

CONGRESS OF THE PHILIPPINES)
THIRTEENTH CONGRESS)
First Regular Session)

HOUSE OF REPRESENTATIVES

House Bill No. 1351

By Representative DEL R. DE GUZMAN

EXPLANATORY NOTE

Book Five of the Labor Code on Labor Relations has, under Article 211, the expressed policy to promote and emphasize the primacy of collective bargaining and negotiations, to promote free trade unionism, and foster the free and voluntary organization of a strong and united labor movement. However, the interpretation and application of the provisions concerning labor unions have greatly eroded the capacity of workers to organize themselves in pursuit of genuine collective bargaining. More specifically, the present process by which legitimate labor unions are formed, registered, and certified is characterized by such delay and needless technicality which invariably deny workers their right to self-organization.

This bill entitled addresses this and protects workers in their exercise of the right to self-organization by preventing undue interference and expediting the process of registration and certification of labor organizations. More particularly, this bill:

- 1) Guarantees the expeditious nature of certification elections by:
 - a) emphasizing the employer's limited role as a bystander, thereby eliminating employer interference which is an incessant cause of delay;
 - b) restricting the grounds for cancellation of union registration, limiting the same to causes which are sufficiently grave or which are voluntary on the part of the workers; and by
 - c) clarifying that the filing of a petition for cancellation filed against the union does not suspend a petition for certification elections.

- 2) Promotes free trade unionism and fosters the free and voluntary organization of a strong and united labor movement by:

- a) allowing rank and file employees and supervisory employees to join the same federation or national union;
- b) providing that the commingling of rank and file employees and supervisory employees in the same federation or national union is not a ground for the cancellation of registration; and
- c) encouraging affiliation with federations and national unions.

These proposed amendments to the Labor Code of the Philippines greatly enhance the Philippines' compliance with international obligations pertaining to non-dissolution of workers' organization through administrative authority (International Labor Organization Convention No. 87) and strengthening workers' right to self-organization and collective bargaining (International Labor Organization Convention No. 98)

Approval of this bill is therefore earnestly sought.


DEL R. DE GUZMAN

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

THIRTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 1351

By Representative DEL R. DE GUZMAN

**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**

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

SECTION 1. Article 234 of Presidential Decree no. 442, as amended, otherwise known as the Labor Code of the Philippines, is hereby amended further as follows:

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

"XXX

"XXX

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

"XXX

"XXX."

SEC. 2. A Sub-Article to Article 234 of the Labor Code is hereby inserted to read as follows:

"ART. 234-A. CHARTERING AND CREATION OF A LOCAL CHAPTER. - A DULY REGISTERED FEDERATION OR NATIONAL UNION MAY DIRECTLY CREATE A LOCAL CHAPTER BY ISSUING A CHARTER CERTIFICATE INDICATING THE ESTABLISHMENT OF THE LOCAL CHAPTER. THE CHAPTER SHALL ACQUIRE LEGAL PERSONALITY ONLY FOR PURPOSES OF FILING A PETITION FOR CERTIFICATION ELECTION FROM THE DATE IT WAS ISSUED A CHARTER CERTIFICATE.

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

"(A) THE NAMES OF THE CHAPTER'S OFFICERS, THEIR ADDRESSES, AND THE PRINCIPAL OFFICE OF THE CHAPTER; AND

"(B) THE CHAPTER'S CONSTITUTION AND BY-LAWS: PROVIDED, THAT WHERE THE CHAPTER'S CONSTITUTION AND BY-LAWS IS THE SAME AS THAT OF THE FEDERATION OR THE NATIONAL UNION, THIS FACT SHALL BE INDICATED ACCORDINGLY.

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

"ANY FORM OF MISREPRESENTATION, FALSE STATEMENT OR FRAUD COMMITTED BY INDIVIDUAL OFFICERS OR MEMBERS SHALL NOT BE A GROUND FOR CANCELLATION BUT SHALL SUBJECT THE ERRING OFFICERS OR MEMBERS TO SUSPENSION, EXPULSION FROM MEMBERSHIP, OR ANY OTHER APPROPRIATE PENALTY."

SEC. 3. Article 238 of the Labor Code is amended to read as follows:

"ART. 238. *Cancellation Of Registration[; Appeal]*. - The certificate of registration of any legitimate labor organization, whether national or local, [shall] **MAY** be cancelled by the Bureau [if it has reason to believe], after due hearing, [that the said labor organization no longer meets one (1) or more of the requirements herein prescribed] **ONLY ON THE GROUNDS SPECIFIED IN ARTICLE 239 HEREOF.**"

SEC. 4. Sub-Articles to Article 238 of the Labor Code are hereby inserted to read as follows:

"ART. 238-A. *EFFECT OF A PETITION FOR CANCELLATION OF REGISTRATION*. - A PETITION FOR CANCELLATION OF UNION REGISTRATION SHALL NOT SUSPEND THE PROCEEDINGS FOR CERTIFICATION ELECTION NOR SHALL IT PREVENT THE FILING OF A PETITION FOR CERTIFICATION ELECTION.

"IN CASE OF CANCELLATION, NOTHING HEREIN SHALL RESTRICT THE RIGHT OF THE UNION TO SEEK JUST AND EQUITABLE REMEDIES IN THE APPROPRIATE COURTS.

"ART. 238-B. *EFFECT OF INCLUSION AS MEMBERS OF EMPLOYEES OUTSIDE THE BARGAINING UNIT*. - THE INCLUSION AS UNION MEMBERS OF EMPLOYEES OUTSIDE THE BARGAINING UNIT SHALL NOT BE A GROUND FOR THE CANCELLATION OF THE REGISTRATION OF THE UNION. SAID EMPLOYEES ARE AUTOMATICALLY DEEMED REMOVED FROM THE LIST OF MEMBERSHIP OF SAID UNION."

SEC. 5. Article 239 of the Labor Code is amended to read as follows:

"ART. 239. *Grounds For Cancellation Of Union Registration*. - The following [shall] **MAY** constitute grounds for cancellation of union registration:

[(A) Misrepresentation, false statement or fraud in connection with the adoption or ratification of the Constitution and By-Laws or amendments thereto, the minutes of ratification, the list of members who took part in the ratification];

["(A) [(B)] Failure [to submit the documents mentioned in the preceding paragraph within thirty (30) days from the adoption or ratification of the Constitution and By-Laws or amendments thereto] **OF THE UNION TO MAINTAIN THE MINIMUM MEMBERSHIP REQUIREMENT PRESCRIBED IN ARTICLE 234 (C) HEREOF;**

[(C) Misrepresentation, false statements or fraud in connection with the election of officers, minutes of the election of officers, the list of voters, or failure to submit these documents together with the list of the newly elected-appointed officers and their postal addresses within thirty (30) days from election;

(D) Failure to submit the annual financial report to the Bureau within thirty (30) days after the closing of every fiscal year and misrepresentation, false entries or fraud in the preparation of the financial report itself;

(E) Acting as a labor contractor or engaging in the "cabo" system, or otherwise engaging in any activity prohibited by law;

(F) Entering into collective bargaining agreements which provide terms and conditions of employment below minimum standards established by law;

(G) Asking for or accepting attorneys fees or negotiation fees from employers;

(H) Other than for mandatory activities under this Code, checking off special assessments or any other fees without duly signed individual written authorizations of the members;

(I) Failure to submit list of individual members to the bureau once a year or whenever required by the Bureau; and

(J) Failure to comply with the requirements under Articles 237 and 238.]

"(B) USING THE UNION AS A GUISE TO ENGAGE IN ANY ACTIVITY PROHIBITED BY LAW; AND

"(C) VOLUNTARY DISSOLUTION BY THE MEMBERS."

SEC. 6. A Sub-Article to Article 242 of the Labor Code is hereby inserted to read as follows:

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

(A) ITS CONSTITUTION AND BY-LAWS, OR AMENDMENTS THERETO, THE MINUTES OF RATIFICATION, AND THE LIST OF MEMBERS WHO TOOK PART IN THE RATIFICATION OF THE CONSTITUTION AND BY-LAWS WITHIN THIRTY (30) DAYS FROM ADOPTION OR RATIFICATION OF THE CONSTITUTION AND BY-LAWS OR AMENDMENTS THERETO;

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

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

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

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

SEC. 7. Article 245 of the Labor Code is hereby amended as follows:

"ART. 245. *Ineligibility Of Managerial Employees To Join Any Labor Organization; Right Of Supervisory Employees.* - Managerial employees are not eligible to join, assist or form any labor organization. Supervisory employees shall not be eligible for membership in [a labor organization] **COLLECTIVE BARGAINING UNITS** of the rank-and-file employees but may join, assist or form separate **COLLECTIVE BARGAINING UNITS AND/OR LEGITIMATE** labor organizations of their own. **THE RANK AND FILE UNION AND THE SUPERVISORS' UNION OPERATING WITHIN THE SAME ESTABLISHMENT MAY JOIN THE SAME FEDERATION OR NATIONAL UNION.**"

SEC. 8. Article 256 of the Labor Code is hereby amended as follows:

"ART. 256. *Representation Issue In Organized Establishments.* - In organized establishments, when a verified petition questioning the majority status of the incumbent bargaining agent is filed **BY ANY LEGITIMATE LABOR ORGANIZATION INCLUDING A NATIONAL UNION OR FEDERATION WHICH HAS ALREADY ISSUED A CHARTER**

CERTIFICATE TO ITS LOCAL CHAPTER PARTICIPATING IN THE CERTIFICATION ELECTION OR A LOCAL CHAPTER WHICH HAS BEEN ISSUED A CHARTER CERTIFICATE BY THE NATIONAL UNION OR FEDERATION before the Department of Labor and Employment within the sixty (60)-day period before the expiration of the collective bargaining agreement, the med-arbiter shall automatically order an election by secret ballot when the verified petition is supported by the written consent of at least twenty-five percent (25%) of all the employees in the bargaining unit to ascertain the will of the employees in the appropriate bargaining unit. To have a valid election, at least a majority of all eligible voters in the unit must have cast their votes. The labor union receiving the majority of the valid votes cast shall be certified as the exclusive bargaining agent of all the workers in the unit. When an election which provides for three or more choices results in no choice receiving a majority of the valid votes cast, a run-off election shall be conducted between the labor unions receiving the two highest number of votes: *Provided*, that the total number of votes for all contending unions is at least fifty percent (50%) of the number of votes cast.

“XXX”

SEC. 9. Article 257 of the Labor Code is hereby amended as follows:

“ART. 257. *Petitions In Unorganized Establishments.* - In any establishment where there is no certified bargaining agent, a certification election shall automatically be conducted by the med-arbiter upon the filing of a petition by [A] ANY legitimate labor organization[.], INCLUDING A NATIONAL UNION OR FEDERATION WHICH HAS ALREADY ISSUED A CHARTER CERTIFICATE TO ITS LOCAL/CHAPTER PARTICIPATING IN THE CERTIFICATION ELECTION OR A LOCAL/CHAPTER WHICH HAS BEEN ISSUED A CHARTER CERTIFICATE BY THE NATIONAL UNION OR FEDERATION. IN CASES WHERE THE PETITION WAS FILED BY A NATIONAL UNION OR FEDERATION, IT SHALL NOT BE REQUIRED TO DISCLOSE THE NAMES OF THE LOCAL CHAPTER'S OFFICERS AND MEMBERS.”

SEC. 10. A Sub-Article to Article 258 of the Labor Code is hereby inserted to read as follows:

“ART. 258-A. *EMPLOYER AS BY-STANDER.* - IN ALL CASES, WHETHER THE PETITION FOR CERTIFICATION ELECTION IS FILED BY AN EMPLOYER OR A LEGITIMATE LABOR ORGANIZATION, THE EMPLOYER SHALL NOT BE CONSIDERED

A PARTY THERETO WITH A CONCOMITANT RIGHT TO OPPOSE A PETITION FOR CERTIFICATION ELECTION. THE EMPLOYER'S PARTICIPATION IN SUCH PROCEEDINGS SHALL BE LIMITED TO: (1) BEING NOTIFIED OR INFORMED OF PETITIONS OF SUCH NATURE, AND (2) SUBMITTING THE LIST OF EMPLOYEES DURING THE PRE-ELECTION CONFERENCE SHOULD THE MED-ARBITER ACT FAVORABLY ON THE PETITION."

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

SEC. 12. *Repealing Clause.* - Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines, and all other acts, laws, presidential issuances, rules and regulations are hereby repealed, modified or amended accordingly.

SEC. 13. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in at least two (2) newspapers of general circulation.

Approved,