

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

13th Congress
First Regular Session

HOUSE BILL NO. 1417

Introduced by Representative Roseller L. Barinaga

EXPLANATORY NOTE

Many disputes between labor and management can be resolved more efficiently and satisfactorily through arbitration. This system refers to an informal process in which two or more persons agree to let an impartial third person or panel make a final decision in a dispute between them. Because it offers many advantages, arbitration is highly recommended by experts as a means to effectively settle labor disputes.

As a state policy the preferential use of voluntary arbitration in all labor-management disputes, other than those arising from the interpretation and implementation of collective bargaining agreements and company personnel policies, is highly encouraged. This is because lasting industrial peace can be achieved only through the sincere desire and mutual effort of labor and management to resolve their differences. Specifically, Sec. 3, Article XIII of the 1987 Constitution provides that "The State shall promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes, including conciliation, and shall enforce their mutual compliance therewith to foster industrial peace."

To put substance into the policy set by the Constitution, the Labor Code, as amended by Republic Act 6715, provides for the following:

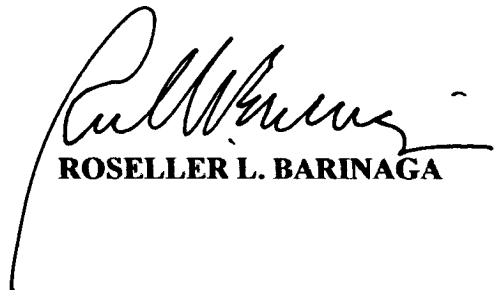
1. Promotion of voluntary arbitration as one of the desirable arbitration machineries for the expeditious settlement of labor disputes (Article 211).
2. Automatic referral of unsettled grievances within seven (7) days from submission to the grievance machinery to voluntary arbitration prescribed in the collective bargaining agreement or CBA (Article 260).
3. Expansion of the original and exclusive jurisdiction of voluntary arbitrators over unresolved grievances arising from the interpretation or implementation of the CBA arising from the interpretation or enforcement of company personnel policies (Article 261).

4. Enjoining the National Labor Relations Commission (NLRC), its Regional Arbitration Branches, and the Regional Directors of the Department of Labor and Employment (DOLE) from entertaining disputes, grievances or matters under the exclusive and original jurisdiction of the voluntary arbitrator (Article 261).
5. Allowing voluntary arbitrators, upon agreement of the parties, to also hear and decide all other labor disputes including unfair labor practices and bargaining deadlocks (Article 262).
6. Enjoining the National Conciliation and Mediation Board (NCMB), in case issues arising from the CBA interpretation and implementation or those arising from the interpretation or enforcement of company personnel policies are made as grounds for notices of strikes or lockouts or requests for preventive mediation, to advise the parties to submit the issue/s to voluntary arbitration (Rule XI, Section 2, Implementing Rules).

While the Labor Code contains ample provisions to encourage the use of voluntary arbitration as the preferred mode of settling labor disputes, experience point to the need to further strengthen particular sections of the law. It is to this end that this bill is being introduced, seeking to amend P.D. 442 in the following areas:

1. Selection of the voluntary arbitrators or a panel of voluntary arbitrators.
2. Jurisdiction of voluntary arbitrators or panel of voluntary arbitrators.
3. Provision of sanctions against erring arbitrators.
4. Determination of the fees of voluntary arbitrators.
5. Provision of subsidy for unions that cannot shoulder the fees of arbitrators.

With the approval of this bill, it is hoped that the advantages of using voluntary arbitration as a means to improve labor-management relations in the country can be maximized.



ROSELLER L. BARINAGA

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

13th Congress
First Regular Session

HOUSE BILL NO. 1417

Introduced by Representative Roseller L. Barinaga.

AN ACT
FURTHER STRENGTHENING VOLUNTARY ARBITRATION AS A
PREFERENTIAL MODE OF LABOR DISPUTE SETTLEMENT,
AMENDING FOR THE PURPOSE ARTICLES 260, 261, 262-A, 262-B
AND 227 (F) OF PRESIDENTIAL DECREE NO. 422, OTHERWISE
KNOWN AS THE LABOR CODE OF THE PHILIPPINES, AS AMENDED

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

1 **SECTION 1.** Article 260 of Presidential Decree No. 442, otherwise known as the
2 Labor Code of the Philippines, as amended, is hereby further amended to read as follows:

3 “Art. 260. Grievance Machinery and Voluntary Arbitration. – The parties
4 to a Collective Bargaining Agreement shall include therein provisions that will
5 ensure the mutual observance of its terms and conditions. They shall establish
6 machinery for the adjustment and resolution of grievances arising from the
7 interpretation or implementation of their Collective Bargaining Agreement and
8 those arising from the interpretation or enforcement of company personnel
9 policies.

10 “All grievances submitted to the grievance machinery which are not
11 settled within seven (7) calendar days from the date of its submission shall

1 automatically be referred to voluntary arbitration prescribed in the Collective
2 Bargaining Agreement.

3 “For this purpose, parties to a Collective Bargaining Agreement shall
4 name and designate in advance a Voluntary Arbitrator or panel of Voluntary
5 Arbitrators, [or include in the agreement a procedure for the selection of such
6 voluntary arbitrator or panel of voluntary arbitrators,] preferably from the listing
7 of qualified Voluntary Arbitrators duly accredited by the Board. In case the
8 parties fail to **NAME AND DESIGNATE IN ADVANCE** [select] a Voluntary
9 Arbitrator or panel of Voluntary Arbitrators, the Board shall, **UPON REQUEST**
10 **BY ANY OF THE PARTIES**, designate the Voluntary Arbitrator or panel of
11 Voluntary Arbitrators [as may be necessary, pursuant to the selection procedure
12 agreed upon in the Collective Bargaining Agreement,] which shall act with the
13 same force and effect as it the Arbitrator or panel of Arbitrators has been **SO**
14 **NAMED AND DESIGNATED** [selected by the parties as described above].”

15 **SEC 2.** Art 261 of the same Code, as amended, is hereby further amended to read
16 as follows:

17 “ART.261. Jurisdiction of Voluntary Arbitrators or panel of Voluntary
18 Arbitrators. – The Voluntary Arbitrator or panel of Voluntary Arbitrators shall
19 have original and exclusive jurisdiction to hear and decide all unresolved
20 grievances arising from the interpretation or implementation of the Collective
21 Bargaining Agreement and those arising from the interpretation or enforcement of
22 company personnel policies referred to in the immediately preceding article [.]
23 **INCLUDING CASES OF TERMINATION OF WORKERS COVERED BY**
24 **COLLECTIVE BARGAINING AGREEMENTS, PRODUCTIVITY**

1 **SCHEMES OR WAGE INCREASES.** Accordingly, violations of a Collective
2 Bargaining Agreement, except those which are gross in character, shall no longer
3 be treated as unfair labor practice and shall be resolved as grievances under the
4 Collective Bargaining Agreement. For purposes of this article, gross violations of
5 Collective Bargaining Agreement shall meant flagrant and/or malicious refusal to
6 comply with the economic provisions of such agreement.

7 “The Commission, its Regional offices and the Regional Directors of the
8 Department of Labor and Employment shall not entertain disputes, grievances or
9 matters under the exclusive and original jurisdiction of the Voluntary Arbitrator
10 or panel of Voluntary Arbitrators and shall immediately dispose and refer the
11 same to the Grievance Machinery or Voluntary Arbitration provided in the
12 Collective Bargaining Agreement.”

13 **SEC 3.** Article 262 – A of the same Code as amended, is hereby further amended
14 to read as follows:

15 “ART 262 –A. Procedures. – The Voluntary Arbitrator or panel of
16 Voluntary Arbitrators shall have the power to hold hearings, receive evidences
17 and take whatever action is necessary to resolve the issue or issues subject to the
18 dispute, including efforts to effect a voluntary settlement between the parties.

19 “All parties to the dispute shall be entitled to attend the arbitration
20 proceedings. The attendance of any third party or the exclusion of any witness
21 from the proceedings shall be determined by the Voluntary Arbitrator or panel of
22 Voluntary Arbitrators. Hearing may be adjourned for cause or upon agreement by
23 the parties.

1 “Unless the parties agree otherwise, it shall be mandatory for the
2 Voluntary Arbitrator or panel of Voluntary Arbitrators to render an award or
3 decision within twenty (20) calendar days from the date of submission of the
4 dispute to voluntary arbitration. **FAILURE ON HIS/HER OR THEIR PART**
5 **TO RENDER AN AWARD OR DECISION WITHIN SUCH**
6 **PRESCRIBED PERIOD SHALL BE SUFFICIENT CAUSE FOR THE**
7 **BOARD TO DELIST OR REMOVE THEIR NAMES FROM THE LIST OF**
8 **ACCREDITED VOLUNTARY ARBITRATORS AND BAR THEM FROM**
9 **THE PRACTICE OF THE PROFESSION; MOREOVER, IN SUCH**
10 **CASES. IT SHALL BE UNLAWFUL FOR THE VOLUNTARY**
11 **ARBITRATOR OR PANEL OF VOLUNTARY ARBITRATORS TO**
12 **REFUSE OR FAIL TO TURN OVER TO THE BOARD THE RECORDS**
13 **OF THE CASE WITHIN TEN (10) CALEDAR DAYS AFTER ITS**
14 **DEMAND FOR THE SAME FOR FURTHER DISPOSITION IN**
15 **ACCORDANCE WITH THE PROVISIONS OF THE PRECEDING**
16 **PARAGRAPH.**

17 “The award or decision of the Voluntary Arbitrator or panel of Voluntary
18 Arbitrators shall contain the facts and the law on which it is based. It shall be final
19 and executory after ten (10) calendar days from receipt of the copy of the award
20 or decision by the parties.

21 “Upon motion of any interested party, the Voluntary Arbitrator or panel of
22 Voluntary Arbitrators or the Labor Arbiter in the region where the movant
23 resides, in case of the absence or incapacity of the Voluntary Arbitrator or panel
24 of Voluntary Arbitrators for any reason, may issue a writ of execution requiring

1 either the sheriff of the Commission or regular courts or any public official whom
2 the parties may designate in the submission agreement to execute the final
3 decision, order or award.”

4 **SEC 4.** Article 262 – B of the same Code as amended, is hereby further
5 amended to read as follows:

6 “ART 262 – B. Cost of voluntary arbitration and Voluntary Arbitrator’s
7 fee. - The parties to a Collective Bargaining Agreement shall provide therein a
8 proportionate sharing scheme on the cost of voluntary arbitration including
9 **PAYMENT OF** the Voluntary Arbitrator’s fee. The fixing of fees of Voluntary
10 Arbitrators, whether shouldered wholly by the parties or TO BE subsidized by the
11 Special Voluntary Action Fund, **SHALL BE MADE IN ACCORDANCE**
12 **WITH THE GUIDELINES ISSUED BY THE BOARD UPON**
13 **RECOMMENDATION OF THE COUNCIL AND APPROVED BY THE**
14 **SECRETARY OF LABOR AND EMPLOYMENT AND** shall take into
15 account the following factors:

- 16 (a) Nature of the case;
17 (b) Time consumed in hearing the case;
18 (c) Professional standing of the Voluntary Arbitrator;
19 (d) Capacity to pay of the parties; and
20 (e) Fees provided for in the Revised Rules of Court.”

21 **SEC 5.** Paragraph (f) of Article 277 of the same Code, as amended, is hereby
22 further amended to read as follows:

23 “(f) A special Voluntary Arbitration Fund is hereby established in the Board to
24 subsidize the cost of voluntary arbitration [in cases involving the interpretation of

1 the Collective Bargaining Agreement,] including the Arbitrator's fees, and for
2 such other related purposes to promote and develop voluntary arbitration. The
3 Board shall administer the Special Voluntary Arbitration Fund in accordance with
4 the guidelines it may adopt upon the recommendation of the Council, which
5 guidelines shall be subject to the approval of the Secretary of Labor and
6 Employment; **PROVIDED, THAT EIGHTY PERCENT (80%) OF THE**
7 **FUND SHALL BE ALLOCATED FOR SUBSIDY FOR UNIONS WHICH**
8 **DO NOT HAVE THE CAPACITY TO PAY THEIR AGREED SHARE OF**
9 **THE VOLUNTARY ARBITRATOR'S FEE AS PROVIDED FOR IN THE**
10 **COLLECTIVE BARGAINING AGREEMENT.** Continuing funds needed for
11 this purpose in the [initial] yearly amount of **SEVENTY-FIVE MILLION**
12 **PESOS (P75,000,000)** [Fifteen million pesos] shall be provided in the [1989]
13 annual general appropriations ct.

14 "The amount of subsidy in appropriate cases shall be determined by the
15 Board in accordance with the established guidelines issued by it upon the
16 recommendation of the Council.

17 "The **REMAINING TWENTY PERCENT (20%) OF THE** Fund shall
18 [also] be utilized for the operation of the Council, the training and education of
19 Voluntary Arbitrators, and the Voluntary Arbitration Program "

20 SEC 6. All laws, orders, issuances, rules and regulations or parts thereof
21 inconsistent with provisions of this Act are hereby repealed, amended or modified
22 accordingly.

23 SEC 7. The Secretary of Labor and Employment shall promulgate the necessary
24 rules and regulations to implement the provisions of this Act.

1 **SEC 8.** If any provision of this Act or the application thereof to any person or
2 circumstance is held invalid or unconstitutional, the same shall not affect the remaining
3 provisions of this Act.

4 **SEC 9.** This Act shall take effect fifteen (15) days after its complete publication
5 in the Official Gazette or in at least two (2) newspaper of national circulation.

Approved,