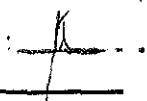


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SENATE

Senate Bill No. 892

RECEIVED BY: 

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INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

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EXPLANATORY NOTE

Employees both from the government and private sector are being given special benefits under the Employee's Compensation Program (ECP). In the twenty five (25) years of implementation of this program, millions of workers and their dependents have been compensated for work-related injury or sickness. However, there is a need to further enhance the effectiveness and efficiency of the implementation of the said program which can be addressed by undertaking a serious review and analysis of the actual structure and system being followed.

The primary predicament of the present system is the fragmented process of implementation under three (3) government agencies, namely: the Employees' Compensation Commission (ECC) for policy formulation and appealed cases disposition, the Social Security System (SSS) and the Government Service Insurance System (GSIS) for service delivery, and the State Insurance Fund (SIF) for administration.

The fragmentation of services as provided by different agencies resulted to the following problems: (1) Inequity to beneficiaries resulting from the inconsistent policies of the SSS and the GSIS; (2) Disparity in the performance of the public sector State Insurance Fund (SIF) managed by the GSIS and the private sector SIF managed by the SSS; (3) Bureaucratic problems; (4) High administrative costs in the maintenance of the three (3) agencies mandated to implement the same program; and (5) Low priority being given by the SSS and the GSIS to the ECP because of their respective primary mandates.

Further, the present ECP as defined by PD 626 is merely focused on benefits payment, and has neglected work contingency prevention, as well as the rehabilitation of occupationally disabled workers.

A comprehensive and integrated implementation of the ECP is needed in order to promote the welfare of the workers. The ECP cannot continue under an unbalanced and unstable system for its benefits and services are essential to the daily living of the working Filipino.

For these reasons, the immediate passage of this measure is earnestly sought.

  
JINGGOY EJERCITO ESTRADA  
Senator

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

10 JUL -8 A8 57

SENATE

Senate Bill No. 892

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INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

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**AN ACT**

**ESTABLISHING THE WORKERS COMPENSATION PROGRAM, THE WORK CONTINGENCY INSURANCE FUND, THE PHILIPPINE WORKERS COMPENSATION AUTHORITY AND DEFINING THEIR POWERS AND FUNCTIONS, AMENDING FOR THIS PURPOSE ARTICLES 166 TO 288-A OF TITLE 2 BOOK IV OF PRESIDENTIAL DECREE NO. 442, AS AMENDED, OTHERWISE KNOWN AS THE "LABOR CODE OF THE PHILIPPINES", AND APPROPRIATING FUNDS THEREFOR**

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

**ART. 1. SHORT TITLE.** - This Act shall be known as the "**Workers Compensation Act of 2010**".

**CHAPTER I  
DECLARATION OF PRINCIPLES**

**ART. 2. BASIC PRINCIPLES.** The State affirms labor as a primary social economic force. It shall protect the rights of the workers and promote their welfare. Toward this end, the State shall establish a tax-exempt Workers' Compensation Program which shall:

1. Build and sustain among workers and employers a culture of safe and healthy work environment in order to minimize the incidence of work contingencies;
2. Ensure prompt and adequate compensation for workers and their dependents in the event of work contingencies; and
3. Provide occupationally-disabled workers with rehabilitation services to enable them to become productive members of society.

For this purpose, the Workers' Compensation Program is hereby established.

**CHAPTER II  
DEFINITIONS**

**ART. 3. DEFINITION OF TERMS.** As used in this Act unless the context indicates otherwise:

1. "Authority" means the Philippine Workers' Compensation Authority.
2. "Beneficiary" means the legitimate spouse, the legitimate, legitimated, legally adopted children, and illegitimate children, who shall be the primary beneficiaries; in their absence, the dependent parents or, subject to the restrictions imposed on dependent children, the legitimate or the illegitimate descendants who are the secondary beneficiaries.
3. "Board" means the Board of Trustees of the Philippine Workers' Compensation Authority.
4. "Compensation" means all benefit payments made under this Act.
5. "Contribution" means the amount remitted or to be remitted by an employer to the Work Contingency Insurance Fund for each employee under his/her employ.
6. "Dependent" means the legitimate, legitimated, legally adopted or illegitimate child who is unmarried, not gainfully employed, and not over twenty-one years (21) of age or over twenty-one years (21) of age provided he/she is incapacitated and incapable of self-support due to a physical or mental defect which is congenital or acquired during minority; the legitimate spouse living with the worker; and the parents of said worker wholly dependent upon him/her for regular support.
7. "Disability" means loss or substantial reduction of earning power due to an injury or a disease arising out of and in the course of employment.
8. "Employer" means any person, natural or juridical, domestic or foreign, who carries on in the Philippines any trade, business, industry, undertaking or activity of any kind and uses the services of another person who is under his/her orders as regards the employment, including the national government, its political subdivisions, agencies or instrumentalities and government-owned or controlled corporations.
9. "Fund" means the Work Contingency Insurance Fund.
10. "GSIS" means the Government Service Insurance System.
11. "Occupationally Disabled Worker" or ODW refers to a worker whose usual work capability<sup>1</sup> and earning capacity has been affected by his/her work-connected disease or injury.
12. "SSS" means the Social Security System.
13. "System" means the SSS or GSIS, as the case may be.
14. "Work Contingency" refers to any disease, injury or death arising out of employment.
15. "Worker" means any person employed in a private or government entity and is a member of the System.
16. "Working Life" means the normal productive life of a worker until the compulsory age of retirement.

**CHAPTER III  
THE WORKERS COMPENSATION PROGRAM**

**A. COVERAGE**

**ART. 4. COVERAGE**

(a) Coverage in the Program shall be compulsory upon all employees and their workers.

(b) Compulsory coverage of employer shall take effect on the first day of its business operation, and that of the worker, on the first day of employment.

(c) The Authority may consider coverage of overseas Filipino workers and workers in the informal sector subject to regulations as it may prescribe.

**ART. 5. REGISTRATION.** The registration of an employer and his/her workers with the SSS or GSIS shall be automatic registration in the Program. Their respective membership numbers provided by the Systems shall be the same numbers that will be used under this Act.

**B. BENEFITS**

**B.1. LOSS-OF-INCOME BENEFIT**

**ART. 6. LOSS-OF-INCOME BENEFIT.** Under such regulations as the Authority may approve, any worker who sustains a work-connected injury or contracts a work-connected [disease resulting into loss of income due to his/her inability to work shall, for each day of such inability to work, be paid a loss-of income benefit. The amount for the loss-of-income benefit shall be fixed by the Authority. The payment of the loss-of-income benefit shall be for the duration of the inability of the worker to work but shall not extend beyond the working life of the worker. It shall be suspended or terminated if he/she:

1. Fails to present himself/herself for periodic medical and physical examination as may be required by the Authority;
2. Recovers from his/her disease or injury; or
3. Gets gainfully employed.

**B.2. BENEFIT FOR LOSS OR LOSS OF USE OF BODY PART**

**ART. 7. LUMP SUM BENEFIT.** Under such regulations as the Authority may approve, any worker who contracts a work-connected disease or sustains a work-connected injury resulting in permanent loss or loss of use of body part shall be paid a lump sum' benefit in an amount fixed by the Authority in accordance with the prevailing international standards as defined by the International Labor Organization (ILO) or similar bodies; Provided, that the following loss or loss of use of body parts shall not entitle the worker to a lump sum benefit but only to a loss-of-income benefit for the duration of his/her working life:

1. Complete loss of sight of both eyes;
2. Loss of two limbs at or above the ankle or wrist;
3. Permanent complete paralysis of two limbs;
4. Brain injury resulting in incurable imbecility or insanity; and
5. Such other cases as may be determined by the Authority.

### **B.3. MEDICAL AND ALLIED BENEFITS**

**ART. B. MEDICAL AND ALLIED BENEFITS.** Upon due notice to the Authority, a worker who suffers from a work-connected disease or injury shall be provided with medical benefits and prosthetic devices as the nature of his/her disease or injury may require subject to the expense limitation as may be prescribed by the Authority; Provided, that the worker submits himself/herself to a medical examination as may be required by the Authority; and Provided, further, that payment of benefits shall be suspended if the worker unreasonably refuses to submit himself/herself to the medical examination.

### **B.4 CARER'S ALLOWANCE**

**ART. 9. CARER'S ALLOWANCE.** In cases where the workers' incapacity resulting from a work-connected injury or disease is of such magnitude as determined by the Authority that he/she must have the constant help of another person, the worker shall for 'the duration of his/her disability but not to exceed his/her working life, be entitled to a Carer's allowance.

### **B.5 DEATH BENEFITS**

**ART. 10. DEATH.** Under such regulations as it may approve, the Authority shall pay to the primary beneficiaries upon the death of the covered worker the underlying cause of which is a work-connected disease or injury an amount equivalent to his/her loss-of-income benefit for the remainder of his/her working life, plus ten percent (10%) thereof for each dependent child, but not exceeding five, beginning with the youngest and without substitution; Provided, that if *he/she has no primary beneficiary, the Authority shall pay to his/her secondary beneficiaries the loss-of-income benefit.*

A funeral benefit in an amount as may be determined by the Authority shall also be paid upon the death of a covered worker due to a work- connected disease or injury.

### **B.6 PROVISIONS COMMON TO ALL BENEFITS**

**ART. 11. RELATIONSHIP AND DEPENDENCY.** All questions of relationship and dependency shall be determined at the time of the covered worker's contingency. If the Authority in good faith pays loss-of-income benefit to a dependent who is inferior in right to another dependent or with whom another dependent is entitled to share, such payment shall discharge the Authority from liability, unless and until such other dependent notifies the Authority of his/her claim prior to the payments.

In case of doubt as to the respective rights of rival claimants, the Authority is hereby empowered to determine as to whom payments should be made in accordance with such regulations as the Authority may approve. If the money is payable to a minor or incompetent, payment shall be made by the Authority to the surviving parent or legal guardian.

**ART. 12. SECOND INJURIES/DISEASE.** If a worker receiving a loss- of income benefit suffers another work-connected disease, the worker shall be entitled to an additional medical and other allied benefits necessary for the treatment of the second work-connected disease subject to the cost limitation as may be prescribed by the Authority.

**ART. 13. EARNED BENEFITS.** (a) A worker who is receiving loss-of-income benefits shall not be deprived of his/her right to receive earned benefits such as allowances for holidays, vacation leaves and any benefit granted under the collective bargaining or other agreements with the employer during the period that he/she is enjoying loss-of-income benefit.

(b) Except as otherwise provided, no contract, regulation or device whatsoever shall operate to deprive the worker or his/her dependents of any part of the income benefits and medical or related services granted. Existing medical services being provided by the employer shall be maintained and continued to be enjoyed by their workers.

(c) Benefits shall not be transferable nor liable to tax, attachment, garnishment, levy or seizure by or under any legal process whatsoever, either before or after receipt by the person or persons entitled thereto, except to pay any debt of the worker to the Fund.

**ART. 14. PRESCRIPTIVE PERIOD.** No claim for compensation shall be given due course unless said claim is filed with the Authority within three (3) years from the time the work-connected disease or injury happened.

**ART. 15. PROHIBITION.** No agent, attorney; or other person pursuing or in-charge of the preparation or filing of any claim for benefit shall demand or charge for his/her services any fee and any stipulation to the contrary shall be null and void. The retention or deduction of any amount from any benefit granted for the payment of fees of such services is prohibited. Violation of this Article shall be punished by a fine of not less than Five Hundred Pesos (P500.00) nor more than Five Thousand Pesos (P5,000.00), or imprisonment for not less than six (6) months but not more than one (1) year, or both, at the discretion of the court.

#### **C. REHABILITATION OF OCCUPATIONALLY-DISABLED WORKERS**

**ART. 16. REHABILITATION SERVICES.** (a) The Authority shall establish a continuing program designed to meet the individual needs of an occupationally disabled worker to restore his/her earning capability. In this regard, the Authority may maintain or avail of the services of specialized private and public rehabilitation facilities or centers that can provide the necessary assistance that respond to the needs of occupationally-disabled workers.

(b) Arrangements for placement of vocationally/technically trained occupationally-disabled workers shall be an integral part of the rehabilitation program. As an incentive to employers, the Authority may enter into agreements to share in the payment of wages of re-employed occupationally-disabled workers subject to the conditions it may provide.

#### **D. WORK CONTINGENCY PREVENTION**

**ART. 17. WORK CONTINGENCY PREVENTION.** The Authority shall establish a continuing program that will increase awareness among employers and their employees on the importance of work contingency prevention. It shall ensure that an appropriate culture of occupational health and safety is developed among them and the general public as well in order that the occurrence of occupational diseases or injuries is minimized, if not completely prevented. It shall undertake continuing studies and researches and develop and implement an information, education, communication, and training programs in the field of work contingency prevention.

**ART. 18. EMPLOYER'S RESPONSIBILITY ON WORK CONTINGENCY PREVENTION.** All employers shall install and maintain safety devices and shall put in place all necessary' precautionary measures and safeguards for the prevention of work accidents and occupational diseases. Any employer who fails to comply with these requirements upon determination by an appropriate authority shall pay to the Authority a penalty equivalent to fifty (50%) percent of the benefits payable to the worker who suffers from an accident or contracts an occupational disease at the workplace. In the case of employers who were previously assessed by the Authority a higher rate of contribution because of the high frequency of work accidents or occupational diseases, the penalty shall be one hundred percent (100%) of the benefits payable to the worker who suffers from an accident or occupational disease at the workplace.

#### **CHAPTER IV THE WORK CONTINGENCY INSURANCE FUND**

##### **A. THE FUND**

**ART. 19. WORK CONTINGENCY INSURANCE FUND.** There is hereby created a Work Contingency Insurance Fund hereinafter referred to as the Fund which shall be under the<sup>1</sup> direct administration of the Philippine Workers' Compensation Authority. The Fund shall consist of:

1. Contributions remitted by employers at rates prescribed by the Authority pursuant to Chapter V of this Act;
2. The current balances of the State Insurance Fund collected and administered by the SSS and the GSIS under P.D. 626, as amended, including arrearages of the government with the GSIS and of private employers with the SSS for the said Fund;
3. Subsequent appropriations pursuant to Articles 20 (b) and 34 of this Act;
4. Donations and grants-in-aids; and
5. All accruals thereof including investment earnings.

The Fund shall be used for the payment of the compensation and other benefits to all qualified beneficiaries for work-connected disease, injury or death and for work-contingency I prevention programs and rehabilitation services programs for occupationally-disabled workers and for other purposes necessary and authorized under this Act.

**ART. 20. MANAGEMENT AND INVESTMENT OF FUND.** (a) The use, disposition, investments, disbursements, administration and management of the Fund including any subsidy, grant or donation received for Program operations shall be governed by resolution of the Board provided that:

1. All funds under the management and control of the Authority shall be subjected to all rules and regulations applicable to all public funds; and
2. The Authority may disburse each year not more than twelve percent (12%) of the contributions and investment earnings collected for its operational expenses.

(b) A portion of the Fund that is not needed to meet the current obligations may be invested under such terms and conditions and rules and regulations as

may be prescribed by the Authority; Provided, that investments shall satisfy the requirements of liquidity, safety, security and yield in order to ensure the actuarial solvency of the Fund.

**ART. 21. GOVERNMENT GUARANTEE.** The Republic of the Philippines guarantees the benefits under this Act and accepts general responsibility for the solvency of the Fund. In case of any deficiency, the same shall be covered by supplemental appropriations from the national government.

**ART. 22. LIABILITIES.** (a) The Fund shall be liable for the compensation due to the worker or his/her dependents, except when the disability or death is occasioned by the worker's intoxication, willful intent to injure or kill himself/herself or another, notorious negligence, or otherwise provided under this Act.

(b) Unless otherwise provided, the liability of the Fund under this Act shall be exclusive and in place of the liabilities of the employer to the worker or his/her dependents with respect to work-connected disease, injury or death. The payment of compensation under this Act shall not bar the recovery of benefits which the worker may be entitled to under other laws.

(c) When the disability or death is caused by circumstances creating a legal liability against a Third Party, the worker or the dependents in case of his/her death shall be paid by the Authority under this Act. In case benefit is paid under this Act, the Authority shall be subrogated to the rights of the worker or the dependents in case of his/her death in accordance with the law.

Where the Authority recovers from such Third Party damages in excess of those paid or allowed under this Act, such excess shall be delivered to the worker or his/her dependents, after deducting the cost of proceedings and expenses of the Authority.

## **A. CONTRIBUTION**

**ART. 23. EMPLOYERS CONTRIBUTION.** Under such regulations as the Authority may prescribe, beginning as of the last day of the month when a worker's compulsory coverage takes effect and every month thereafter during his/her employment, the employer shall remit to the Authority a contribution equivalent to one percent (1%) of the worker's monthly salaries or wages, or such amount as may be fixed by the Authority after due consideration of the liquidity of the Fund.

Remittance of employers' contributions to the Authority shall be made within the first five (5) days of each month following the month for which they are applicable. If deemed expedient and advisable by the Authority, the collection and remittance of contribution may be made quarterly or semi-annually in advance; Provided that, upon separation of a worker, any contribution paid in advance but not due shall be credited or refunded to his/her employer.

The rate of contribution shall be reviewed periodically subject to the limitations herein provided and may be revised based on actuarial studies. Contributions under this Act shall be paid in their entirety by the employer and any contract or device for the deduction of any portion thereof from the wages or salaries of the workers shall be null and void.



When a covered worker dies during employment, or is separated from employment, his/her employer's obligation to pay the monthly contribution arising from that employment shall cease on the last day of the month of contingency.

When a covered employee becomes disabled during employment and is unable to work, his/her employer's obligation to pay the monthly contribution arising from that employment shall be suspended during such months that he/she is not receiving salary or wages.

**ART. 24. DEFAULT.** (a) Any employer who defaults in the payment of such contributions or refuses or neglects to pay the same after they become due and payable shall be liable to a surcharge of three percent (3%) for every month of default in addition to the contributions, both of which shall be collected by the Authority or its duly organized representatives in the same manner as taxes are made collectible under the National Internal Revenue Code, as amended. The remittance by the employer of the contributions to the Authority shall take priority over and above the payment of any and all obligations, except salaries and wages of its employees.

(b) Failure or refusal of the employer to pay or remit the contributions herein prescribed shall not prejudice the right of the employee or his dependents to the benefits of this Act. If the sickness, injury, disability, or death occurs before the Authority receives any report of the name of his employee, the employer shall be liable to the Authority for the lump sum equivalent to the benefits to which such employee or his dependents may be entitled.

## **CHAPTER V THE PHILIPPINE WORKERS COMPENSATION AUTHORITY**

**ART. 25. THE PHILIPPINE WORKERS' COMPENSATION AUTHORITY.** The Philippine Workers' Compensation Authority (PWCA) is hereby established to implement the Workers' Compensation Program. The Authority shall have the status and category of a government financial institution.

The Authority shall be exempted from the payment of taxes, fees, charges, levy, customs or import duty, and no law hereafter enacted shall apply to the Authority unless it is provided therein that the same is applicable by expressly stating its name.

Any donation, bequest, subsidy or financial aid which may be made to the Authority shall constitute as allowable deduction from the income of the donor for income tax purposes and shall be exempted from donor's tax, subject to such conditions as provided in the National Internal Revenue Code, as amended.

**ART. 26. POWERS AND FUNCTIONS.** The Authority, as the implementing agency for the Workers Compensation Program, shall have the following powers and functions:

1. To issue rules and regulations necessary for the effective implementation of the Program;

2. To assess, review from time to time, fix and adjust the rate of contributions from all employers, collect the same and manage the Fund; Provided, that the Authority may assess higher rates of contributions for employers whose records show a high frequency of work accidents or occupational diseases;

3. To settle any claim or dispute arising from this Act with respect to coverage, entitlement to benefits, collection and payment of contributions and penalties thereon, or any other matter related thereto including the power to administer oath and affirmation and to issue subpoena;

4. To undertake the necessary actuarial studies and calculations concerning increases in benefits and the financial stability of the Fund, the rationalization of the loss-of-income benefits and other benefits for occupational diseases, injury or death; Provided, that the Authority may upgrade the benefits and add new ones so long as the actuarial stability of the Fund shall at all times be ensured;

5. To organize its office, fix the compensation of and appoint its personnel who shall be exempted from the provisions of R.A. 6758, develop and implement programs as may be necessary to promote the welfare and interest of its employees; and adopt its annual budget of expenditures chargeable against, the twelve percent (12%) operational expenses provided for in Article 20 (a) (2) hereof;

6. To sue and be sued in court;

7. To acquire, utilize, dispose of property which may be necessary or expedient for the attainment of the purposes of this Act;

8. To enter into agreements or contracts for the proper, efficient and stable administration of the Program;

9. To receive and accept grants, donations and other forms of financial assistance from any natural or juridical person, whether domestic or foreign, or from any international organization;

10. To submit annually a report to the President of the Philippines covering its operations, particularly the status of the finances and other activities in the administration and enforcement of the Program during the preceding year, including information and recommendations on policies for the improvement of the Program;

11. To perform such other acts as it may deem appropriate for the attainment of the purposes and proper enforcement of the provisions of this Act.

**ART. 27. THE BOARD OF TRUSTEES.** The corporate powers and functions of the Authority shall be vested in and exercised by the Board of Trustees composed of the Secretary of Labor and Employment as Ex-Officio Chairperson, the President of the Authority as Ex-Officio Vice-Chairperson and the Insurance Commissioner as ex-officio members and four (4) other members to be appointed by the President of the Philippines, two (2) of whom shall represent the labor sector, one (1) coming from the public sector and another one (1) from the private sector, and two (2) representing the employers' group.

The four (4) appointive members shall be chosen from among the nominees of workers and employers organizations.

The appointed members shall hold office for six (6) years, or until their successors are duly appointed and qualified. Any vacancy in the Board other than through the expiration of the term shall be filled in the manner in which the original appointment was made and the appointee shall serve only the unexpired term of his/her predecessor. The members of the Board shall receive a per diem of at least Two Thousand Five Hundred Pesos (P2,500.00) for each board

meeting actually attended by them but not to exceed Ten Thousand Pesos (P10,000.00) a month and reasonable transportation and representation allowances as may be fixed by the Board.

**ART. 28. POWERS AND FUNCTIONS OF THE BOARD OF TRUSTEES.**

The Board of Trustees shall have the following powers and functions:

1. To formulate the policies and guidelines and develop programs to effectively carry out the purposes of this Act;
2. To adopt, amend and rescind such rules and regulations as may be necessary to carry out the provisions and purposes of this Act;
3. To approve the annual operating budget of the Authority as recommended by its President;
4. To approve the organizational and administrative structures and the compensation schedule of the personnel of the Authority and to appoint its senior officials;
5. To approve and adopt guidelines affecting investments, settlement of claims, disposition of acquired assets and increased benefits to workers;
6. The provision of any law to the contrary notwithstanding, to compromise or release, in whole or in part, any claim or to settle any liability to the Authority, regardless of the amount involved, under such terms and conditions as it may impose for the best interest of the Authority;
7. To review on appeal any dispute arising under this Act with respect to coverage, benefits, contributions and penalties thereon or any matter related thereto; and
8. To do and perform any and all acts necessary, proper and incidental to the attainment of the purposes and objectives of this Act.

**ART. 29. THE PRESIDENT AND OTHER SENIOR OFFICIALS OF THE AUTHORITY.**

1. The President of the Authority. The President of the Philippines shall appoint the President of the Authority, hereinafter referred to as the President. The President shall be a career official and shall not be removed from office except for cause in accordance with existing laws.

The President shall advise the Board and shall carry out its policies and decisions. In addition, he/she shall have the following duties and functions:

- a. To act as the Chief Executive Officer of the Authority;
- b. To appoint the lower level personnel of the Authority;
- c. To remove, suspend or otherwise discipline the officials and employees of the Authority in accordance with existing Civil Service rules and regulations; and
- d. To perform other duties as may be assigned to him/her by the Board.

2. **Other Senior Officials of the Authority.** The President shall be assisted by two (2) Senior Vice-presidents who shall be appointed by the Board: one (1) for operations; and one (1) for fund management, The

Senior Vice- President for fund management must have actuarial experience.

**ART. 30. REGIONAL AND FIELD OFFICES.** The Authority shall establish regional and field offices in provinces or chartered cities, or wherever it is deemed necessary, to bring its services closer to the workers.

The field offices shall have original and exclusive jurisdiction to settle any dispute arising from this Act with respect to coverage, entitlement to benefits, collection and payment of contributions and penalties thereon, or any other matter related thereto, subject to appeal to the Board.

## **CHAPTER VI RECORDS, REPORTS AND PENAL PROVISIONS**

**ART. 31. RECORD OF DISEASE, INJURY OR DEATH.** All employers shall maintain a record of their employees' sickness, injuries or death and upon the request of the Authority shall provide the same to support any or all claims for benefits under this Act which may be filed by the workers.

Any employer who unreasonably withholds material information relative to sickness, injury or death of a worker shall be held liable for fifty percent (50%) of the benefits to which the worker may be found to be entitled, the payment of which shall accrue to the Fund.

In case of payment of benefits for any claim which is later determined to be fraudulent and the employer is found to be a party to the fraud, such employer shall reimburse to the Authority the full amount of the compensation paid.

**ART. 32. PENAL PROVISIONS.** (a) Where the violations consist of failure or refusal to remit contribution to the Authority, the penalty shall be a fine of not less than Five Hundred (P500.00) but not more than One Thousand (P1,000.00) Pesos multiplied by the total number of employees employed by the firm and imprisonment of not less than one (1) year. If the offender is a head of a government agency, political subdivision, government owned or controlled corporation, or state college or university, he/she shall suffer the additional penalty of absolute perpetual disqualification from holding public office and from holding any profession or calling licensed by the government.

(b) Any person found to have participated directly or indirectly in the commission of fraud, collusion, falsification, or misrepresentation in any transaction with the Authority whether for him/her or for some other persons, shall suffer the penalties provided for in the Revised Penal Code or in other special penal laws.

## **CHAPTER VII TRANSITORY PROVISIONS**

**ART. 33. SETTLEMENT OF EC CLAIMS.** All employees' compensation claims which accrued prior to the effectivity of this Act, shall be filed with the Social Security System (SSS) and the Government Service Insurance System (GSIS) for claims in the private and government sectors, respectively, and shall be processed, determined and settled in accordance with the implementing rules and regulations provided for in P.D. 626, as amended, and such laws, rules and regulations existing at the time of their accrual. Claims pending before the

Systems as of the effectivity date of this Act shall be processed and settled in accordance with laws, rules and regulations existing at the time their cause of action accrued. Claims for contingencies that accrued upon the effectivity of this Act shall be processed in accordance with this Act.

All cases pending before the Employees' Compensation Commission established under P.D. 626; as amended, on the date of effectivity of this Act shall be transferred to and processed by the Authority. On employees' compensation cases on appeal with the Court of Appeals and the Supreme Court as of the date of effectivity of this Act, the Authority shall continue as respondent thereof until its final resolution.

All cases pending before the Employees' Compensation Commission, which accrued before the effectivity of this Act, shall be processed and adjudicated by the Authority in accordance with the law, rules and procedure existing prior to the effectivity of this Act.

**ART. 34. TRANSFER OF THE STATE INSURANCE FUND ADMINISTERED BY THE SSS AND THE GSIS.** The State Insurance Fund being administered by the SSS and the GSIS shall be transferred to the Authority within three (3) years from the effectivity of this Act. The SSS and the GSIS shall, however, continue to perform the processing of EC claims until such time that such functions are assumed by the Authority in accordance with Article 51 of this Act.

The Authority shall, by appropriate Memorandum of Agreements, entrust to the GSIS and the SSS payment of benefits under this Act while the Authority is in the process of organizing and instituting its operations.

During the same period and for such period of time it may fix, the Authority may likewise continue the arrangement with the SSS and the GSIS for the collection and recording of its contributions, provided such collections and accruals thereto are deposited in the name and account of the Authority.

**ART. 35. SUPPLEMENTAL APPROPRIATIONS FOR THE STATE INSURANCE FUND.** Considering the negative status of the present public sector State Insurance Fund and to achieve equity in the assignment of benefits payment, the amount of Three Billion Pesos (PhP3 Billion) is hereby appropriated from the funds not otherwise appropriated and added to the present private sector State Insurance Fund to constitute the single Work Contingency Insurance fund that shall be under the administration of the Authority upon the effectivity of this Act.

**ART. 36. TRANSFER OF THE EMPLOYEES COMPENSATION FUNCTIONS OF THE GSIS AND THE SSS TO THE AUTHORITY.** The functions, assets, equipment, records, and operating procedures of the Employees' Compensation operations of the GSIS and the SSS shall be transferred to the Authority within one (1) year from the effectivity of this Act. The personnel of the Systems who are performing Employees' Compensation functions shall be given preference in the hiring of the Authority's personnel especially in the field offices.

**ART. 37. FUNDING REQUIREMENTS.** Such amount as may be necessary to cover the initial operational expenses of the Authority, including the salaries of incumbent personnel for the current budget year, shall be taken from the remaining unexpended appropriations of the ECC, OSHC and the employees' compensation operations of the SSS and GSIS for the calendar year, as duly

approved by the Department of Budget and Management (DBM), which shall be advanced in their remaining entirety by the SSS and the GSIS; provided, that where the remaining unexpended appropriations of the ECC, the OSHC and the employees' compensation operations of the SSS and GSIS for the calendar year would not be sufficient to finance the operations of the Authority for the remaining months of the fiscal year the Authority may appropriate such amount as may be necessary to meet expected expenditures out of the twelve percent (12%) annual loading fund of the State Insurance Fund.

**ART. 38. IMPLEMENTING RULES AND REGULATIONS.** Within one hundred and twenty (120) days from the completion of the appointments of its members, the Board of Trustees shall formulate, approve and publish in the official gazette or in at least two (2) national newspapers of general circulation the implementing rules and regulations of this Act.

**ART. 39. AMENDATORY CLAUSE.** Title II, Book IV of Presidential Decree No. 442, as amended by P. D. 626, as amended, is hereby amended. All other laws, executive orders, administrative rules and regulations or parts thereof which are inconsistent with the provisions of this Act are accordingly amended, modified or repealed.

**ART. 40. SEPARABILITY CLAUSE.** If any provision of this Act is declared invalid, the other provisions not affected thereby shall remain valid.

**ART. 41. EFFECTIVITY.** This Act shall take effect fifteen (15) days after its publication in the official gazette or in at least two (2) national newspapers of general circulation whichever comes earlier.

*Approved,*