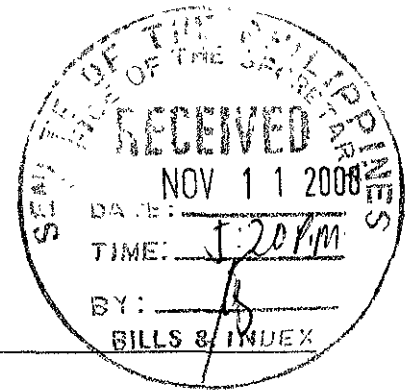


FOURTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
Second Regular Session

SENATE
S. B. No. 2866



Introduced by: **SENATOR JINGGOY EJERCITO ESTRADA**

EXPLANATORY NOTE

In 1989, R.A. 6715 amended PD 442, otherwise known as the Labor Code of the Philippines, establishing the National Labor Relations Commission (NLRC) as a **quasi-judicial body** exclusively tasked with adjudicating labor disputes. In the exercise of its quasi-judicial functions, the NLRC generates income from the legal/service fees collected and interest earnings on its deposits with the government authorized depository banks.

Thus, in the discharge of its functions and duties, the NLRC can generate its own funds and resources not only to implement the benefits already granted to the Chairman, Commissioners and Labor Arbiters pursuant to R.A. 9347. Consequently, the National government will not anymore be burdened by providing recurring allocations for this purpose in the annual General Appropriations Act since the funding can now be sourced from the legal/service fees collected by and the interest earnings on deposits of the NLRC. This will also serve as a welcome incentive for the NLRC to religiously collect the service fees from the party-litigants.

It must be emphasized that this measure is primarily intended to implement the very recent provision of R.A. 9347 which grants the NLRC Chairman, Commissioners and Labor Arbiters not only **parity in rank** but **equality in allowance and other benefits** with that of the Justices of the Court of Appeals and Judges of the Regional Trial Courts, respectively. Unfortunately, there was **no specific funding source identified** in R.A. 9347 for the implementation of said allowances and other benefits, thus rendering it "**a dead-letter provision**".

In fact, as early as **March 2, 1989** when the Labor Code was amended by **R.A. 6715**, the NLRC Chairman and Commissioners were already granted "**the same allowance and benefits as those of the Presiding Justice and Associate Justices of the Court of Appeals, respectively**". However, for **lack of funding provision** therein, these benefits due the said NLRC officials remained **unimplemented for the last Seventeen (17) years!**

This same budgetary problem was previously faced by the Judiciary when **Presidential Decree No. 1949** was promulgated on **July 18, 1984**, "**Establishing A Judiciary Development Fund**" (JDF) wherein the Justices of the Court of Appeals and the Regional Trial Court Judges were granted special allowances but without providing for a specific funding source. It was only on **October 23, 2003** when Congress passed **Republic Act 9227** whereby the "**Special Allowances**" equivalent to one hundred percent (100%) of the basic

salary of the CA Justices and RTC Judges were finally allowed to be sourced from the legal fees collected by the courts. The implementation of this law was also for a period of four (4) years.

More importantly, it must be pointed out that the creation of a "**special Fund**" is not new in the **Labor Code** itself since under **Article 277 (f)**, there was created/established "**A special Voluntary Arbitration Fund**" administered by the National Conciliation and Mediation Board (NCMB) with an annual allocation of **P15Million beginning 1989** pursuant to R.A. 6715. It must be emphasized that the NCMB is only handling an average of 600 cases per year while the Labor Arbiters of the NLRC are handling no less than 37,000 cases per year. Moreover importantly, the NCMB merely conduct "**conciliation and mediation**" of cases involving the unionized sector. The NCMB "**conciliator**" does not render decisions on the cases assigned to him. On the other hand, Labor Arbiters and the Commissioners "**adjudicate, hear and decide**" all cases filed before them.

Clearly, there is a very significant difference between the existing **NCMB Voluntary Arbitration Fund** and the proposed **NLRC Development Fund** in this Bill since the **the latter does not require any INITIAL funding allocation from the National government**. It is only when the fees collected by the NLRC for the last tranche on the Fourth (4th) Year of implementation is insufficient that the remaining balance thereof shall be funded by the National Government. Hence, the **Fund** sought to be established by this Bill is in fact self-generating and self-sustaining.

Most significantly, the entitlement by the Commissioners and Labor Arbiters to their Special Allowance was recognized by the Department of Budget and Management when the Executive Department submitted to Congress the **2009 General Appropriations Bill** wherein the Special Provision on the "**Use of Income**" by the NLRC was already **authorized** as follows:

"1. **Use of Income:** In addition to the amounts appropriated herein, Ten Million Two Hundred Fifty Thousand Pesos (P10,250,000.00) shall be charged against the Special Fund to be constituted from fees collected by the National Labor Relations Commission (NLRC) for the **grant of special allowance** to the **Commissioners and Labor Arbiters of the the NLRC pursuant to R.A. No. 9347**, subject to a Special Budget in accordance with Section 35, Chapter 5, Book VI of E.O. No. 292.

Such special allowance shall be considered as an advanced implementation of any salary increase as may be authorized by law, **in accordance with Section 4 of R.A. No. 9347 in relation with Sections 2 and 6 of R.A. 9227**" (underscoring supplied).

It must be further noted that in allowing the "**Use of Income**" to fund the special allowance of the Chairman, Commissioners and Labor Arbiters, the **2009 GAA** specifically made reference to **R.A. 9227** which grants special allowances to the CA Justices and RTC Judges.

However, while the grant of Special Allowance is now included in the **2009 GAA**, there is still a need for a law to establish a **Special Fund** for the management of the Special Allowance for the NLRC officials similar to the specific laws establishing a **Special Fund** for following Offices/Agencies:

- a) **National Prosecution Service (NPS)** and the **Office of the Chief State Counsel (OCSC)** of the Department of Justice under **R.A. 9279** enacted on **March 30, 2004**;
- b) **Public Attorney's Office (PAO)** under **R.A. 9406** enacted on **March 23, 2007**; and
- c) **Office of the Solicitor General** pursuant to **R.A. 9417** enacted on **March 30, 2007**.

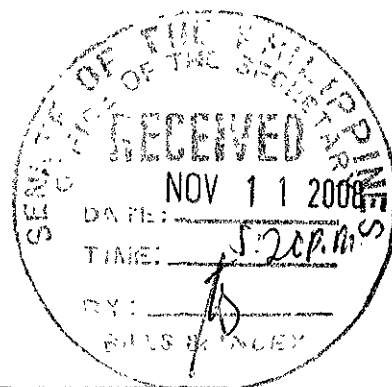
Thus, the urgent passage of this bill is earnestly sought.


JINGGOY EJERCITO ESTRADA
Senator

FOURTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
Second Regular Session

SENATE

S. B. No. 2866



Introduced by: **SENATOR JINGGOY EJERCITO ESTRADA**

AN ACT
ESTABLISHING A NATIONAL LABOR RELATIONS COMMISSION
DEVELOPMENT FUND FOR THE GRANT OF ADDITIONAL
COMPENSATION IN THE FORM OF SPECIAL ALLOWANCES, PURSUANT
TO SECTION 4 OF REPUBLIC ACT NO. 9347 FOR THE CHAIRMAN,
COMMISSIONERS AND LABOR ARBITERS OF THE NLRC AND FOR
OTHER PURPOSES.

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

Section 1. **Declaration of Policy.** - It is the declared policy of the state to ensure the administrative independence of the National Labor Relations Commission as a quasi-judicial body in the speedy and impartial administration of labor justice. For this purpose, there is hereby established a National Labor Relations Development Fund , hereinafter referred to as the FUND, to provide the Chairman, Commissioners and Labor Arbiters with incentives commensurate to their positions and functions.

Section 2. **Grant of Allowance.** - The Chairman, Commissioners and Labor Arbiters shall be granted special allowances as provided for under Republic Act No. 9347, in relation to R.A. 910, as amended by R.A. 9227, in an amount equivalent to not more than One Hundred Percent (100%) of the basic monthly salary specified for their respective Salary Grades under Republic Act No. 6758, as amended, otherwise known as the Salary Standardization Law, to be implemented within a period of four (4) years.

The grant of Special Allowances shall be implemented uniformly in such sums or amounts equivalent to Twenty-Five Percent (25%) of the basic salaries of the positions covered hereof. subsequent implementation shall be in such sums and amounts and up to the extent only that can be supported by the funding source specified herein.

Section 3. **Funding Source.** - The amount necessary to implement the additional compensation in the form of special allowances granted under this act shall be sourced from and charged against, the legal fees prescribed, imposed and collected by the nlrc as well as from the increases in current fees and new

fees which may be imposed as well as from the interests on deposits by the said agency.

In the event that the said amounts are insufficient to cover the grant of allowances on the last year of implementation of this Act, the National Government shall subsidize the Special Allowance granted to the Chairman, Commissioners and Labor Arbiters.

The NLRC Chairman shall administer and allocate the FUND and shall have the exclusive power and duty to approve and authorize the disbursements and expenditure of the FUND in accordance with the Implementing Rules and Regulations to be promulgated by the Commission *En Banc* within the parameters set forth in the immediately preceding paragraph.

The amounts accruing to the FUND shall be deposited in a **Special Trust Fund** by the NLRC Chairman or his duly authorized representative, in an authorized government depository bank or private bank owned or controlled by the government. The Commission on Audit, through the Auditor of the NLRC or his duly authorized representative, shall quarterly audit the receipts, revenues, uses, disbursements and expenditures of the FUND, and submit the appropriate report in writing to the Chairman of the Commission on Audit and to the Chairman of the NLRC, copy furnished the members of the Commission *En Banc*.

Section 4. Inclusion in the Computation of Retirement Benefits. - For purposes of retirement, only allowances actually received and the tranche or tranches of the Special Allowance already implemented and received pursuant to this Act by the Chairman, Commissioners and Labor Arbiters as authorized under existing laws shall, at the date of their retirement, be included in the computation of their respective five (5) years lumpsum retirement gratuity pursuant to R.A. 9347 in relations to R.A. 910, as mended, **PROVIDED, HOWEVER,** that the retiree shall be entitled to the tranche or tranches of the special allowance not included in the computation of the five (5) years lumpsum retirement gratuity if funds therefor are made available within five (5) years from the date of his retirement; **PROVIDED, FURTHER,** that when a Chairman, Commissioner or Labor Arbiter has retired after the effectivity of this Act but the funds for the Special Allowance are not yet available at the time he retired, the retiree shall be entitled to the payment of the Special Allowance implemented within the period of five (5) years from the date of his retirement; **PROVIDED, FINALLY,** that when funds for the tranche or tranches of the Special Allowance are made available after five (5) years from the date of his retirement, the tranche or tranches of the special allowance not included in the lumpsum retirement gratuity shall form part of and be included in his retirement pension.

Section 5. Effects of Subsequent Salary Increase. - Upon implementation of any subsequent increase in the salary rates provided under Republic Act No. 6758, as amended, all Special Allowances granted under this Act to the Chairman, Commissioners and Labor Arbiters of the NLRC, shall be considered as an implementation of the said salary increases as may be provided by law. The Special Allowances equivalent to the increase in the basic salary as may be provided by law shall be converted as part of the basic salary: **PROVIDED,** That, any excess in the amount of Special Allowance not converted as part of the basic salary shall continue to be granted as such. The portion of the Special Allowance which has been integrated into the basic salary whenever there is an

authorized salary increase shall be funded from the regular appropriations of the NLRC.

Section 6. **Issuance of Implementing Guidelines.** - The National Labor Relations Commission (NLRC) and the Department of Budget and Management (DBM) shall issue the necessary guidelines for the proper implementation of this act in respect to funds coming from the national treasury within ninety (90) days from approval hereof.

Section 7. **Repealing Clause.** - All laws, decrees, executive or administrative orders, rules and regulations, or parts thereof, inconsistent with this Law are hereby deemed modified, amended or repealed.

Section 8. **Separability Clause.** - If any provision of this Act is declared to invalid or unconstitutional, the provision not affected thereby shall continue to be in full force and effect.

Section 9. **Effectivity Clause.** - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) national newspapers of general circulation, whichever comes first.

Approved.