



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH (18th) CONGRESS
First Regular Session

HOUSE BILL NO. 541

Introduced by **MAGSASAKA Party-List Representative**
ARGEL JOSEPH T. CABATBAT

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

EXPLANATORY NOTE

"The right to a job without a right to a living wage is just as weak as the right to a living wage without a job. Both rights must remain intact and linked together."

-- William P. Quigley

"We have come to a clear realization that true individual freedom cannot exist without economic security and that, "necessitous men are not free men". People who are hungry and out of a job are the stuff of which dictatorships are made. In our day these economic truths have become self-evident. We have accepted, so to speak, a Second Bill of Rights of economic security. Among these are: ... the right to earn enough to provide adequate food, clothing and recreation."

-- Franklin Delano Roosevelt, in his proposal for a Second Bill of Rights in his State of the Union Message (1944).

The Act Amending Presidential Decree 442 and Providing for the Rationalization of

Wage Levels on a National or Industrial Basis has been initially filed by Hon. Tomasito S. Villarin of Akbayan Partylist, in light of the inflationary effects of the recent Tax Reform Acceleration and Inclusion (TRAIN) Law.

Article XV, Section 3, paragraph (3) of the 1987 Constitution guarantees the right of the family to a family living wage and income. Living wage has been roughly defined as a wage that is high enough to maintain a normal standard of living. In our jurisdiction, this non self-executing constitutional provision was supposedly given life by the enactment of Republic Act 6727, or the Wage Rationalization Act of 1989. This law has created a factual absurdity, whereas laborers with the same job but situated in different provinces have different take home pays.

Living wage has a long and distinguished pedigree. A recent book traces living wage back to Plato and Aristotle in ancient Greece, St. Thomas Aquinas in the 13th century, Adam Smith in the 18th century, and Popes since 1890 (Stabile, 2008). The United Nations' Universal Declaration of Human Rights (UN, 1948) recognizes the need for workers to earn a living wage as does the ILO Constitution (ILO, 1919). According to the ILO Committee of Experts (1992), the —ultimate objective [of ILO minimum wage Conventions] is to ensure to workers a minimum wage that will provide a satisfactory standard of living to them and their families.

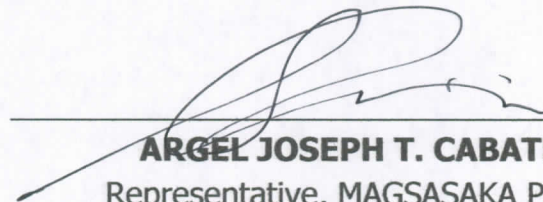
For thirty (30) years, the promises of the law, and the problems it sought to solve, have remained elusive. The 1987 Constitution's dream of a living wage for all Filipino workers has remained a dream. Filipino workers are still suffering from starvation wages, despite increase in productivity. In a recent study by the Department of Finance, for the years 2001 to 2016, labor productivity in the country has increased fifty percent (50%), while real wages remained stagnant. Its goal to attract investment to the countryside is also a resounding failure, as investors' primary concern is infrastructure and lower taxes, rather than wages. This is bolstered by the fact that investment in the countryside is almost exclusively seen inside economic and industrial zones who offer lower taxes and better infrastructure.

Further, agricultural workers are the most discriminated class under the old law, which prescribes an even lower minimum wage than industrial workers. In 2015, farmers and fishermen consistently posted as having the highest incidence of poverty with 34.3% and 34%, respectively, among the nine (9) basic sectors; as they did in 2006, 2009 and 2012. Indubitably, the Wage Rationalization Act added to the continued misery and poverty of the agricultural sector.

This piece of legislation also seeks to institutionalize the time-honored jurisprudential principle of "equal pay for equal work," which means "persons who work with substantially equal qualification, skill, effort and responsibility, under similar

conditions, should be paid similar salaries". This can be implemented either on a national basis, or along industry lines, to better address the specific needs and situations of the workers.

In view of the foregoing reasons, the approval of this bill is earnestly sought.



ARGEL JOSEPH T. CABATBAT
Representative, MAGSASAKA Partylist



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

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

7 **SECTION 1. *In line with the declared policy of the State to promote***
8 ***the productivity*** – improvement and gain-sharing measures to ensure a decent
9 standard of living for the workers and their families and to guarantee the rights of
10 labor to its just share in the fruits of production, Article 99 of Presidential Decree No.
11 442, as amended, is hereby amended and Articles 121, 122, 123, 124, 126, and 127,
12 are hereby incorporated into Presidential Decree No. 442, as amended to read as
13 follows:

14 "Art. 99 [Regional] Minimum Wages. - The NATIONAL minimum wage
15 rates for agricultural and non-agricultural employees and workers [in each and
16 every region of the country] shall be those prescribed by the [Regional
17 Tripartite Wages and Productivity Boards] **NATIONAL WAGES AND**
18 **PRODUCTIVITY COMMISSION.**"

19 " Art. 121. Powers and Functions of the Commission. - The Commission
20 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.

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

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

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

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

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

37 Each Regional Wage Board shall be composed of the Regional Director of the
38 Department of Labor and Employment as chairman, the Regional Directors of the
39 National Economic and Development Authority and the Department of Trade and
40 Industry as vice-chairmen and two (2) members each from workers and employers
41 sectors who shall be appointed by the President of the Philippines, upon the

1 recommendation of the Secretary of Labor and Employment, to be made on the basis
2 of the list of nominees submitted by the workers and employers sectors, respectively,
3 and who shall serve for a term of five (5) years.

4 Each Regional Board to be headed by its chairman shall be assisted by a Secretariat.
5]

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

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

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

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

26 Art. 12[4]3. Standards/Criteria for Minimum Wage Fixing. - The [regional] NATIONAL
27 minimum wage[s] to be established by the [Regional Board] COMMISSION shall be as
28 nearly adequate as is economically feasible to maintain the minimum standards of
29 living necessary for the health, efficiency and general well-being of the employees
30 within the framework of the national economic and social development program. In
31 the determination of such [regional] minimum wage, the [Regional Board]
32 COMMISSION shall, among other relevant factors, consider the following:

- 33 (a) The demand for living wages;
- 34 (b) Wage adjustment vis-a-vis the consumer price index;
- 35 (c) The cost of living and changes or increases therein;
- 36 (d) The needs of workers and their families;
- 37 [(e) The need to induce industries to invest in the countryside;]
- 38 [(f)] (E) Improvements in standards of living;
- 39 [(g) The prevailing wage levels;]

1 [(h)] (F) Fair return of the capital invested and capacity to pay of employers;
2 AND

3 [(i) Effects on employment generation and family income;]

4 [(j)] (G) The equitable distribution of income and wealth along the imperatives
5 of economic and social development.

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

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

20 Where the application of any of any prescribed wage increase pursuant to law
21 or Wage Order issued by [any] THE [Regional Board] COMMISSION results in
22 distortions of the wage structure within an establishment, the employer and
23 the union shall negotiate to correct the distortions. Any dispute arising from
24 wage distortions shall be resolved through the grievance procedure under their
25 collective bargaining agreement and, if it remains unresolved, through
26 voluntary arbitration. Unless otherwise agreed by the parties in writing, such
27 dispute shall be decided by the voluntary arbitrator or panel of voluntary
28 arbitrators within ten (10) calendar days from the time said dispute was
29 referred to voluntary arbitration.

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

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

41 As used herein, a wage distortion shall mean a situation where an increase in
42 prescribed wage rates results in the elimination or severe contraction of
43 intentional quantitative differences in wage or salary rates between and among

1 employee groups in an establishment as to effectively obliterate the distinctions
2 embodied in such wage structure based on skills, length of service, or other
3 logical bases of differentiation.

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

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

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

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

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

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

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

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

39 Where the application increases in the wage rates that may be prescribed
40 pursuant to this Act results in distortions as defined under existing laws in the wage
41 structure within an establishment and gives rise to a dispute therein, such dispute
42 shall first be settled voluntarily between the parties and in the event of a deadlock,

1 the same shall be finally resolved through compulsory arbitration by the regional
2 branches of the National Labor Relations Commission (NLRC) having jurisdiction over
3 the workplace.

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

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

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

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

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

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

41 Any official or employee separated from the service as a result of the abolition
42 of office pursuant to this Act shall be entitled to appropriate separation pay and
43 retirement and other benefits accruing to them under existing laws. In lieu thereof, at

1 the option of the employee, he shall be preferentially considered for employment in
2 the government or in any of its subdivisions, instrumentalities, or agencies, including
3 government-owned or controlled corporations and their subsidiaries.

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

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

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

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

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

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

31 Approved,