED TO BY THE PRESIDENT THEREOF.”

1 **SEC. 5.** A new provision is inserted in the Labor Code as Article 242-A to read as
2 follows:

3 **"ART. 242-A. REPORTORIAL REQUIREMENTS. – THE FOLLOWING**
4 **ARE DOCUMENTS REQUIRED TO BE SUBMITTED TO THE BUREAU BY**
5 **THE LEGITIMATE LABOR ORGANIZATION CONCERNED:**

6 **(A) ITS CONSTITUTION AND BY-LAWS, OR AMENDMENTS**
7 **THERE TO, THE MINUTES OF RATIFICATION, AND THE LIST OF MEMBERS**
8 **WHO TOOK PART IN THE RATIFICATION OF THE CONSTITUTION AND BY-**
9 **LAWS WITHIN (30) DAYS FROM ADOPTION OR RATIFICATION OF THE**
10 **CONSTITUTION AND BY-LAWS OR AMENDMENTS THERETO;**

11 **(B) ITS LIST OF OFFICERS, MINUTES OF THE ELECTION OF**
12 **OFFICERS, AND LIST OF VOTERS WITHIN THIRTY (30) DAYS FROM**
13 **ELECTION;**

14 **(C) ITS ANNUAL FINANCIAL REPORT WITHIN THIRTY (30) DAYS**
15 **AFTER THE CLOSE OF EVERY FISCAL YEAR; AND**

16 **(D) ITS LIST OF MEMBERS AT LEAST ONCE A YEAR OR WHENEVER**
17 **REQUIRED BY THE BUREAU.**

18 **FAILURE TO COMPLY WITH THE ABOVE REQUIREMENTS SHALL**
19 **NOT BE A GROUND FOR CANCELLATION OF UNION REGISTRATION BUT**
20 **SHALL SUBJECT THE ERRING OFFICERS OR MEMBERS TO**
21 **SUSPENSION, EXPULSION FROM MEMBERSHIP, OR ANY APPROPRIATE**
22 **PENALTY."**

1 **SEC. 6.** New provisions, Article 245 (A) and (B) are hereby inserted into the
2 Labor Code:

3 **“ART. 245. (A). EFFECT OF INCLUSION AS MEMBERS OF**
4 **EMPLOYEES OUTSIDE THE BARGAINING UNIT. – THE INCLUSION AS**
5 **UNION MEMBERS OF EMPLOYEES OUTSIDE THE BARGAINING UNIT**
6 **SHALL NOT BE A GROUND FOR THE CANCELLATION OF THE**
7 **REGISTRATION OF THE UNION. SAID EMPLOYEES ARE AUTOMATICALLY**
8 **DEEMED REMOVED FROM THE LIST OF MEMBERSHIP OF SAID UNION.**

9 **ART. 245. (B) Ineligibility of managerial employees to join any labor**
10 **organization; Right of supervisory employees. - Managerial employees are not**
11 **eligible to join, assist or form any labor organization. Supervisory employees**
12 **shall not be eligible for membership in [a labor organization] THE COLLECTIVE**
13 **BARGAINING UNIT of the rank-and-file employees but may join, assist or form**
14 **separate [labor organization] COLLECTIVE BARGAINING UNITS AND / OR**
15 **LEGITIMATE labor organizations of their own. THE RANK AND FILE UNION**
16 **AND THE SUPERVISORY UNION MAY JOIN THE SAME FEDERATION OR**
17 **NATIONAL UNION.”**

18 **SEC. 7.** Article 256 of the Labor Code as amended is further amended as
19 follows:

20 **“ART. 256. Representation issue in organized establishments. - In**
21 **organized establishments, when a verified petition questioning the majority status**
22 **of the incumbent bargaining agent is filed BY ANY LEGITIMATE LABOR**
23 **ORGANIZATION, INCLUDING A NATIONAL UNION, A FEDERATION, OR A**
24 **LOCAL OR CHAPTER WHICH HAS BEEN ISSUED A CHARTER**
25 **CERTIFICATE BY THE NATIONAL UNION OR FEDERATION before the**
26 **Department of Labor and Employment within the sixty-day period before the**

1 expiration of the collective bargaining agreement, the Med-Arbitrator shall
2 automatically order an election by secret ballot when the verified petition is
3 supported by the written consent of at least twenty-five percent (25%) of all the
4 employees in the bargaining unit to ascertain the will of the employees in the
5 appropriate bargaining unit. To have a valid election, at least a majority of all
6 eligible voters in the unit must have cast their votes. The labor union receiving
7 the majority of the valid votes cast shall be certified as the exclusive bargaining
8 agent of all the workers in the unit. When an election which provides for three or
9 more choices results in no choice receiving a majority of the valid votes cast, a
10 run-off election shall be conducted between the labor unions receiving the two
11 highest number of votes: Provided, that the total number of votes for all
12 contending unions is at least fifty percent (50%) of the number of votes cast.

13 XXX”

14 **SEC. 8.** Article 257 of the Labor Code as amended is further amended as
15 follows:

16 “ART. 257. Petitions in unorganized establishments. - In any
17 establishment where there is no certified bargaining agent, a certification election
18 shall automatically be conducted by the Med-Arbitrator upon the filing of a petition
19 by [a] **ANY legitimate labor organization [.]**, **INCLUDING A NATIONAL UNION,**
20 **A FEDERATION OR A LOCAL OR CHAPTER WHICH HAS BEEN ISSUED A**
21 **CHARTER CERTIFICATE BY THE NATIONAL UNION OR FEDERATION. IN**
22 **CASES WHERE THE PETITION WAS FILED BY A NATIONAL UNION OR**
23 **FEDERATION, IT SHALL NOT BE REQUIRED TO DISCLOSE THE NAMES**
24 **OF THE LOCAL CHAPTER’S OFFICERS AND MEMBERS.”**

25 **SEC. 9.** A new provision, Article 258-A, is hereby inserted into the Labor Code:

1 “ART. 258-A. EMPLOYER AS BY-STANDER – IN ALL CASES,
2 WHETHER THE PETITION FOR CERTIFICATION ELECTION IS FILED BY AN
3 EMPLOYER OR A LEGITIMATE LABOR ORGANIZATION, THE EMPLOYER
4 SHALL NOT BE CONSIDERED A PARTY THERETO WITH CONCOMITANT
5 RIGHT TO OPPOSE A PETITION FOR CERTIFICATION ELECTION. THE
6 EMPLOYER’S PARTICIPATION IN SUCH PROCEEDINGS SHALL BE
7 LIMITED TO: (1) BEING NOTIFIED OR INFORMED OF PETITIONS OF SUCH
8 NATURE, AND (2) SUBMITTING THE LIST OF EMPLOYEES WITHIN THE
9 APPROPRIATE BARGAINING UNIT UNDER OATH DURING THE PRE-
10 ELECTION CONFERENCE SHOULD THE MED-ARBITER ACT FAVORABLY
11 ON THE PETITION.”

12 **SEC.10. *Repealing Clause.*** – P.D. 442, as amended, otherwise known as the
13 Labor Code of the Philippines, and all other acts, laws, rules, presidential
14 issuance, rules and regulations are repealed, modified, or amended accordingly.

15 **SEC. 11. *Separability Clause.*** – If any part, section or provision of this Act shall
16 be held invalid or unconstitutional, the other provisions shall not be affected
17 thereby.

18 **SEC. 12. *Effectivity Clause.*** – This Act shall take effect fifteen (15) days after its
19 publication in the Official Gazette or in at least two (2) newspapers of general
20 circulation.

21 *Approved,*