

**Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City**

**SEVENTEENTH CONGRESS
First Regular Session**

House Bill No. 4928



Introduced by TUCP Party-List Representative
RAYMOND DEMOCRITO C. MENDOZA

EXPLANATORY NOTE

The right to self-organization is a universal human and workers' right as embodied in the ILO Convention No. 87 on Freedom of Association. The Convention gives emphasis to workers' right to establish and to join organizations of their own choosing. This right is "subject only to the rules of the organization concerned, xxx without previous authorization". It does not allow the State to restrict this right or to impede its lawful exercise.

The Labor Code has many effective restrictions in the process of union formation. The government exerts too much interference from union registration to election of union officers to union cancellation. This bill will address those issues to effectuate the right of workers to self-organization.

An independent union or a local/chapter only has to give notice of its creation to the Department of Labor and Employment (DOLE) to acquire legal personality and be entitled to the rights and privileges of a legitimate labor organization. The 20 percent minimum membership requirement for creation of independent unions is removed and the ten unions or locals for federations or national unions is lowered to two. This upholds the principle that the 'registration' of unions is only ministerial on the part of DOLE. This proposal is seen as the only efficient and expeditious administrative mechanism to implement the said policy.

The union constitution and by-laws, not administrative authority or regulation, should govern elections for union officers. The same principle applies to cancellation, now dissolution, of an organization.

This bill also serves to void the unconscionable current practice of authorizing any employee the right to intervene in a certification election and requiring a local/chapter to submit to the DOLE its certificate of creation at least five (5) working days before the date of certification election.

This bill is part of a series of proposed amendments to the Labor Code addressing the observations by the Committee of Experts of the ILO as highlighted by the ILO High Level Mission to the Philippines on 22-29 September 2009 on violations of freedom of association faced by Filipino workers.



RAYMOND DEMOCRITO C. MENDOZA
Representative, TUCP Party-List

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AN ACT
STRENGTHENING UNION ORGANIZATION AND DISALLOWING
CANCELLATION OF UNION REGISTRATION, AMENDING FOR THE
PURPOSE PRESIDENTIAL DECREE NO. 442, AS AMENDED,
OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES.

*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 “Union Formation Act”.

Section 2. Title of Chapter I, Title IV, Book V. – Title of Chapter I, Title IV of
Book V of the Labor Code is hereby amended to read as follow:

“Chapter I
[Registration and Cancellation] UNION FORMATION AND
DISSOLUTION”

Section 3. Notice of Union Formation. – Article 234 of the Labor Code is
hereby amended to read as follows:

“ARTICLE 234. Requirements of [Registration] NOTIFICATION. –
A federation, national union or industry or trade union center or an
independent union shall acquire legal personality and shall be entitled to the
rights and privileges granted by law to legitimate labor organizations upon
[issuance of the certificate of registration based on] GIVING
NOTICE OF ITS FORMATION WITH the following requirements:

(a) Fifty pesos (P50.00) [registration] NOTIFICATION fee;

(b) The names of its officers, their addresses, the principal address of the labor
organization, the minutes of the organizational meetings and the list of the

workers who participated in such meetings;

[(c) In case the applicant is an independent union, the names of all its members comprising at least twenty percent (20%) of all the employees in the bargaining unit where it seeks to operate;]

(c) If the **[applicant]** NOTIFYING union has been in existence for one or more years, copies of its annual financial reports; and

(d) Four copies of the constitution and by-laws of the **[applicant]** NOTIFYING union, minutes of its adoption or ratification, and the list of the members who participated in it.”

Section 4. Removing the Documentary Requirements for Chartering and Creation of Local Chapters. - Article 234-A of the Labor Code is hereby amended to read as follows:

“ARTICLE. 234-A. Chartering and Creation of a Local Chapter. - A duly registered federation or national union may directly create a local chapter by issuing a charter certificate indicating the establishment of the local chapter. The chapter shall acquire legal personality **[only for purposes of filing a petition for certification election]** from the date it was issued a charter certificate **AND SHALL BE ENTITLED TO THE RIGHTS AND PRIVILEGES OF A LEGITIMATE LABOR ORGANIZATION UPON SUBMISSION OF ITS CHARTER CERTIFICATE TO THE DEPARTMENT OF LABOR AND EMPLOYMENT.**”

Section 5. Action on Notification. – Article 235 of the Labor Code is hereby amended to read as follows:

“ARTICLE 235. Action on [application] NOTIFICATION. The LABOR RELATIONS DIVISION IN THE REGIONAL OFFICE OR THE Bureau, **AS THE CASE MAY BE,** shall act on all **[applications for registration]** **NOTICES OF UNION FORMATION AND INCLUDE THE NOTIFYING UNIONS IN THE ROSTER OF LEGITIMATE LABOR ORGANIZATIONS** within **[thirty (30)] TEN (10) days from [filing] RECEIPT OF NOTICE THEREOF.**

All requisite documents and papers shall be certified under oath by the secretary or the treasurer of the organization, as the case may be, and attested to by its president.”

Section 6. Lowering the Number of Trade Unions to Establish Federations or National Unions. – Article 237 of the Labor Code is hereby amended to read as follows:

“Article 237. Additional requirements for federations or national unions. [Subject to Article 238, if the applicant for registration is a] A federation or a national union, **[it]** shall, in addition to the requirements of the preceding Articles, submit the following:

(a) Proof of the affiliation of at least **[ten (10)] TWO (2)** locals or chapters,

each of which must be a duly recognized collective bargaining agent in the establishment or industry in which it operates, supporting the registration of such applicant federation or national union; and

(b) The names and addresses of the companies where the locals or chapters operate and the list of all the members in each company involved."

Section 7. *No Dissolution of Legitimate Labor Organizations by the Department of Labor and Employment.* – Article 238 of the Labor Code is hereby amended to read as follows:

"ARTICLE 238. [Cancellation of Registration] DISSOLUTION OF A LEGITIMATE LABOR ORGANIZATION. – [The certificate of registration of any] A legitimate labor organization, whether national or local, may be [cancelled] DISSOLVED AND MAY BE DELISTED by the Bureau, after due hearing, [only on the grounds specified in] IN ACCORDANCE WITH Article 239-A hereof."

Section 8. *Effect of a Petition to Delist a Legitimate Labor Organization.* – Article 238-A of the Labor Code is hereby amended to read as follows:

"ARTICLE 238-A. Effect of a Petition [for Cancellation of Registration] TO DELIST A LABOR ORGANIZATION. - A petition [for cancellation of] TO DELIST A union [registration] FROM THE ROSTER OF LEGITIMATE LABOR ORGANIZATIONS shall not suspend the proceedings for certification election nor shall it prevent the filing of a petition for certification election.

In case of [cancellation] DELISTING, nothing herein shall restrict the right of the union to seek just and equitable remedies in the appropriate courts."

Section 9. *Voluntary Dissolution.* – Article 239-A of the Labor Code is hereby amended to read as follows:

"ARTICLE 239-A. Voluntary [Cancellation of Registration] DISSOLUTION. – [The registration of a] A legitimate labor organization may be [cancelled] DISSOLVED by the organization itself: Provided, That at least two-thirds of its general membership votes, in a meeting duly called for that purpose to dissolve the organization: Provided, further, That an application to [cancel registration] DELIST THE ORGANIZATION FROM THE ROSTER OF LEGITIMATE LABOR ORGANIZATIONS is thereafter submitted by the board of the organization, attested to by the president thereof."

Section 10. *Election of Union Officers.* – Article 241 (c) of the Labor Code is hereby amended to read as follows:

"ARTICLE 241. *Rights and conditions of membership in a labor organization.* - The following are the rights and conditions of membership in a labor organization:

(c) The members shall [**directly**] **DULY** elect their officers, including those of the national union or federation, to which they or their union is affiliated, [**by secret ballot**] **IN ACCORDANCE WITH THE UNION CONSTITUTION AND BY-LAWS** at intervals of five (5) years. No qualification requirements for candidacy to any position shall be imposed other than membership in good standing in subject labor organization. The secretary or any other responsible union officer shall furnish the Secretary of Labor and Employment with a list of the newly-elected officers, together with the appointive officers or agents who are entrusted with the handling of funds, within thirty (30) calendar days after the election of officers or from the occurrence of any change in the list of officers of the labor organization.”

Section 11. *Separability Provisions.* -- If any part of this Act is held invalid or declared unconstitutional, the same shall not affect the validity and effectivity of the other parts thereof.

Section 12. *Repealing Clause.* – Articles 236 and 239 of the Labor Code are hereby repealed. All laws, decrees, executive orders, rules and regulations or parts thereof, which are inconsistent with this Act, are hereby repealed, amended or modified accordingly.

Section 13. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in at least two newspapers of general circulation.

Approved,