

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 1749

Introduced by: **REP. PROSPERO A. PICHAY, JR.**

EXPLANATORY NOTE

Voluntary arbitration is a machinery created by PD 442 to function as first aid to a bleeding labor-management relationship. Like paramedics are to an accident victim, arbitrators must move lest the patient dies from blood loss. Due to loopholes in the law that created it, this quick-reaction body often failed to perform its intended function, if at all summoned to arbitrate.

This measure aims therefore to mend the gaping flaws of the existing code, thereby save labor-management relations quickly and fairly for all concerned sectors. The bill amends five articles of PD 442 on the following matters: 1) the selection of the voluntary arbitrators or a panel of Voluntary Arbitrators; 2) the redefining jurisdiction of the body to hear cases of termination of workers, productivity schemes or wage distortions arising from legislated or mandated wage increases; 3) meting out providing sanctions against erring arbitrators; 4) determining the fees of the arbitrators; and 5) providing subsidy for unions that cannot shoulder the fees of the arbitrators.

At no other time has the need for strengthening voluntary arbitration been more acutely felt than now when the nation is reeling from an air transport crisis caused by the bitter labor dispute at the country's official flag carrier. Other enterprises in distress could follow suit due to the prevailing financial crisis throughout Asia. The light at the end of the tunnel for the financial sector is still nowhere in sight, yet there is hope for strained labor-management relations should this bill be enacted into law.

Approval of this important measure is thus most earnestly and urgently requested.

PROSPERO A. PICHAY, JR.



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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 277 (F) OF PD 442, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES, AS AMENDED

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

SECTION 1. Article 260 of PD 442, otherwise known as the Labor Code of the Philippines, as amended, is hereby amended to read as follows:

"ART. 260. Grievance Machinery and Voluntary Arbitration. -- The parties to a Collective Bargaining Agreement shall include therein provisions that will ensure the mutual observance of its terms and conditions. They shall establish a machinery for the adjustment and resolution of grievances arising from the interpretation or enforcement of company personnel policies.

"All grievances submitted to the grievance machinery which are not settled within seven (7) calendar days from the date of its submission shall automatically be referred to voluntary arbitration prescribed in the Collective Bargaining Agreement.

"For this purpose, parties to a Collective Bargaining Agreement shall name and designate in advance a Voluntary Arbitrator or panel of Voluntary Arbitrators, [or include in the agreement a procedure for the selection of such Voluntary Arbitrator or panel of Voluntary Arbitrators,] preferably from the listing of qualified Voluntary Arbitrators duly accredited by the Board. In case the parties fail to NAME AND DESIGNATE IN ADVANCE [select] a Voluntary Arbitrator or panel of Voluntary Arbitrators UPON REQUEST BY ANY OF THE PARTIES, which shall act with the same

force and effect as if the Arbitrator has been SO NAMED AND DESIGNATED [selected by the parties as described above]."

SEC. 2. Article 261 of PD 442, otherwise known as the Labor Code of the Philippines, as amended, shall likewise be, as it is hereby, further amended to read as follows:

"ART. 261. Jurisdiction of Voluntary Arbitrator or panel of Voluntary Arbitrators. - The Voluntary Arbitrator or panel of Voluntary Arbitrators shall have original and exclusive jurisdiction to hear and decide all unresolved grievances arising from the interpretation or enforcement of company personnel policies referred to in the immediately preceding Article, INCLUDING CASES OF TERMINATION OF WORKERS COVERED BY COLLECTIVE BARGAINING AGREEMENTS, PRODUCTIVITY SCHEMES OR WAGE INCREASES. Accordingly, violations of a collective Bargaining Agreement, except those which are gross in character, shall no longer be treated as unfair labor practice and shall be resolved as grievances under the Collective Bargaining Agreement. For purposes of this article, gross violations of Collective Bargaining Agreement shall mean the flagrant and or malicious refusal to comply with the economic provisions of such agreement.

"The Commission, its Regional Offices and Regional Directors of the Department of Labor and Employment shall not entertain disputes, grievances or matters under the exclusive and original jurisdiction of the Voluntary Arbitrator or panel of Voluntary Arbitrators and shall immediately dispose and refer the same to the Grievance Machinery or Voluntary arbitration provided in the Collective Bargaining Agreement."

SEC. 3. Article 262-A of PD 442, otherwise known as the Labor Code, as amended, should further be, as it is hereby amended to read as follows:

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

"All parties to the dispute shall be entitled to attend the arbitration proceedings. The attendance of any third party or the exclusion of any witness from the proceeding shall be determined by the Voluntary Arbitrator or panel of

Voluntary Arbitrators. Hearing may be adjourned for cause or upon agreement by the parties.

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

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

"Upon motion of any interested party, the Voluntary Arbitrator or panel of Voluntary Arbitrators or the Labor Arbiter in the Region where the movant reside, in case of the absence or incapacity of the Voluntary Arbitrator or panel of Voluntary Arbitrators for any reason, may issue a writ of execution requiring either the sheriff of the Commission or regular courts or any public official whom the parties may designate in the submission agreement to execute the final decision, order or award."

SEC. 4. Article 262-B of PD 442, otherwise known as the Labor Code of the Philippine, as amended should also be, as it is hereby, amended to read as follows:

"ART. 262-B. Cost of voluntary arbitration and voluntary arbitrator's fee.

- The parties to a Collective Bargaining Agreement shall provide therein a proportionate sharing scheme on the cost of voluntary arbitration, including PAYMENT OF the Voluntary Arbitrator's fee. The fixing of fees of voluntary

arbitrators or panel of Voluntary Arbitrators, whether shouldered wholly by the parties or TO BE subsidized by the Special Voluntary Arbitration Fund, TO BE MADE IN ACCORDANCE WITH THE GUIDELINES ISSUED BY THE BOARD UPON THE RECOMMENDATION OF THE COUNCIL AND APPROVED BY THE SECRETARY OF LABOR AND EMPLOYMENT, shall take into account the following factors:

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

SEC. 5. Paragraph (f) of Article 277 of PD 442, otherwise known as the Labor Code of the Philippines, as amended, should likewise be, as it is hereby amended to read as follows:

(f) a special Voluntary Arbitration Fund is hereby established in the Board to subsidize the cost of voluntary arbitration [in cases involving the interpretation of the Collective Bargaining Agreement,] including the Arbitrator's fees, and for such other related purposes to promote and develop voluntary arbitration. The Board shall administer the Special Voluntary Arbitration Fund in accordance with the guidelines it may adopt upon the recommendation of the Council, which guidelines shall be subject to the approval of the Secretary of Labor and Employment; PROVIDED THAT EIGHTY PERCENT (80%) OF THE FUND SHALL BE ALLOCATED FOR SUBSIDY FOR UNIONS WHICH DOES NOT HAVE THE CAPACITY TO PAY THEIR AGREED SHARE OF THE VOLUNTARY ARBITRATORS' FEE AS PROVIDED FOR IN THE COLLECTIVE BARGAINING AGREEMENT. Continuing funds needed for this purpose in the [initial] yearly amount of SEVENTY-FIVE (75) MILLION PESOS (P 75,000,000) [fifteen million pesos] shall be provided in the [1989] annual General Appropriations Acts.

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

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

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

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

SEC. 8. If any provision of this Act or application of such provision to any period or circumstance is held invalid for any reason, the remainder of this Act or the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 9. This Act shall take effect fifteen days (15) after its complete publication in at least one (1) newspaper of national circulation.

Approved,