

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
Third Regular Session

8616

House Bill No. _____



Introduced by AKBAYAN Party List Representative Tomasito S. Villarin

EXPLANATORY NOTE

Every round of oil price increase always highlights the recurring and almost perennial problem faced by the Filipino working men and women of having to cope with such price increases as well as those in transportation fares and of basic commodities that inevitably follow. After every round of oil price increase, workers, through their unions, organizations and groups, demand for an increase in their wages in order that their real value could catch up with such price increases. This is in line with their right to a living wage guaranteed by the Constitution (Article XIII, Section 3.)

Now, the workers are currently struggling against one of the highest inflation rates in recent history. In its latest report, the Philippine Statistics Authority (PSA) pegged the October 2018 inflation rate at 6.7 percent. For the National Capital Region (NCR), a 6.1 percent inflation rate was recorded for the same period. The inflation rate for NCR last October 2017 was only 4.3 percent.

Earlier, various petitions for minimum wage increase in the NCR were filed. On 30 October 2018, the Regional Tripartite Wages and Productivity Board-National Capital Region issued Wage Order No. NCR-22 which provided for twenty-five pesos (Php 25.00) minimum wage increase for all NCR-based workers.

Wage Order No. NCR-22 dismayed the workers because the amount provided therein is not sufficient to cover the loss in purchasing power of the workers' salaries brought about by the skyrocketing inflation. Clearly, the current wage-setting mechanism set forth in the Wage Rationalization Law is incapable of promoting the Constitutional living wage guarantee.

Republic Act No. 6727, otherwise known as the "Wage Rationalization Act", was enacted into law in 1989 in order to address such a situation at the time as well as similar situations that may arise since then. It was intended to rationalize the fixing of wages and the improvement of productivity throughout the country. It created Regional Tripartite Wage and Productivity Boards with the mandate "to develop plans, programs and projects relative to wages, incomes and productivity

improvement for their respective regions." These were placed under the supervisions of the of a National Wage and Productivity Commission mandated "to formulate policies and guidelines on wages, incomes and productivity improvement at the enterprise, industry and national levels."

After twenty-nine years of experience, serious questions have been raised regarding the effectiveness of these Regional Tripartite Wage and Productivity Boards in formulating and prescribing fair and equitable wage rates at the regional level. Wage distortions have emerged in the different regions. Their ability and that of the National Wage and Productivity Commission itself to quickly respond to changes in the prices of oil, transport and basic commodities have been put into question. There are now strong demands to abolish the system instituted by R.A. No. 6727 for having been ineffective and a failure, and to replace it with a system of wage-fixing at the national level that takes into account, among others industry considerations. Such a system would do away with the Regional Tripartite Wage and Productivity Boards and vest the wage-fixing authority in the National Wage and Productivity Commission. This would rationalize wage-fixing and make it more effective and more efficient.

In view of the foregoing considerations, the early approval of this bill is earnestly urged.



TOMASITO S. VILLARIN

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AN ACT

AMENDING PRESIDENTIAL DECREE NO. 442, AS AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES, AND PROVIDING FOR THE RATIONALIZATION OF WAGE LEVELS ON A NATIONAL OR INDUSTRIAL BASIS

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

SECTION 1. In line with the declared policy of the State to promote the productivity-improvement and gain-sharing measures to ensure a decent standard of living for the workers and their families and to guarantee the rights of labor to its just share in the fruits of production, Article 99 of Presidential Decree No. 442, as amended, is hereby amended and Articles 121, 122, 123, 124, 126, and 127, are hereby incorporated into Presidential Decree No. 442, as amended to read as follows:

“Art. 99 [Regional] Minimum Wages. – The NATIONAL minimum wage rates for agricultural and non-agricultural employees and workers [in each and every region of the country] shall be those prescribed by the [Regional Tripartite Wages and Productivity Boards] NATIONAL WAGES AND PRODUCTIVITY COMMISSION.”

“Art. 121. Powers and Functions of the Commission. – The Commission shall have the following powers and functions:

- (a) To act as the national consultative and advisory body to the President of the Philippines and Congress on matters relating to wages, incomes and productivity;
- (b) To formulate policies and guidelines on wages, incomes and productivity improvement at the enterprise, industry and national levels;

(C) TO DETERMINE AND FIX NATIONAL MINIMUM WAGES RATES ACCORDING TO INDUSTRIES AND TO ISSUE THE CORRESPONDING WAGE ORDERS;

[(c)] (D) To prescribe rules and guidelines for the determination of appropriate minimum wage and productivity measures at the [regional, provincial or] industry levels;

[(d)] To review regional wage levels set by the Regional Tripartite Wages and Productivity Boards to determine if these are in accordance with prescribed guidelines and national development plans;]

(e) To undertake studies, researches and surveys necessary for the attainment of its functions and objectives, and to collect and compile data and periodically disseminate information on wages and productivity and other related information, including, but not limited to, employment, cost-of-living, labor costs, investments and returns;

[(f)] To review plans and programs of the Regional Tripartite Wages and Productivity Boards to determine whether these are consistent with national development plans;]

[(g)] To exercise technical and administrative supervision over the Regional Tripartite Wages and Productivity Boards;]

[(h)] (f) To call, from time to time, a national tripartite conference of representatives of government, workers and employers for the consideration of measures to promote wage rationalization and productivity;

[(i)] (g) To exercise such powers and functions as may be necessary to implement this Act.

The Commission shall be composed of the Secretary of Labor and Employment as *ex-officio* chairman, the Director-General of the National Economic and Development Authority (NEDA) as *ex-officio* vice-chairman, and two (2) members each from workers and employers sectors who shall be appointed by the President of the Philippines upon recommendation of the Secretary of Labor and Employment to be made on the basis of the list of nominees submitted by the workers and employers sectors, respectively, and who shall serve for a term of five (5) years. The Executive Director of the Commission shall also be a member of the Commission.

The Commission shall be assisted by a Secretariat to be headed by an Executive Director and two (2) Deputy Directors, who shall be appointed by the President of the Philippines, upon the recommendation of the Secretary of Labor and Employment.

The Executive Director shall have the same rank, salary, benefits and other emoluments as that of a Department Assistant-Secretary, while the Deputy Directors shall have the same, rank, benefits and other emoluments as that of a Bureau Director. The members of the Commission representing labor and management shall have the same rank, emoluments and allowances and other benefits as those prescribed by law for labor and management representatives in the Employees' Compensation Commission.

[Art. 122. Creation of Regional Tripartite Wages and Productivity Boards. There is hereby created Regional Tripartite Wages and Productivity Boards, hereinafter referred to as Regional Boards, in all regions, including autonomous regions as may be established by law. The Commission shall determine the offices/headquarters of the respective Regional Boards.

The Regional Boards shall have the following powers and functions in their respective territorial jurisdiction:

- (a) To develop plans, programs and projects relative to wages, incomes and productivity improvement for their respective regions;
- (b) To determine and fix minimum wage rates applicable in their region, provinces or industries therein and to issue the corresponding wage orders, subject to the guidelines issued by the Commission;
- (c) To undertake studies, researches and surveys necessary for the attainment of their functions, objectives and programs and to collect and compile data on wages, incomes, productivity and other related information and periodically disseminate the same;
- (d) To coordinate with the other Regional Boards as may be necessary to attain the policy and intention of this Code;
- (e) To receive, process and act on applications for exemption from prescribed wage rates as may be provided by law or any Wage Order; and
- (f) To exercise such other powers and functions as may be necessary to carry out their mandate under this Code.

Implementation of the plans, programs and projects of the Regional Boards referred to in the second paragraph, letter (a) of this Article, shall be through the respective regional offices of the Department of Labor and Employment within their territorial jurisdiction; *Provided, however, That the regional Boards shall have territorial jurisdiction; Provided, however, That the regional Boards shall have technical supervision over the regional office of the Department of Labor and Employment with respect to the implementation of said plans, programs and projects.*

Each Regional Wage Board shall be composed of the Regional Director of the Department of Labor and Employment as chairman, the Regional Directors of the National Economic and Development Authority and the Department of Trade and Industry as vice-chairmen and two (2) members each from workers and employers sectors who shall be appointed by the President of the Philippines, upon the recommendation of the Secretary of Labor and Employment, to be made on the basis of the list of nominees submitted by the workers and employers sectors, respectively, and who shall serve for a term of five (5) years.

Each Regional Board to be headed by its chairman shall be assisted by a Secretariat.]

Art. 12[3]2. Wage Order. – Whenever conditions in the [region] COUNTRY so warrant, the [Regional Board] COMMISSION shall investigate and study all pertinent facts; and based on the standards and criteria herein prescribed, shall proceed to determine whether a Wage Order should be issued. Any such Wage Order shall take effect after fifteen (15) days from its complete publication in at least [one (1) newspaper of general circulation in the region.] TWO (2) NEWSPAPERS OF GENERAL CIRCULATION.

In the performance of its wage determining functions, the [Regional Board] COMMISSION shall conduct public hearings/consultations, giving notices to employees' and employers' groups, provincial, city, municipal officials and other interested parties.

Any party aggrieved by the Wage Order issued by the [Regional Board] COMMISSION may [appeal] SEEK A RECONSIDERATION OF such order [to the Commission] within ten (10) calendar days from the publication of such order. It shall be mandatory for the Commission to decide such [appeal] MOTION FOR RECONSIDERATION within sixty (60) calendar days from the filing thereof.

The filing of the [appeal] MOTION FOR RECONSIDERATION does not stay the order unless the person appealing such order shall file with the Commission an undertaking with a surety or sureties satisfactory to the Commission for the payment to the employees affected by the order of the corresponding increase, in the event such order is affirmed.

Art. 12[4]3. Standards/Criteria for Minimum Wage Fixing. – The [regional] NATIONAL minimum wage[s] to be established by the [Regional Board] COMMISSION shall be as nearly adequate as is economically feasible to maintain the minimum standards of living necessary for the health, efficiency and general well-being of the employees within the framework of the national economic and social development program. In the determination of such

[regional] minimum wage, the [Regional Board] COMMISSION shall, among other relevant factors, consider the following:

- (a) The demand for living wages;
- (b) Wage adjustment vis-à-vis the consumer price index;
- (c) The cost of living and changes or increases therein;
- (d) The needs of workers and their families;
- [(e) The need to induce industries to invest in the countryside;]
- [(f)] (E)Improvements in standards of living;
- [(g) The prevailing wage levels;]
- [(h)] (F)Fair return of the capital invested and capacity to pay of employers;
AND
- [(i) Effects on employment generation and family income;]
- [(j)] (G)The equitable distribution of income and wealth along the imperatives of economic and social development.

The wage[s] prescribed in accordance with the provisions of this Title shall be the standard prevailing NATIONAL minimum [wages in every region] WAGE. [These wages] THIS shall include wages varying within industries, [provinces or localities] if in the judgement of the [Regional Board] COMMISSION, conditions make such [local] differentiation proper and necessary to effectuate the purpose of this Title.

Any person, company, corporation, partnership or any other entity engaged in business shall file and register annually with the [appropriate Regional Board] COMMISSION and the [National Statistics Office] PHILIPPINE STATISTICS AUTHORITY an itemized listing of their labor component, specifying the names of their workers and employees below the managerial level, including learners, apprentices and disabled/handicapped workers who were hired under the terms prescribed in the employment contracts, and their corresponding salaries and wages.

Where the application of any of any prescribed wage increase pursuant to law or Wage Order issued by [any] THE [Regional Board] COMMISSION results in distortions of the wage structure within an establishment, the employer and the union shall negotiate to correct the distortions. Any dispute arising from wage distortions shall be resolved through the grievance procedure under their

collective bargaining agreement and, if it remains unresolved, through voluntary arbitration. Unless otherwise agreed by the parties in writing, such dispute shall be decided by the voluntary arbitrator or panel of voluntary arbitrators within ten (10) calendar days from the time said dispute was referred to voluntary arbitration.

In cases where there are no collective agreements or recognized labor unions, the employers and workers shall endeavor to correct such distortions. Any dispute arising therefrom shall be settled through the National Conciliation and Mediation Board and, if it remains unresolved after ten (10) calendar days of conciliation, shall be referred to the appropriate branch of the National Labor Relations Commission (NLRC). It shall be mandatory for the NLRC to conduct continuous hearings and decide the dispute within twenty (20) calendar days from the time said dispute is submitted for compulsory arbitration.

The pendency of a dispute arising from a wage distortion shall not in any way delay the applicability of any increase prescribed wage rates pursuant to the provisions of law or Wage Order.

As used herein, a wage distortion shall mean a situation where an increase in prescribed wage rates results in the elimination or severe contraction of intentional quantitative differences in wage or salary rates between and among employee groups in an establishment as to effectively obliterate the distinctions embodied in such wage structure based on skills, length of service, or other logical bases of differentiation.

All workers paid by result, including those who are paid by piecework, *takay*, *pakyaw* or task basis, shall receive not less than the prescribed wage rates per eight (8) hours work a day, or a proportion thereof for working less than eight (8) hours.

All recognized learnership and apprenticeship agreements shall be considered automatically modified insofar as their wage clauses are concerned to reflect the prescribed wage rates.

Art. 126. Prohibition Against Injunction. – No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal or other entity against any proceedings before the Commission [or the Regional Boards].

Art. 127. Non-diminution of Benefits. – No Wage Order issued by [any Regional Board] THE COMMISSION shall provide for wage rates lower than the statutory minimum wage rates prescribed by Congress."

SECTION 2. (a) ~~Exempted from the provisions of this Act are household or domestic helpers and persons employed in the personal service of another, including family drivers.~~

Retail/service establishments regularly employing not more than ten (10) workers may be exempted from the applicability of this Act upon application with and as determined by the Commission. Whenever an application for exemption has been duly filed with the Commission, action on any complaint for alleged non-compliance with this Act shall be deferred pending resolution of the application for exemption by the Commission.

In the event that applications for exemptions are not granted, employees shall receive the appropriate compensation due them as may be granted them pursuant to this Act plus interest of one percent (1%) per month retroactive to the effectivity of this Act.

(b) If expressly provided for and agreed upon in the collective bargaining agreements, all increases in the daily basic wage rates granted by the employers three (3) months before the effectivity of this Act shall be credited as compliance with the increases in the wage rates pursuant to this Act, provided that, where such increases are less than the increases in the wage rates that may be prescribed pursuant to this Act, the employer shall pay the difference. Such increases shall not include anniversary wage increases, merit wage increases and those resulting from the regularization or promotion of employees.

Where the application increases in the wage rates that may be prescribed pursuant to this Act results in distortions as defined under existing laws in the wage structure within an establishment and gives rise to a dispute therein, such dispute shall first be settled voluntarily between the parties and in the event of a deadlock, the same shall be finally resolved through compulsory arbitration by the regional branches of the National Labor Relations Commission (NLRC) having jurisdiction over the workplace.

It shall be mandatory for the NLRC to conduct continuous hearings and decide any dispute arising under this Section within twenty (20) calendar days from the time said dispute arising from wage distortion shall not in any way delay the applicability of any increase in the wage rates that may be prescribed pursuant this Act.

SECTION 3. In the case of contracts for construction projects and for security, janitorial and similar services, increases in the wage rates of the workers shall be borne by principals or clients of the construction/service contractors and the contract shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed wage rates, the construction/service contractor shall be jointly and severally liable with his principal or client.

SECTION 4. Upon written permission of the majority of the employees or workers concerned, all private establishments, companies, businesses, and other entities with twenty-five (25) or more employees and located within one (1) kilometer radius to a commercial, savings or rural bank shall pay the wages and other benefits of their employees through any of said banks and within the period of payment of wages fixed by Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines.

SECTION 5. Whenever applicable and upon request of a concerned worker or union, the bank shall issue a certification of the record of payment of wages of a particular worker or workers for a particular payroll period.

SECTION 6. The Department of Labor and Employment shall conduct inspections as often as possible within its manpower constraint of the payroll and other financial records kept by the company or business to determine whether the workers are paid the prescribed minimum wage rates and other benefits granted by law or any Wage Order. In unionized companies, the Department of Labor and Employment inspectors shall always be accompanied by the president or any responsible officer of the recognized bargaining unit or of any interested union in the conduct of the inspection. In non-unionized companies, establishments or businesses, the inspection should be carried out in the presence of a worker representing the workers in the company. The workers' representative shall have the right to submit his own findings to the Department of Labor and Employment and to testify on the same if he cannot concur with the findings of the labor inspector.

SECTION 7. The Regional Tripartite Wages and Productivity Boards created under Republic Act No. 6727 are hereby abolished. All properties, records, equipment, building, facilities, and other assets, liabilities and appropriations belonging to the above-mentioned offices, as well as other matters pending therein, shall be transferred to the Commission.

Any official or employee separated from the service as a result of the abolition of office pursuant to this Act shall be entitled to appropriate separation pay and retirement and other benefits accruing to them under existing laws. In lieu thereof, at the option of the employee, he shall be preferentially considered for employment in the government or in any of its subdivisions, instrumentalities, or agencies, including government-owned or controlled corporations and their subsidiaries.

SECTION 8. Any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay any prescribed increases or adjustments in the wage rates made in accordance with this Act shall be punished by a fine in the amount double of the amount of wage denied to workers but in every case at least one hundred fifty thousand pesos (Php 150,000.00) and/or imprisonment of not less than one (1) year nor more than two (2) years: *Provided, That* any person convicted under this Act shall not be entitled to the benefits provided for under the Probation Law.

If the violation is committed by a corporation, trust or firm, partnership, association or any other entity, the penalty of imprisonment shall be imposed on the entity's responsible officers, including, but not limited to, the president, vice-president, chief executive officer, general manager, managing director or partner.

SECTION 9. The Secretary of Labor and Employment shall promulgate the necessary rules and regulations to implement the provisions of this Act.

SECTION 10. Republic Act No. 6727, otherwise known as the "Wage Rationalization Act", is hereby expressly repealed. All laws, orders, issuances, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly. If any provision or part of this Act, or application thereof to any person or circumstance, is held invalid or unconstitutional, the remainder of this Act or the application of such provision or part hereof to other persons or circumstances shall not be affected thereby.

Nothing in this Act shall be construed to reduce any existing wage rates, allowances and benefits of any form under existing laws, decrees, issuances, executive orders, and/or under any contract or agreement between the workers and the employers.

SECTION 11. This Act shall take effect fifteen (15) days after its complete publication in the *Official Gazette* or in at least two (2) newspapers of general circulation, whichever comes earlier.

Approved,