

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Constitution Hills, Quezon City

SIXTEENTH CONGRESS
First Regular Session

House Bill No. **2903**



Introduced by REPRESENTATIVE ERIC L. OLIVAREZ

EXPLANATORY NOTE

There is no denying that an inherent inequality exists between employers and employees in that the former always has the undue advantage and the latter has not an ounce of bargaining power when it comes to the terms and conditions of the latter's employment.

For our laborers, employment is the only thing that they cling to for survival. Hence they would never dare assert their rights, fight any form of discrimination or oppression, or push for a more favorable working condition out of fear to lose their precious jobs. For this reason they always find themselves at the mercy of their employers.

The government therefore has the duty to ensure that this inherent inequality is optimally reduced, if not totally eradicated, for the protection of the rights and ultimately, the preservation of the dignity of our humble laborers.

The passage of this Act addresses a specific outcry of one group of manual laborers in our country – the public utility bus

drivers and/or conductors. This Act provides for a mandatory fixed wage rate to be afforded to the said workers using an effective scheme known as the "part fixed, part performance based compensation". Said scheme shall be mutually agreed upon by the employer bus owner/operator and the bus drivers and/or conductors.

This Act endeavors to give our bus drivers and/or conductors a fairer, more stable wage that they truly deserve, especially those drivers and conductors who really work hard and exert more efforts which eventually give the bus companies greater profits.

This measure, if passed, shall also prevent numerous road accidents brought about by the stiff competition of bus drivers and conductors to pick and transport as many passengers as they could without regard to traffic rules and regulations since they are relying on mere commissions based on the number of passengers that they could ferry in a day.

It is for this purpose that this bill is earnestly sought to be passed.

eric. olivarez
ERIC L. OLIVAREZ

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House Bill No. 2903

Introduced by REPRESENTATIVE ERIC L. OLIVAREZ

**"AN ACT FIXING THE WAGE RATE OF BUS DRIVERS
AND CONDUCTORS"**

Section 1. Short Title. This Act shall be known as the Bus Drivers and Conductors' Fixed Wage Act of 2013".

Section 2. Coverage. This Act shall apply to all public utility bus owners and/or operators employing drivers and conductors.

Section 3. Definition of Terms. The following terms, as used herein, shall mean as follows:

- (a) *Public Utility Bus Driver* – a licensed professional driver hired or paid to drive a public utility bus.
- (b) *Public Utility Bus Conductor* – a person hired to serve as conductor in a public utility bus.
- (c) *Public Utility Bus Operator* – a person issued a certificate of Public Convenience to operate a public utility bus by the Land Transportation Franchising and Regulatory Board.
- (d) *Ridership* – the number of persons who ride the public utility bus transport system.
- (e) *Minimum Wage* – the lowest wage rate that an employer should pay to his/her employee as fixed and/or prescribed by the RTWPB of the NWPC.
- (f) *Fixed and Performance-based Compensation Scheme* – compensation scheme for bus drivers and conductors wherein the fixed component shall be based on an amount mutually agreed upon by the owner/operator and the driver/conductor, which shall in no case be lower than the applicable minimum wage. The performance based component shall be based on safety performance, business performance and other related parameters.
- (g) *Workplace* – the office, premises or worksite, where the workers are habitually employed and shall include the place where the workers, who have no fixed or definite work site,

regularly report for assignment in the course of their employment.

For the public utility bus transport industry, workplace includes the bus, bus terminals, garage, and the company office.

(h) *RTWPB* – Regional Tripartite Wage and Productivity Board.

(i) *NWPC* – National Wages and Productivity Commission.

Section 4. Employment Agreement Must Include Provision on Fixed Wage and Other Wage-related Benefits.

There shall be an agreement in writing between the public utility bus owner/operator and the public utility bus driver and/or conductor which shall include the following terms:

a. Driver or conductor's full name, date of birth or age, address, civil status, and SSS ID Number;

b. Public Utility Bus owner's/ operator's name and address;

c. Place where and date when the employment agreement is entered into;

d. Hours of work;

e. Amount of the driver's or conductor's fixed wage and formula used for calculating the performance based compensation;

f. Wages and wage-related benefits such as overtime pay, holiday pay, premium pay, 13th month pay and leaves;

g. Social security and welfare benefits;

h. Separation or retirement pay; and

i. Other benefits under existing laws.

The public utility bus owner/operator shall provide the public utility bus driver/conductor he signed and notarized original copy of the agreement.

Section 5. Fixed and Performance Based Compensation Scheme. Public utility bus owners and/or operators shall adopt a mutually-agreed upon "Part-fixed, part-performance" based compensation scheme for their employed drivers and conductors.

Section 6. Component of Fixed Compensation. The fixed compensation component mentioned in the preceding section shall be based on an amount mutually agreed upon by the owner/operator and the driver/conductor. In determining the same, the minimum ridership requirement shall be taken into account and shall in no case be lower than the applicable minimum wage for work during normal hours/days.

The bus drivers and/or conductors shall also be entitled wage-related benefits such as overtime pay, premium pay and holiday pay, among others.

Section 7. Component of Performance-based Compensation. The performance-based compensation

component mentioned in Section 5 hereof shall be based on safety performance as well as business performance such as ridership, revenues and/or profitability, and other related factors and parameters.

Section 8. Total Compensation Shall Not Be Less Than Minimum Wage. The total compensation of the bus drivers and/or conductors, regardless of the agreed upon respective percentages of the fixed and performance based components thereof, shall in no way be less than the minimum wage prescribed by law.

Section 9. Other Benefits Not Included. The compensation referred to in this Act shall only pertain to the basic wage of the employees. The employer/bus owner shall not subsume in this "part-fixed, part performance-based" compensation the other benefits that the employees are entitled to as prescribed by law and as agreed upon in an existing company policy and/or employer-employee contract and/or Collective Bargaining Agreement.

Section 10. Payment of Wages. Wages for all actual work during the normal work hours and days shall not be lower than the applicable minimum wage rates. Wages shall be paid at least once every two weeks or twice a month at intervals not exceeding sixteen (16) days.

Section 11. Holiday Pay. The driver and/or conductor shall be paid Holiday pay of 100% of the minimum wage even if he or she does not report for work, provided he or she is present or is on leave of absence with pay on the workday immediately preceding the holiday.

If the driver/ conductor works, or is required to work on the said holiday, he or she shall be paid 200% of the total compensation he would be receiving under the "part fixed, part performance based" compensation scheme. Meaning, in determining the rightful holiday pay of the said bus driver or conductor who reported for work, the two components of the wage shall be computed independently such that the fixed component of the salary shall be multiplied by 200%, and the performance-based amount which may vary depending on the efforts of the driver and/or conductor, shall be multiplied by 200% also.

However, the abovementioned holiday pay for a driver or conductor who reports for work on the said holiday shall in no way be less than 200% of the applicable minimum wage rate.

Section 12. Overtime Pay. A bus driver and/or conductor shall be entitled to an overtime pay equivalent to at least 25% of the basic wage under the "part fixed, part performance based" compensation scheme adopted by the parties on ordinary days and 30% on regular holidays, special days and rest days for work beyond eight (8) hours per day.

Section 13. Night Shift Differential. A bus driver and/or conductor shall be entitled to a night shift pay of an additional 10% of the basic wage under the "part fixed, part performance based" compensation scheme adopted by the parties for work between 10:00 pm and 6:00 am of the following day.

Section 14. Operational Guidelines. The NWPC is hereby tasked to develop operational guidelines to implement the part-fixed part performance-based compensation scheme including the formula that should be used by public utility bus companies.

Section 15. Submission of Proposed Scheme. All public utility bus owners and/or operators shall submit a proposed compensation scheme which shall be mutually agreed upon beforehand by them and their drivers and/or conductors, to the respective RTWPB for the approval of the same and for information and reference purposes within 60 days after the passage and publication of this Act.

Section 16. Non-Diminition of Benefits. Nothing in this Act shall be construed to authorize diminution of benefits as prescribed by law and as already being enjoyed by the bus drivers and conductors at the time of the passage of this Act.

Section 17. Effect on Existing Company Policy, Contracts and/or Collective Bargaining Agreements (CBAs). The minimum benefits provided in this Act shall be without prejudice to any company policy, contract or CBA providing for better or more advantageous terms and conditions of employment to the bus drivers and/or conductors.

Section 18. Implementing Rules and Regulations. The Department of Labor and Employment (DOLE) shall promulgate the implementing rules and regulations for the effective and immediate implementation of this Act.

Section 19. Repealing Clause. All laws, decrees, executive orders, letters of instructions, rules and regulations or parts thereof, which are inconsistent with this Act are hereby repealed, amended or modified accordingly.

Section 20. Separability Clause. If any provision of this Act is judicially declared invalid or unconstitutional, the

remaining provisions of this Act not affected thereby shall be continue to be in full force and effect.

Section 21. *Effectivity Clause.* This act shall take effect fifteen (15) days following its publication in two (2) newspapers of general circulation.

APPROVED.