



HOUSE OF REPRESENTATIVES

House Bill No. 5239

Introduced by Representative Victor A. Yap

EXPLANATORY NOTE


The 1987 Philippine Constitution declares that it is the policy of the State to protect and promote the welfare of all workers whether privately or publicly employed. It is in this mandate that Presidential Decree No. 442 or the Labor Code of the Philippines was enacted to provide the adequate rules and safeguards for the promotion of the rights of the labor force.

The Labor Code provides private employees the grant of night shift differential pay of not less than ten percent (10%) of his or her regular wage for each hour of work performed between ten o'clock in the evening (10:00 PM) and six o'clock in the morning (6:00 AM). This provision acts as an incentive to workers in the "graveyard shift" who are indeed subjected to more strenuous working conditions as against those with a regular working schedule.

However, the law does not grant the night shift differential pay to government workers and workers in the Government Owned and Controlled Corporations (GOCCs). This exclusion unjustly disqualifies government workers who provide the same, if not more burdensome services during the wee hours of the night.

In resolving this issue, the Department of Budget and Management (DBM) issued Budget Circular No. 8, Series of 1995 which grants night shift differential pay of not less than twenty percent (20%) of the regular wage for each hour of work rendered by government employees between six o'clock in the evening (6:00 PM) and six o'clock in the morning (6:00 AM). This circular addressed the exclusion of government workers from the provisions of the Labor Code, expanded the coverage for the period of night shift work, and increased their incentive payment.

In recognition of the essential service of all government workers, this legislation is sought to adopt the issuance of the DBM and thereby institutionalize, increase and expand the coverage of the night shift differential pay to promote the general welfare of all employees of government.


VICTOR A. YAP
Representative, 2nd District of Tarlac

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AN ACT

GRANTING NIGHT SHIFT DIFFERENTIAL PAY TO GOVERNMENT EMPLOYEES
INCLUDING THOSE IN GOVERNMENT-OWNED OR CONTROLLED
CORPORATIONS AND APPROPRIATING FUNDS THEREFOR

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

SECTION 1. Government employees, including those in government-owned or controlled corporations, whether their nature of employment is permanent, contractual, temporary, or casual, shall be paid night shift differential at a rate not exceeding twenty percent (20%) of the hourly basic rate of the employee for each hour of work performed between the hours of 6:00 P.M. and 6:00 A.M. of the following day: *Provided*, That the night shift differential pay provided under this Act shall be in addition to and shall not in any way diminish whatever benefits and allowances being presently enjoyed by government employees.

Hourly basic rate refers to basic salary rate per hour derived by dividing the monthly rate by twenty-two (22) working days and dividing the quotient derived by eight (8) hours.

SEC. 2. The following government employees are not covered by this Act:

- a) Public health workers who are already covered by Republic Act No. 7305;
- b) Government employees whose schedule of office hours fall between 6:00 AM to 6:00 PM. Services rendered beyond the regular eight hour work schedules are paid overtime pay in accordance with existing laws, rules and regulations; and
- c) Government employees whose services are required, or are on call, twenty-four (24) hours a day such as uniformed personnel of the Armed Forces of the Philippines (AFP), the Philippines National Police (PNP), the Bureau of Jail Management and Penology (BJMP), and the Bureau of Fire Protection (BFP).

1 **SEC. 3.** The Civil Service Commission (CSC), in coordination with the Department of
2 Budget and Management (DBM), shall promulgate the necessary rules and regulations for the
3 effective implementation of this Act.

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5 **SEC. 4.** The amount necessary for the effective implementation of this Act shall be
6 funded as follows:

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8 a) For the National government entities, the initial amount shall be charged against
9 existing appropriations for the purpose of departments, bureaus, offices, and
10 agencies concerned. Thereafter, such sum as maybe necessary for the continuous
11 implementation of this Act shall be included in the annual General Appropriations
12 Act (GAA);
- 13 b) For local government units, the amount shall be charged against their respective
14 funds; and
- 15 c) For government-owned or controlled corporations and their subsidiaries, the
16 amount shall come from their respective corporate funds.

17
18 **SEC. 5. *Separability Clause.*** If any provision or part hereof, is held invalid or
19 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
20 valid and subsisting.

21
22 **SEC. 6. *Repealing Clause.*** Any law, presidential decree or issuance, executive order,
23 letter of instruction, administrative order, rule or regulation contrary to, or inconsistent with the
24 provisions of this Act is hereby repealed, modified or amended accordingly.

25
26 **SEC. 7. *Effectivity Clause.*** This Act shall take effect fifteen (15) days after its
27 publication in at least two (2) newspapers of general circulation.

Approved,