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

**Thirteenth Congress
First Regular Session**

HOUSE BILL NO. 2531



Introduced by Anakpawis Reps. Crispin B. Beltran, Rafael V. Mariano

EXPLANATORY NOTE

Article XIII, Section 3 of the 1987 Constitution clearly states:

The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment opportunities for all.

It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the **right to strike** in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law.

The State shall promote the principles 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.

The State shall regulate the relations between workers and employers, recognizing the right of labor to its just share in the fruits of production and the right of enterprise to reasonable returns on investments, and to expansion and growth.

At present, most government employees do not receive a just and living salary that meets the current standard cost of living. IBON Foundation Inc., an independent research institution, reports that the minimum wage (in private sectors) in Metro Manila is only P250. For a breadwinner in a family of six, the minimum wage is not sufficient to cover the daily cost of living in the national Capital Region which is pegged at P568.99 (as of May 2004). A just and living wage, as provided in the constitution is a right of every worker, whether in public or private sector. Moreover, it is a necessity of every worker for survival.

A large number of employees in government are also exposed to hazardous, stressful work activities, but the health benefits and insurance they receive are often not enough.

Unionism has also become a privilege of regular workers only and not enjoyed by contractual and provisional workers. Given the worsening condition of the working class brought about by the economic instability such as rising costs and insufficient wage, it is essential for employees to protect their economic and social interests, and it is for this reason that the workers right to self-organization is not only constitutional, but a natural right as well as provided in Article III, Section 8 of the Constitution.

The union is the weapon of the workers against the unfair labor practices of the management or government agency. Furthermore, it represents the employees - like their counterpart workers in the private sector - in collective bargaining and negotiations with regard to their salaries, working hours, benefits, working conditions, among others.

However, there have been reported cases of non-compliance to the Collective Negotiating Agreements (CNAs) and many of these cases were neglected by the government; the offenders were not penalized and the aggrieved parties were not given just compensation.

In the meantime, the Civil Service Commission and the Department of Budget and Management have stated that the government intends to reduce the 1.5 million strong bureaucracy by as much as 30 percent under a rationalization scheme which will be proposed for approval to Congress.

It's also been reported that the employees of government-owned and controlled corporations are in the immediate line of fire as the agencies they belong to are scheduled for immediate sale or dissolution. Among these GOCCs are the National Electrification Administration, Local Water Utilities Administration, Metropolitan Waterworks and Sewerage System, Home Guarantee Corp., National Housing Authority, the Light Rail Transit Authority, Philippine National Oil Co., National Irrigation Authority, National Development Co., Philippine Ports Authority, Philippine Economic Zone Authority, Philippine National Railways, and the National Food Authority.

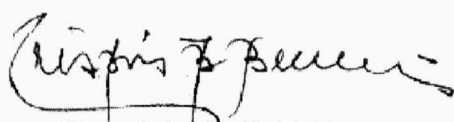
Over 100,000 government employees organized under or allied with the Confederation for the Unity, Recognition and Advancement of Government Employees (COURAGE) are so far kept in the dark regarding the Macapagal-Arroyo administration and its agencies' plans of restructuring and mass-lay-off, and they are firm in their demand that they be immediately informed of the details of such plans because these plans are a direct threat to their welfare.

Employees insist that no "safety nets" programs or any seemingly attractive separation and retirement package as stated in the reorganization bills being presented in Congress can serve as a replacement to government employees' inalienable right to job security. They point out that as the unemployment rate has been consistently at double digits, the employees who will be laid-off will only contribute to the already alarming number of the unemployed.

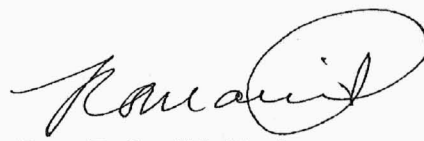
In view of all this, it is not surprising that government employees are more determined than ever to have their rights to launch collective action, including and most especially the right to strike recognized and respected. It is their stand that their right to strike is inalienable, and should be recognized by their employer, the national government. It is their stand that their right to collectively defend their rights to decent, living wages and salaries, job security and other economic and political considerations should be recognized.

In pursuant to the Constitutional Provision stated above, this statute provides for the protection of the rights of ALL workers and employees in the public sector to self-organization, collective bargaining and negotiations, peaceful concerted activities, with stress on the employees and workers' right strike.

In view of the aforementioned concerns, the immediate passage of this bill is earnestly sought.



Rep. Crispin B. Beltran
Anakpawis



Rep. Rafael V. Mariano
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AN ACT
DEFINING AND GUARANTEEING 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. Declaration of Policy. - It is the policy of the State to protect, promote, and guarantee the rights of all workers, including those employed in the public sector, to self-organization, collective bargaining and negotiations, and peaceful concerted activities including the right to strike in accordance with law.

SEC. 2. Short Title. - This Act shall be known as the Public Sector Unionism Act of 2004.

SEC. 3. Coverage. - This Act shall cover all employees in the public sector, which embraces all branches, subdivisions, instrumentalities, and agencies of the Government, including government-owned and controlled corporations (GOCCs).

SEC. 4. Definition of Terms. - For purposes of this Act, the following terms shall mean:

- a. **Board** - This refers to the Public Sector Labor Relations Board established in section 12 under this Act;
- b. **Registered Union** - This refers to any duly registered union or association of government employees, which exists in whole or in part for purposes of collective bargaining and negotiations or of dealing with the proper head of office, of representation concerning the terms and conditions of employment, and of protection and mutual aid of its members.

- c. **Concerted Activities** - This refers to activities like strikes, picketing, rallies or other forms of mass actions conducted by the government employees in a peaceful manner to enforce their right to collective bargaining negotiations and for other mutual aid or protection.

SEC. 5. Right to Self-Organization. - The right to self-organization - to form, assist, and join unions - carries with it the right to collective bargaining and collective bargaining carries the right to engage in concerted activities - strikes, picketing, rallies or other forms of mass action - to enforce the right to collective bargaining and for other mutual aid or protection.

SEC. 6. Protection of the 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 subjected to any condition of relinquishing their membership or of not joining in unions.

It shall be a grave misconduct for an officer or employee in the public sector to interfere with, restrain or coerce government employees in the exercise of their right to self-organization. Likewise, it shall be a grave misconduct for an officer in the public sector to interfere in the establishment, functioning or administration of any union through acts intended to place such union under his/her control. It shall also be a grave misconduct for an employee in the public sector to commit any of the aforementioned acts for an officer.

SEC. 7. Right to Collective Bargaining and Negotiations. - The right to self-organization - to form, assist, and join unions - carries with it the right to collective bargaining and collective bargaining carries the right to engage in concerted activities - strikes, picketing, rallies or other forms of mass action - to enforce the right to collective bargaining and for other mutual aid or protection.

The right to collective bargaining agreements includes the right of government employees to petition the Congress and the President for the enactment and execution of laws to further improve the terms and conditions of employment in the public service. For this purpose, there shall be a national assembly of employees in the public sector, organized by their respective 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.

SEC. 8. Rights of Registered Unions. - A duly organized union or association of government employees shall be registered by the Board if it has members of at least ten percent (10%) of all employees in the government office where it seeks to operate.

A registered union shall have a legal personality and shall have the following rights:

1. To act a representative of its members for the purpose of collective bargaining and negotiations;
2. To represent its members in the settlement of grievances, including but not limited to illegal dismissals, suspensions, discriminatory treatment in promotions, adjustment of salaries, transfers and others;
3. To negotiate with government officials and the Civil Service Commission on policies on budget proposals of their respective offices, recruitment, fees of examinations, salary standardization, job evaluation, training and scholarship, and others;
4. To own property, real or personal, for the use and benefit of the union and of its members;
5. To bring and defend in its registered name; and
6. To undertake all other activities designed to benefit the union and its members, including cooperative, housing welfare and other projects not contrary to law.

Notwithstanding any provision of a general or special law to the contrary, the income and properties of a registered union including grants, endowments, gifts, donations, and contributions they may receive from fraternal and similar organization, local or foreign, which are actually, directly or exclusively used for the union's lawful purposes, shall be free from taxes, duties and other assessments. The exemptions provided herein may be withdrawn only by a special law expressly repealing this provision.

SEC. 9. Determination of Exclusive Bargaining Representative. - The Board shall accredit as the sole and exclusive bargaining representative the registered union designated or selected by the majority of the employees in the government office where said union seeks to operate. Provided, that a registered union shall be accredit as the sole and exclusive bargaining representative upon showing 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, the Board shall, upon request by one of the unions, order to conduct a certification election and shall certify the winner as the sole and exclusive bargaining representative of the employees in the said office under rules and regulations, which the Board may adopt.

SEC. 10. Right to Peaceful Concerted Activities. - All government employees shall have the right to engage in peaceful concerted activities for purposes of collective bargaining and negotiations

or for their mutual aid and protection. This right includes the right of government employees to peaceably assemble and petition the government for redress of grievances.

SEC. 11. Right to Strike. - All government employees 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.

(a) A strike may be declared on the following grounds:

- (1) Deadlock in collective bargaining agreements;
- (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 respective government offices;
- (7) Secure changes or modifications in the terms and conditions of their employment.

(b) In order that a union may declare a strike, the decision must be approved by a majority of the total union membership in the government office concerned obtained by voting through secret ballot in a meeting called for that purpose.

(c) 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 implementing rules and regulations the Board may promulgate. During the cooling off period, Board shall exert all efforts at mediation and conciliation to effect settlement.

(d) It shall be unlawful for a head of office or any employee to commit any act of violence, coercion, or intimidation against the employees engaged in concerted activities or on strike;

(e) It shall be unlawful for a head office or any employee to acquire the services of anybody to commit any act of violence, coercion, or intimidation against the employees engaged in concerted activities or on strike.

SEC. 12. Public Sector Labor Relations Board. - An agency to be known as the Public Sector Labor Relations is hereby created, hereinafter referred to as the Board, which shall have its principal

office in Metropolitan Manila, and which shall be attached to the Civil Service Commission for program and policy coordination only.

The Board shall be composed of a Chairman who shall have the rank, salary, and privileges of the presiding Justice of the Court of Appeals and two (2) members who shall have the rank, salary, and privileges of Associate Justices of the Court of Appeals, to be appointed by the President of the Philippines, subject to the approval of the Commission on Appointment.

The Chairman and one of the Members of the Board shall hold office during good behavior until the age of sixty-five (65) years, unless sooner removed for cause as provided by law or become incapacitated to discharge the duties of his office. The other member 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 a vacancy of the member representing the government employees in the Board shall serve only for the unexpired term of the member he/she succeeds. If the member representing the government employees is himself/herself a 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 desires.

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

SEC. 13. Jurisdiction. - The Board shall have original and exclusive jurisdiction to hear and decide mandatorily, within thirty (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 and for the purpose of registration of unions of government employees in their respective regional jurisdictions.

SEC. 14. Appeal. - All decisions, resolutions, or orders of the Board shall be final and executory unless appealed to the Supreme Court within fifteen (15) days upon receipt of such decision, resolution, or order.

SEC. 15. Technical Rules Not Binding. - Technical rules of procedural evidence prevailing in a court of law shall not be controlling in the disposition of disputes before the Board.

SEC. 16. Penalties for Violation. - Any person violating the provisions of this Act shall be 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 three (3) months nor more than three (3) years, or both such fine and imprisonment, at the discretion of the Court.

SEC. 17. 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 laws, rules, and regulations. The functions and personnel of the Office of the Personnel Relations of the Civil Service Commission is hereby transferred to the Board.

SEC. 18. Seperability Clause. - If any provision 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 the publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,