

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **3199**



Introduced by AKBAYAN Representative Tomasito S. Villarin

EXPLANATORY NOTE

This bill seeks to refine the rules governing the right to self-organization of state workers.

First, this proposed measure clarifies the coverage of union membership in government agencies. The type of workers that can be excluded from union membership is limited.

Second, it provides a new section in the current rules which defines unfair labor management practices that undermines the right to self-organization of government employees. This bill also provides for penalties for officers of agencies who will commit unfair labor management practices.

Third, this proposed measure defines the procedure on how collective negotiation agreements should be negotiated. In cases where negotiations are delayed, the current agreement continues to operate until a new agreement is crafted.

Fourth, in agencies where there is only one legitimate union operating, the bill requires the agency to automatically recognize the said union.

Fifth, the bill seeks to strengthen union participation in the Public Sector Labor-Management Council. The setting up of regional boards is likewise proposed in order to immediately address labor-management issues in the regions.

In summary, this bill seeks to strengthen the constitutional mandate under paragraph 5, Section 2 (B), Article IX of the 1987 Philippine Constitution which states that "the right to self-organization shall not be denied government employees."


TOMASITO S. VILLARIN

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AN ACT
STRENGTHENING THE RIGHT TO ORGANIZE OF GOVERNMENT
EMPLOYEES, AMENDING EXECUTIVE ORDER NO. 180 ENTITLED
“PROVIDING GUIDELINES FOR THE EXERCISE OF THE RIGHT TO
ORGANIZE OF GOVERNMENT EMPLOYEES, CREATING A PUBLIC
SECTOR LABOR-MANAGEMENT COUNCIL, AND FOR OTHER
PURPOSES” AND FOR OTHER PURPOSES

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

SECTION 1. Section 1 of Executive Order No. 180 is hereby amended to read as follows:

“Section. 1. This Executive Order applies to RANK AND FILE employees of all branches, subdivisions, instrumentalities and agencies of the government, including government-owned or controlled corporations with original charters.

For this purpose, [employees covered by this Executive Order shall referred to as “government employees”], **RANK AND FILE EMPLOYEES ARE EMPLOYEES IN THE PUBLIC SECTOR WHOSE FUNCTION ARE NOT CO-TERMINOUS OR HIGH LEVEL IN NATURE. THE NATURE OF THEIR FUNCTIONS AS REFLECTED IN THE APPROVED POSITION DESCRIPTION SHALL PREVAIL.**

SECTION 2. Section 5 of said Executive Order shall be amended to read as follows:

“SEC.5. UNFAIR LABOR MANAGEMENT PRACTICE PERTAINS TO ACTS WHICH DENIES TO THE GOVERNMENT EMPLOYEES THEIR RIGHT TO SELF-ORGANIZATION.

(A) ON THE PART OF THE AGENCY - THE FOLLOWING SHALL CONSTITUTE UNFAIR LABOR-MANAGEMENT PRACTICES ON THE PART OF THE AGENCY:

1. INTERVENING WITH, RESTRAINING, OR COERCING EMPLOYEES IN THE EXERCISE OF THEIR RIGHT TO SELF-ORGANIZATION;

2. REQUIRING AS A CONDITION OF EMPLOYMENT THAT AN EMPLOYEE SHALL NOT FORM OR JOIN AN EMPLOYEES' ORGANIZATION AND SHALL WITHDRAW FROM ONE WHICH HE/SHE BELONGS;

3. DISCRIMINATING IN REGARD TO WORK SCHEDULES, PLACES OF ASSIGNMENT AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT IN ORDER TO ENCOURAGE OR DISCOURAGE MEMBERSHIP IN ANY EMPLOYEES ORGANIZATION;

4. TERMINATING THE SERVICES OR DISCRIMINATING AGAINST ANY EMPLOYEE FOR HAVING SIGNED OR FILED AN AFFIDAVIT, PETITION OR COMPLAINT OR GIVEN ANY INFORMATION OR TESTIMONY AGAINST THE HEAD OF THE AGENCY OR MEMBERS OF THE TOP MANAGEMENT;

5. REFUSING TO COLLECTIVELY NEGOTIATE IN GOOD FAITH WITH THE ACCREDITED EMPLOYEES ORGANIZATION;

6. VIOLATING ANY OF THE PROVISIONS OF THE COLLECTIVE NEGOTIATION AGREEMENT;

7. REFUSING TO COMPLY WITH THE PROVISIONS OF THE CONCILIATION AGREEMENT SIGNED WITH THE REGISTERED AND/OR ACCREDITED EMPLOYEES' ORGANIZATION AND ATTESTED BY THE CSC-PRO OR OTHER CSC AUTHORIZED REPRESENTATIVE; AND

8. OTHER ANALOGOUS ACTS.

(B) ON THE PART OF THE EMPLOYEES - THE FOLLOWING SHALL CONSTITUTE UNFAIR LABOR-MANAGEMENT PRACTICES ON THE PART OF THE EMPLOYEES ORGANIZATION:

1. RESTRAINING OR COERCING ANY EMPLOYEES ORGANIZATION OR ITS ACTIVITIES;

2. CAUSING OR ATTEMPTING TO CAUSE THE AGENCY HEAD OR OTHER OFFICERS TO DISCRIMINATE AGAINST AN EMPLOYEE WHO HAS NOT JOINED OR HAS WITHDRAWN MEMBERSHIP FROM THE EMPLOYEES' ORGANIZATION;

3. REFUSING TO COLLECTIVELY NEGOTIATE IN GOOD FAITH WITH THE MANAGEMENT;

4. VIOLATING ANY OF THE PROVISIONS OF THE COLLECTIVE NEGOTIATION AGREEMENT;

5. REFUSING TO COMPLY WITH THE PROVISIONS OF THE CONCILIATION AGREEMENT SIGNED WITH THE MANAGEMENT AND ATTESTED BY THE CSC-PRO OR OTHER CSC AUTHORIZED REPRESENTATIVE; AND

6. OTHER ANALOGOUS ACTS.

SECTION 3. Section 6 of the said Executive Order is hereby amended to read as follows:

SECTION 6. THE HEADS OF OFFICES AND OTHER OFFICERS OF THE AGENCY AS WELL AS OFFICERS AND MEMBERS OF AN EMPLOYEES' ORGANIZATION, WHO PARTICIPATE IN, OR AUTHORIZE AN UNFAIR LABOR MANAGEMENT PRACTICE, SHALL BE HELD ADMINISTRATIVELY LIABLE FOR CONDUCT PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE AND SUCH OTHER OFFENSES AS MAY BE WARRANTED BY APPLICABLE LAWS.

SECTION 4. Section 9 of the said Executive Order is hereby amended as follows:

Section 9. The appropriate organizational unit shall be the employers unit consisting of rank-and-file employees. [unless circumstances otherwise require.]

SECTION 5. Section 11 of said Executive Order shall be read as follows:

Section 11. A duly registered employees' organization shall be accorded [voluntary] **MANDATORY** recognition upon a showing that no other employees' organization is registered or is seeking registration, based on records of the Bureau of Labor Relations, and that the said organization has the majority support of the rank-and-file employees in the organizational unit.

SECTION 6. Title V of the said Executive Order is hereby amended to read as follows:

V. Right to Collective Negotiation

The Collective Negotiation Agreement, notwithstanding expiration, shall continue to have legal effect as between the parties, until a new Collective Negotiation Agreement is executed.

Section 14. Procedure in Collective Negotiation. The following procedures shall be observed in collective negotiation:

- (a) When the duly certified collective negotiating agent desires to negotiate an agreement, it shall serve a written notice upon the management with a statement of its proposal. The other party shall make a reply thereto not later than ten (10) calendar days from receipt of such notice;
- (b) Should differences arise on the basis of such notice and reply, either party may request for a conference which shall begin not later than ten (10) calendar days from the date of request;
- (c) If the dispute is not settled, the Council shall intervene upon the request of either or both parties. It shall be the duty of the parties to participate fully and promptly in the conciliation before the Council;
- (d) The Council shall exert all efforts to settle dispute amicably.

Section 15. The Collective Negotiation Agreement shall contain terms and conditions of employment or improvements thereof, except those that are fixed by law, may be the subject of negotiations between duly recognized employees organizations and appropriate government authorities.

The Collective Negotiation Agreement Entered by the parties, insofar as the representation aspect is concerned, be for a term of [five years]. Any petition questioning the majority status of the incumbent collective negotiating agent shall be dismissed, unless the petition for certification election is filed within the sixty-day period before the expiration of the [five- year term] of the Collective Negotiation Agreement. All other provisions of the Collective Bargaining Agreement shall be renegotiated not later than [three] years after its execution.

The Collective Negotiation Agreement, notwithstanding expiration, shall continue to have legal effects as between the parties until a new Collective Negotiation Agreement is executed.

SECTION 7. Title VII of said Executive Order is hereby amended as follows:

VII. NATIONAL Public Sector Labor-Management Council

Section 17. There is hereby created a National Public Sector Labor-Management Council hereinafter referred to as 'Council', which shall be attached to the Civil Service Commission. The Council shall be composed of:

1. Chairman of the Civil Service Commission, ex officio chairman
2. Secretary of Labor and Employment, ex officio vice chairman
3. Secretary of Justice, ex officio member
4. Secretary of Budget and Management, ex officio member
5. Secretary of Interior and Local Government, ex officio member
6. Representative, National Public Sector Union which have considerable experience and track record.

The representative from the National Public Sector Union shall be appointed by the President of the Philippines upon the recommendation of the Chairman of the Civil Service Commission and the Secretary of Labor and Employment to be made on the basis of the list of nominees submitted by the public sector unions who serve for a term of five (5) years.

Section 18. Functions and Responsibilities of the Council. To ensure the protection of the right to self-organization of the rank-and-file employees, the Council shall:

- a. Assist in the formulation and development of programs which affects government employees' rights;
- b. Exercise jurisdiction over inter-and intra-employees organizational disputes and those arising from the interpretation and implementation of the provisions of the collective negotiation agreement;

c. Promulgate rules and regulations in the implementation of the employees' right to self-organization;

d. Exercise such other incidental powers and functions as may be necessary.

Section 19. The National Public Sector Labor-Management Council shall establish a Regional Public Sector Labor-Management Board composed of the heads of Regional Offices and Regional representatives of public sector unions. It shall be administered under such rules and regulations as may be established by the Council.

SECTION 8. The existing provisions in Executive Order No. 180 shall be renumbered accordingly.

SECTION 9. Should any provision herein be declared unconstitutional, the same shall not affect the validity of the other provisions of this Act.

SECTION 10. This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,