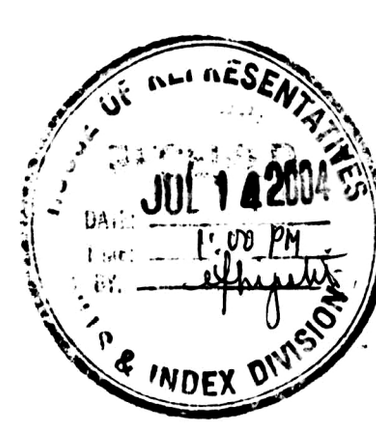
Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session




**HB NO. 1403**

Introduced by **Rep. Roseller L. Barinaga**

## EXPLANATORY NOTE

This proposed measure seeks to reaffirm the State's commitment towards promoting, strengthening and protecting the collective interest, rights and welfare of labor, specifically those in the public sector.

The bill prescribes government employees a guarantee of rights to self- organization, negotiations, and collective bargaining and provides them avenue for peaceful concerted activities, to include among others, the right to strike in accordance with the mandate of Section 3, Article XIII of the 1987 Constitution. Under this proposed measure and consistent with the aforesaid constitutional provision, a duly recognized organized union of government employees is ensured of the right to act as official body representative of its members for purposes of collective bargaining and negotiations. This bill further put in place a mechanism that ensures the recognition of the right of government workers/employees for a peaceful assembly and their right to petition government to raise and ease their grievances.

However, the right to strike, as provided for under this bill, has been provided a mechanism so as not to jeopardize the operation and function of the government upon which the public employees concerned are part of. For instance, while the members of the Armed Forces of the Philippines (AFP), the Philippine National Police (PNP), Police Officers, Policemen, Firemen, Jail Guards, NBI Officers and Agents and other Law Enforcement agencies of the government are ensured equal protection under this proposed bill in regard to their right to express their personal grievances against the management upon which they are in, these specific organizations are discouraged and are prohibited, under this Act, to establish their respective unions.

To furthermore ensure the continuity of government operation, a Public Sector Labor Relations Board, which is established under the provision of this Act, is granted jurisdiction to hear and make decision strike cases when these adversely affect the delivery of essential services, except if the issue involve is the violation of the merit system or the right to security of tenure, in which case, the issue shall be certified to the Civil Service Commission for resolution.

The proposed Public Sector Labor Relations Board shall be attached to the Civil Service Commission and shall have jurisdiction over the hearing and decision of all cases related to issues affecting the rights of government employees, as provided under this bill.

Immediate passage of this proposed measure is, therefore, earnestly sought.

**ROSELLER L. BARINAGA**
Representative
2nd District, Zamboanga del Norte

Congress of the Philippines )
Thirteenth Congress )
First Regular Session )

**HOUSE OF REPRESENTATIVES**

**HB NO. 1403**

Introduced by **Rep. Roseller L. Barinaga**

**AN ACT**
**TO DEFINE AND GUARANTEE PUBLIC SECTOR UNIONISM IN THE PHILIPPINES AND FOR OTHER PURPOSES**

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

**SECTION 1**. *Short Title.* This Act shall be known as the *"Public Sector Unionism Act of 2004."*

**SEC. 2**. *Declaration of Policy.* It is hereby declared to be the policy of the State to protect the rights of workers, promote their welfare and guarantee their rights. The State reaffirms its commitment towards promoting, strengthening and protecting the collective interest, rights and welfare of labor, specifically those in the public sector. Toward this end, workers employed in the public sector shall be guaranteed their rights to self-organization, collective bargaining and negotiations, and peaceful concerted activities including the right to strike in accordance with law.

**SEC. 3**. *Coverage.* This Act shall apply to all workers in the civil service which embraces all branches, subdivisions, instrumentalities, and agencies of Government, including government–owned or controlled corporations (GOCC) with original charters.

**SEC. 4**. *Definitions of Terms.* As used in this Act, the following terms shall mean:

a) "Board" refers to the Public Sector Labor Relations Board established under this Act.

b) "Essential Services" refers to those governmental services whereby the interruption of which could endanger life and property, public safety or public health affecting the whole or part of the population.

c) "Registered Union" refers to any union or association of government employees which exists in whole or in part for the purpose of collective bargaining and negotiations or of dealing with the proper head of office or his/her duly authorized representative concerning

terms and conditions of employment and for mutual aid and protection of its members which has been duly registered.

**SEC. 5**. *Right to Self-Organization.* All government employees shall not be discriminated against in respect of their employment by reason of their membership in unions or participation in the activities of their unions. Their employment shall not be subject to the condition that they shall not join or shall relinquish their membership in unions.

Any officer or employee in the civil service is prohibited from interfering with, restraining or coercing government employees in the exercise of their right to self-organization. Likewise, it shall be grave misconduct for any head of office to interfere in the establishment, functioning or administration of any union through acts intended to place such union under his/her control.

**SEC. 6**. *Right to Collective Bargaining and Negotiations.* Government employees shall have the right to collective bargaining and negotiations through unions of their own choosing with respect to the terms and conditions of their employment, including the adjustment of grievances related to personnel administration and the participation of government employees in their offices, in policy and decision-making processes affecting their rights and benefits, particularly their participation in the preparation of the budget proposal of their office.

The right to collective bargaining and negotiation includes the right of government employees to petition the Congress and the President for the enactment and execution of laws to improve further the terms and conditions of employment in the civil service, and for this purpose, there shall be a national assembly of workers in the civil service organized by their registered unions on the last Friday of March every year for the presentation of petitions. The official responses of Congress and the President dealing with the petition shall be announced publicly on May 1 following the assembly.

The terms and conditions of employment of all government employees shall be in accordance with the constitutional provisions relating to the civil service and other pertinent provisions of the Civil Service law, rules and regulations. The head of office shall be responsible for personnel administration in his/her office.

**SEC. 7**. *Rights of Registered Unions.* A duly organized union or association of government employees shall be registered by the Board if it has as members of at least ten percent (10%) of all the employees in the office where it seeks to operate. A registered union shall have a legal personality and shall have the following rights:

1) To act as representative of its members for the purpose of collective bargaining and negotiations;

2) To own property, real or personal, for the use and benefit of the union and of its members;

3) To bring and defend actions in its registered name; and

4) To undertake all other activities designed to benefit the union and its members, including cooperative, housing welfare and other projects not contrary to law.

Not withstanding any provision of a general or special law to the contrary, the income and the properties of a registered union including grants, endowments, gifts, donations and contributions they may receive from fraternal and similar organizations, local or foreign, which are actually, directly or exclusively used for their lawful purposes, shall be free from taxes, duties and other assessments. Only a special law expressly repealing this provision may withdraw the exemptions provided herein.

**SEC. 8**. *Determination of Exclusive Bargaining Representative.* The Board shall accredit a registered union which has been designated or selected by the majority of the employees in the office where said union seeks to operate, as their sole and exclusive bargaining representative: *Provided*, That the aforesaid union can show that no other union in the office is registered or seeking registration based on records of the Board: *Provided, further*, That in case there are two (2) or more registered unions claiming to represent the employees in a particular office, the Board shall, upon request by one of the unions, order to conduct an election and shall certify the winner as the sole and exclusive bargaining representative of the employees in said office under rules and regulations, which the Board may adopt.

**SEC. 9**. *Right to Strike*. Government employees, except the members of the Armed Forces of the Philippines (AFP), Philippine National Police (PNP), personnel of the Bureau of Fire Protection (BFP) and the Bureau of Jail Management and Penology (BJMP), through their union, shall have the right to strike or cause a temporary stoppage of work by their concerted action, under the conditions provided for in this Act.

Duly registered public sector unions may exercise their right to strike or cause a temporary stoppage of work only on the following grounds:

1) Deadlock in collective bargaining and negotiations;

2) Violations of any of the rights recognized and guaranteed by this Act;

3) Violation of the merit system and the right to security of tenure;

4) Non-implementation of statutory benefits;

5) Unhealthy and unsafe working conditions;

6) Graft and corruption in their bargaining units.

*Provided*, That government employees shall not call for a strike to secure changes or modification in their terms and conditions of employment.

a) In order that a union may declare a strike, the decision to do so must be approved by a majority of the total union membership in the office concerned, obtained by a secret ballot in a meeting called for that purpose.

b) A union declaring a strike must file a notice of strike with the Board at least 30 days before intended date thereof. The notice must be in accordance with such implementing rules and regulations as the Board may promulgate.

The chairman and one of the Members of the Board shall hold office during good behavior until they reach the age of sixty- five (65) years, unless sooner removed for caused as provided by law or become incapacitated to discharge the duties of their office. The other members who shall be appointed for a term of three (3) years shall be chosen from among the nominees of the government employees submitted through their registered unions. Such member shall divest himself/herself upon assumption of office of any affiliation to or interests in any registered union.

Any person chosen to fill the vacancy of the member representing government employees in the Board shall serve only for the unexpired term of the member he/she succeeds. If the member representing government employee, he/she shall have the right to return to his/her position after his/her service as member of the Board, if he/she so desires.

No person shall be appointed to the Board unless he/she is a natural- born citizen, has at least ten (10) years experience in the government service and with at leas (5) years experience or exposure in the field of labor relations and a member of the Integrated Bar of the Philippines (IBP).

**SEC. 10**. *Jurisdiction.* Public Sector Relations Board shall be attached to the Civil Service Commission and shall have original and exclusive jurisdiction to hear and decide with mandatory, within (30) days after submission of case for decision, all cases arising from the implementation of the rights of government employees under this Act.

The Directors of the Regional Offices of the Civil Service Commission, with the approval of the Commission may be deputized, if necessary, as hearing officers of the Board at the regional level as well as for purposes of registration of unions of government employees in their respective regional jurisdictions.

**SEC. 11**. *Appeal.* Decisions, resolutions or orders of the Board shall be final and executory unless appealed to the Supreme Court within (15) days upon receipt of such decision, resolution or order.

**SEC. 12**. *Technical Rules Not Binding.* Technical rules of procedural evidence prevailing in court of law shall not be controlling in the disposition of disputes before the Board.

**SEC. 13**. *Penalties for Violation.* Any person violating the provisions of this Act shall be punished by a fine of not less than One Thousand Pesos (Php 1,000) nor more than Ten Thousand Pesos (Php 10,000) or imprisonment for not less than (3) months nor more than three (32) years, or both such fine and imprisonment, at the discretion of the Court.

**SEC. 14**. *Administration, Appointment of Personnel and Appropriations of the Board.* The chairman of the Board shall have administrative supervision over the Board and its personnel. The Board, upon recommendation of the Chairman, shall appoint all staff and personnel of the Board subject to Civil Service law, rules and regulations. The functions and personnel of the Office of the Personnel Relations of the Civil Service Commission are hereby transferred to the Board.

**SEC. 15**. *Separability Clause.* If any provision or part of this Act, or the application hereof to any person or circumstances is held invalid, the remainder of this Act shall not be affected thereby.

**SEC. 19**. *Repealing Clause.* All laws presidential decrees, executive orders, proclamations, rules and regulations which are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

**SEC. 20**. *Effectivity.* This Act shall take effect fifteen (15) days from its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved.