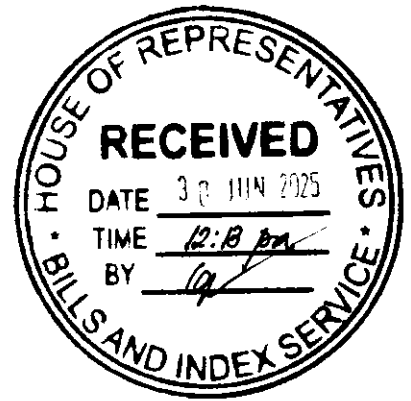


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH CONGRESS
First Regular Session

House Bill No. 52



Introduced by TUCP Partylist Representative
HON. RAYMOND DEMOCRITO C. MENDOZA

EXPLANATORY NOTE

The TUCP Party-list is refiling this proposed Public Service Labor Relations bill to uphold the fundamental right to freedom of association of our over two million workers in Government. This was approved by the House Committee on Civil Service and Professional Regulation in both the 18th and 19th Congresses but failed to be referred to the plenary due to lack of material time and competing equally priority legislative measures. It is fervently hoped that in this 20th Congress we can finally enact this long-overdue Public Sector Labor Relations bill into law.

It cannot be overemphasized that the 1987 Philippine Constitution recognizes the public sector employees' right to self-organization through Article IX-B. This Constitutional guarantee was translated into Executive Order No. 180, Series of 1987, or the "Guidelines for the Exercise of the Right to Organize of Government Employees, Creating a Public Sector Labor-Management Council, and For Other Purposes." Executive Order No. 180 and its implementing rules and regulations have since been the governing issuances on public sector labor relations. However, it has not been amended despite the need and several attempts to create an enabling environment for decent work in the public sector and address the permeating patronage system, bloated bureaucracy, "transaction costs/corruption in the bureaucracy," and inefficient public service. There are also longstanding observations by the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) on gaps in the laws and practices concerning public-sector unionism.

Further, on 14 August 2017, the Philippine Government ratified ILO Convention 151, known as the Labour Relations (Public Service) Convention, 1978, or the "Convention concerning Protection of the Right to Organise and Procedures for Determining Conditions of Employment in the Public Service" after nine (9) long

years of campaigning by the public sector organizations for its ratification. The ratification is expected to usher in an era of robust and progressive labor relations environment for the public service that can only be realized with the passage of this proposed Bill into law. The main argument in the ratification of ILO Convention No. 151 was the mobilization of the public sector employees in reforming the bureaucracy and in addressing corruption and widespread "endo" or end of contract engagement of public service employees in core or critical services through job orders or contracts of service, casuals and other forms of contractual work.

The essentiality of having a robust and progressive labor relations environment cannot be overemphasized. It would create conditions for professionalized, trained, motivated, and efficient public sector employees that are essential in fostering sustainable good and high-quality public service.

With this and the obligation arising from the ratification of ILO Convention No. 151, upgrading Philippine laws and practices on freedom of association and collective bargaining in the public sector is imperative. Hence, this proposed measure to address the gaps in public sector labor relations, particularly on: protection of the right to organize, facilities to be afforded to public sector employees' organizations, procedures for determining the terms and conditions of employment, civil and political rights, and settlement of disputes arising or in connection with the determination of terms and conditions of employment.

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


HON. RAYMOND DEMOCRITO C. MENDOZA
TUCP Partylist Representative

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH CONGRESS
First Regular Session

House Bill No. 52

Introduced by TUCP Partylist Representative
HON. RAYMOND DEMOCRITO C. MENDOZA

AN ACT
STRENGTHENING THE CONSTITUTIONAL RIGHTS OF GOVERNMENT
EMPLOYEES TO SELF-ORGANIZATION, COLLECTIVE BARGAINING
AND NEGOTIATION, PEACEFUL CONCERTED ACTIVITIES, AND USE
OF VOLUNTARY MODES OF DISPUTE SETTLEMENT

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

ARTICLE I
DECLARATION OF POLICY

SEC. 1. *Short Title.* This Act shall be known as the “*Public Service Labor Relations Act*”.

SEC. 2. *Declaration of Policy.* It is the policy of the State to promote the right to self-organization of government employees, to collective bargaining and negotiation and peaceful concerted activities including the right to strike in accordance with the law, and the right to participate in policy and decision-making processes affecting their rights and benefits. They shall be entitled to security of tenure, humane conditions of work, and a living wage.

Public employees shall have civil and political rights which are essential to the exercise of freedom of association, subject only to the obligations arising from their status and the nature of their function.

ARTICLE II GENERAL PROVISIONS

SEC. 3. *Coverage.* This Act shall apply to all employees in the civil service, covering all branches, subdivisions, instrumentalities, and agencies of the government, including government-owned or controlled corporations with or without original charters. For this purpose, employees covered by this Act include job order, contract of service, and barangay workers.

SEC. 4. *Definition of Terms.* As used in this Act:

- (a) *Agency* refers to any bureau, office, commission, administration, board, committee, institute, government-owned or controlled corporation with original charter or any other unit of the national government, as well as provincial, city, municipal government except as hereinafter otherwise provided.
- (b) *Certification election* refers to the process of determining through secret ballot the exclusive bargaining representative of the employees in an appropriate organizational unit for purposes of collective bargaining or negotiation.
- (c) *Certified exclusive union* refers to a duly registered employees' organization which has been certified by the Board as the exclusive bargaining and negotiating representative having majority support of the agency's rank-and-file employees determined through the conduct of a certification election.
- (d) *Civil Service* refers to the men and women employed to carry out public services in all branches, agencies, subdivisions and instrumentalities of the government, including government owned or controlled corporations, local government units, state universities and colleges, and entities and corporations sequestered by the government.
- (e) *Collective bargaining agreement* refers to the negotiated contract at the organizational unit between a certified exclusive bargaining representative and the concerned public authority or appropriate authority, including those negotiated at the sectoral or national levels by sectoral or national federation or confederations with the concerned public authorities on the terms and conditions of employment and improvements thereof.
- (f) *Conciliation-mediation* refers to a mode of dispute settlement that brings together two disputing parties to negotiate a mutually acceptable solution through a non-litigious, non-adversarial, less expensive and expeditious mechanism.
- (g) *Confederation* refers to the organization of two or more federations as defined in this Act.
- (h) *Department* refers to any of the departments in the Executive Branch.
- (i) *Employee* refers to any person in the civil service of whatever category or class up to the division chief level, including those who are engaged under

different forms of contractual arrangements in the public service such as job order, contract of service, or through a memorandum of understanding. It also includes those whose work have ceased in connection with any current employee-management dispute or unfair labor practice or whose dismissal from the services has not attained finality.

- (j) *Entry position* refers to the first level position in the career or non-career service which include clerical, trades, crafts, and custodial service positions that involve non-professional or sub professional work in a non-supervisory or supervisory capacity requiring less than four (4) years of collegiate studies.
- (k) *Federation* refers to a duly registered labor organization with at least five (5) affiliate employees' organizations, each of which must be a duly certified exclusive bargaining and negotiating representative in an organizational unit.
- (l) *Grievance* refers to any question or complaint regarding an employee's working conditions, relationship or employment status including question or interpretation or implementation of any of the provisions of the collective bargaining or negotiation agreement, or interpretation or enforcement of company personnel policies.
- (m) *Inter-union dispute* refers to any conflict between and among registered employees' organization or federation or confederation involving representation questions for purposes of collective bargaining or negotiation or representation or to any dispute other than an intra-union dispute as defined in herein.
- (n) *Intra-union dispute* refers to any conflict between and among employees' organization's members, including grievances arising from any violation of the rights and conditions of membership, violation of or disagreement over any provision of the constitution and by-laws, or dispute arising from affiliation to any organization.
- (o) *Labor dispute* refers to any controversy or matter concerning terms and conditions of employment or the association or representation of persons in negotiating, fixing, maintaining, changing or arranging the terms and conditions of employment, regardless of whether the party to the dispute stands in the proximate relation of employer-employee relations.
- (p) *Labor organization* refers to any duly registered employees' organization, or duly registered federation or confederation of employees' organizations, however they are composed, that exist in whole or in part for the purpose of collective bargaining or of dealing with the agency or agencies concerning terms and conditions of employment.
- (q) *Negotiating unit* refers to the constitutional bodies and their regional offices, the executive department including services and staff bureaus and regional offices, line bureaus and their regional offices, attached agencies, the legislature, the judiciary, state universities and colleges, government-owned or controlled corporations with or without original charter, and, provinces, cities and municipalities.
- (r) *Non-competitive positions* may refer to any of the following:

- (1) *Policy determining position* refers to one which vests in the occupant the power to formulate policies for the government or any of its agencies, subdivisions, or instrumentalities like that of a member of the cabinet.
- (2) *Primarily confidential position* refers to one where the occupant enjoys more than the ordinary confidence of the appointing power but bears such close intimacy which relieves the latter from misgiving of betrayal or personal trust on confidential matters.
- (3) *Highly technical position* refers to one which requires the occupant to possess specialized skill or training such as scientists or legal counsels.
- (s) *Organizational unit* refers to an identifiable government unit, such as the constitutional bodies and their regional offices; the executive department including services and staff bureaus; line bureaus; attached agencies; the Legislature; the Judiciary; state universities and colleges; government-owned or controlled corporations with or without original charter; provinces; cities; municipalities; regional offices (composed of provincial, district, local offices) of a department, agency, office, or government-owned or controlled corporations; and such other identifiable government units as may be considered by the Board.
- (t) *Peaceful concerted activities* refer to actions taken by an employees' organization in relation to a labor dispute which may include submission of petitions, hanging of streamers, distribution of campaign materials, conduct of peaceful assembly or wearing of buttons or armed band, and does not include any form of work stoppage or disruption of public order and safety, or actions that may pose imminent danger to life, personal safety, or the health of a part of, or the whole population.
- (u) *Position* refers to an occupational title with a defined set of duties and responsibilities to be performed by an individual, either on a full time or part time basis.
- (v) *Public authority or appropriate authority* refers to an authority which has a legal mandate to govern, or administer a part or aspect of branches, agencies, subdivisions and instrumentalities of the government including government owned or controlled corporation, local government units, state universities and colleges, and entities and corporations sequestered by the government.
- (w) *Red tagging* refers to any malicious blacklisting, profiling, surveillance, portrayal, description, or characterization of any members or officers or public sector union, federation or confederation, critical against, or not supportive of the actions, decisions, policies, and issuance of the government in general or their public employer, or management.
- (x) *Registered union* refers to any employees' organization or association duly registered with the Bureau of Labor Relations (BLR) and includes any branch or local Chapter thereof.
- (y) *Social dialogue* refers to all types of negotiation, consultation, or simply exchange of information between or among representatives of government and

employees on issues of common interest or relating to economic and social policy.

- (z)** *Strike* refers to any temporary stoppage of work or slow-down by the concerted action of employees as a result of a labor dispute, as defined in this Act.
- (aa)** *Strike area* refers to the immediate vicinity actually used by picketing employees in moving to and from before all points of entrance and exit from the office of the organizational unit or negotiating unit.
- (bb)** *Strike-breaker* refers to any person who obstructs, impedes, or interferes by force, violence, correction, threats, or intimidation any peaceful picketing by employees due to a labor dispute, as defined in this Act.
- (cc)** *Union or employees' organization* refers to a labor organization formed and operating in an appropriate organizational unit which aim to protect and promote employees' rights and benefits in accordance with the law.
- (dd)** *Union busting* refers to any form and range of activities, actions, decisions, issuances undertaken to constraint, attack, interfere, harass, intimidate, undermine, disrupt or prevent the organization of public sector union, federation or confederation from freely functioning in order to place them under the influence or control of management or their representative, or agent.
- (ee)** *Voluntary arbitration* refers to the constitutionally mandated preferential mode of dispute settlement of labor dispute.
- (ff)** *Voluntary recognition* refers to the process by which a duly registered employees' organization is recognized as the exclusive bargaining representative of the employees in the organizational unit sought to be represented.

ARTICLE III

RIGHT TO SELF-ORGANIZATION

SEC. 5. *Coverage of the Right to Self-Organization.* All workers employed by the government shall have the right to self-organization and to form, join, or assist employee organizations, national or sectoral federations or confederations of their own choice for collective bargaining or negotiation and protection of their interests.

Government employees may also participate, in conjunction with appropriate government authorities, employee management committees, work councils and other forms of employee participation schemes.

SEC. 6. *Limitation on the Right to Self-Organization of employees under different forms of public service work arrangements.* Employees under different forms of public service work arrangements such as job order, contract of service, or on memorandum of understanding, or casual, are eligible to join or assist an employees' organization in the organizational unit. They however cannot form a separate employees' organization of their own in an organized organizational unit.

SEC. 7. *Ineligibility of managerial, or employees in positions of trust to join the rank-and-file union.* Managerial or employees in positions of trust shall not be eligible to join, form or assist any rank-and-file employees' organization. They may, however, have the right to form or join any sectoral, national or international federation or confederation of their choice.

Accordingly, when a member of a rank-and-file employees' organization is designated to a position which has been declared primarily confidential or policy determining or managerial in nature or by law, membership to the rank-and-file employees' organization shall automatically be deemed suspended for the duration of the designation.

SEC. 8. *Exclusion from the right to self-organization.* Members of the Armed Forces of the Philippines, including police officers and members of the Philippine National Police who are vested with the duty and function of ensuring the external and internal security of the State are excluded from the coverage of the right to self-organization.

However, members of the Bureau of Fire Protection and Bureau of Jail Management and Penology who are not involved in maintaining the security of the State shall enjoy the right to organize.

SEC. 9. *Effect of inclusion as members of ineligible or excluded employee in the rank-and-file organization.* The inclusion of ineligible or excluded government employees, as provided for in this Act, in the rank-and-file employees' organization shall not be a ground for the cancellation of union registration, but said employees shall be automatically deemed removed from the list of membership of the union.

SEC. 10. *Protection of the right to self-organization.* No employee shall be discriminated against by reason of their membership in any employees' organization or participation in the exercise of the right to self-organization. Employment in the civil service shall not be subject to a condition not to join, assist or form an employees' organizations. It shall be unlawful for any person to restrain, coerce or interfere with employees' exercise of the right to self- organization.

ARTICLE IV

RIGHTS OF REGISTERED ORGANIZATION AND RIGHTS AND CONDITIONS OF MEMBERSHIP IN AN EMPLOYEES' ORGANIZATION

SEC. 11. *Rights of a registered organization.* A registered employees' organization or federation or confederation shall have the following rights:

- (a) To act as representative of its members for the purpose of representation, social dialogue, collective bargaining and negotiations;
- (b) To be certified as the exclusive bargaining or negotiating representative of all employees in an organizational unit in the case of employees' organization;
- (c) To be recognized as the bargaining or negotiating representative of all member-employees' organizations for national or sectoral bargaining on matters pertaining to the welfare and benefits of government employees, in the case of federation or confederation;
- (d) In the case of federations, to issue a charter certificate to chartered employees' organization as guarantee of its existence and legitimacy to be the exclusive bargaining or negotiating representative of the organizational unit sought to be represented subject, however, to submission of the charter certificate and accompanying application for registration as provided for in this Act;
- (e) To own property, real or personal, for the use and benefit of the organization and its members;
- (f) To sue and be sued in its registered name;
- (g) To be afforded facilities to enable a certified employees' organizations to carry out their functions promptly and efficiently, both during and outside their hours of work, including union or membership dues payroll deduction, time-off for union activities without loss of pay or benefits, access to workplaces and prompt access to management, office spaces and equipment, transportation and communications, authorization to post organization or trade union notices, right to attend meetings, and right of assembly;
- (h) To undertake all other activities not contrary to law, for the benefit of the organization and its members; and
- (i) Pursuant to the constitutional provision on the right to information and access to official records, and documents and papers pertaining to official transactions or decisions as well as government research data used as basis for policy development, an employees' organization, federation and confederation shall have access to public documents which shall include budget and financial statements.

The income of legitimate employees' organization or federation or confederation, shall be exempt from tax in accordance with Section 30(a) of the National Internal Revenue Code of 1997, as amended: *Provided*, That the income of whatever kind and character of the foregoing organizations from any owned property, real or personal, or from any activity conducted for profit regardless of the disposition made of such income, shall be subject to tax imposed under the same code.

All grants, bequests, endowments, donations and contributions made to and used actually, directly and exclusively by the employees' organization, federation, or confederation for official purposes shall be exempt from donor's tax and the same shall be considered as allowable deduction from gross income for purposes of

computing the taxable income of the donor in accordance with the provisions of the National Internal Revenue Code of 1997, as amended.

SEC. 12. *Rights and conditions of membership in an employees' organization, federation or confederation.* The following are the rights and conditions of membership in an employees' organization or federation or confederation:

- (a) No arbitrary or excessive initiation fees shall be required of the members nor shall any arbitrary, excessive or oppressive fine and forfeiture of membership be imposed;
- (b) The members shall be entitled to full and detailed reports from their officers and representatives of all financial transactions as provided for in the constitution and by-laws of the organization;
- (c) The members shall directly elect their officers in the employees' organization, as well as their national officers in the federation or confederation to which they are affiliated. No qualification requirement for candidacy to any position shall be imposed other than membership in good standing in the subject organization, federation or confederation. The secretary or any other responsible officer shall furnish the Public Service Labor Relations Board (PSLRB) 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 organization;
- (d) The members shall determine by secret ballot after due deliberation, any question of major policy affecting the entire membership of the employees' organization, federation or confederation unless the nature of the organization or *force majeure* renders such secret ballot impractical, in which case, the Board of Directors of the organization may make the decision in behalf of the general membership;
- (e) No person who has been convicted of a crime involving moral turpitude shall be eligible for election as an officer or for appointment to any position in the employees' organization, federation or confederation;
- (f) No officer, agent or member of the employees' organization, federation or confederation shall collect any fees, dues, or other contributions in its behalf or make any disbursement of its money or funds unless one is duly authorized pursuant to its constitution and by-laws;
- (g) Every payment of fees, dues or other contributions by a member shall be evidenced by a receipt signed by the officer or agent making the collection and entered into the record of the employees' organization, federation or confederation to be kept and maintained for the purpose;
- (h) The funds of the employees' organization, federation or confederation shall not be applied for any purpose or object other than those expressly provided by its constitution and by-laws or those expressly authorized by written

resolution adopted by the majority of the members at a general meeting duly called for the purpose;

- (i) Every income or revenue of the employees' organization, federation or confederation shall be evidenced by a record showing its source, and every expenditure of its funds shall be evidenced by a receipt from the person to whom the payment is made, which shall state the date, place and purpose of such payment. Such record or receipt shall form part of the financial records of the organization, federation or confederation.
- (j) Any action involving the funds of the employees' organization, federation or confederation shall prescribe after three (3) years from the date of submission of the annual financial report to the PSLRB or from the date the same should have been submitted as required by law, whichever comes earlier: *Provided*, That this provision shall apply only to registered employees' organization or federation or confederation which has submitted the financial report requirements under this Act: *Provided, further*, That failure of any employees' organization, federation or confederation to comply with the periodic financial reports required by law and such rules and regulations promulgated thereunder six (6) months after the effectivity of this Act shall be a ground for disciplinary action against the responsible officers;
- (k) The officers shall not be paid any compensation other than the salaries and expenses due to their positions and shall be specifically provided for in its constitution and by-laws, or in a written resolution duly authorized by a majority of all the members at a general membership meeting duly called for the purpose. The minutes of the meeting and the list of participants and ballots cast shall be subject to inspection by the PSLRB through the Bureau of Labor Relations (BLR) as its duly authorized representative. Any irregularities in the approval of the resolutions shall be a ground for impeachment or expulsion from the employees' organization, federation or confederation;
- (l) The treasurer of an employees' organization and every officer thereof who is responsible for the account of such organization or for the collection, management, disbursement, custody or control of the funds, moneys and other properties of the organization, shall render to the organization and to its members a true and correct account of all moneys received and paid to the organization since assumption of office or since the last day on which an account was rendered, and of all bonds, securities and other properties of the organization entrusted to the treasurer's custody or control. The rendering of such account shall be made:
 - (1) At least once a year within thirty (30) days after the close of its fiscal year;
 - (2) At such other times as may be required by a resolution of the majority of the members of the organization; and
 - (3) Upon vacating the office.

The account shall be duly audited and verified by affidavit and a copy thereof shall be furnished the Secretary of Labor.

- (m) The books of accounts and other records of the financial activities shall be open to inspection by any officer or member thereof during office hours;
- (n) No special assessment or other extraordinary fees may be levied upon the members unless authorized by a written resolution of a majority of all the members in a general membership meeting duly called for the purpose. The secretary of the organization shall record the minutes of the meeting including the list of all members present, the votes cast, the purpose of the special assessment or fees, and the recipient of such assessment or fees. The record shall be attested to by the president.
- (o) Other than for mandatory activities, no special assessments, attorney's fees, negotiation fees or any other extraordinary fees may be checked off from any amount due to an employee without an individual written authorization duly signed by the employee. The authorization should specifically state the amount, purpose and beneficiary of the deduction; and
- (p) It shall be the duty of any organization and its officers to inform its members on the provisions of its constitution and by-laws, collective bargaining agreement, the prevailing labor relations system and all their rights and obligations under existing laws. For this purpose, reasonable dues to finance labor relations seminars and other labor education activities may be assessed.

ARTICLE V

PUBLIC SERVICE LABOR RELATIONS BOARD

SEC. 13. *Public Service Labor Relations Board (PSLRB); Composition.*

The Public Service Labor Relations Board (PSLRB) is hereby constituted and attached to the Department of Labor and Employment (DOLE) for policy coordination. It shall implement and administer the provisions of this Act, and shall be composed of the following:

- (a) Duly appointed government representative with rank equivalent to Undersecretary, as fulltime Chairperson;
- (b) Duly elected heads of registered federations or confederations, as members; and
- (c) One (1) duly elected sectoral representative from each of the national government agencies (NGAs); government owned or controlled corporations with or without original charter (GOCCs); local government units (LGUs); state universities and colleges (SUCs), local universities and colleges, technical and vocational schools; judiciary; legislative; constitutional bodies; public school teachers and public health workers, as members.

To help ensure the free, democratic, inclusive selection and representation of PSLRB members, there shall be under the National Workers Congress, a National Council of Leaders composed of all presidents of sectoral employees' organizations,

federations and confederations, Regional and Sectoral Councils each for Luzon, Visayas, Mindanao, and the National Capital Region.

SEC. 14. *Original and exclusive jurisdiction of the PSLRB.* The PSLRB shall have original and exclusive jurisdiction to hear and decide the following cases:

- (a) Unfair labor practice;
- (b) Disputes arising in the course of the conduct of collective negotiations;
- (c) Disputes on issues resulting from the interpretation or implementation of the grievance machinery;
- (d) Determination of the presence or absence of a strike;
- (e) Disputes on the issues from the interpretation or implementation of the provisions of collective bargaining agreements;
- (f) Violation of the fundamental rights of workers; and
- (g) Grave abuse of management prerogatives.

SEC. 15. *Appellate jurisdiction of the PSLRB.* The PSLRB shall have appellate jurisdiction on decision or orders of the BLR on:

- (a) Representation issues;
- (b) Inter- and intra-employees' organization, federation or confederation disputes;
- (c) Issues arising from the election or expulsion of officers of employees' organization, federation or confederation;
- (d) Certification election; and
- (e) Verification of voluntary recognition.

SEC. 16. *Support and assistance of the Civil Service Commission, Department of Labor and Employment, National Conciliation and Mediation Board and law enforcement agencies.*

(a) The PSLRB shall have a number of employees as may be necessary. It shall be supported and assisted by the Civil Service Commission (CSC), DOLE and the National Conciliation and Mediation Board (NCMB) in the administration of public sector labor relations.

(b) Specific to the DOLE, the BLR shall, pursuant to its existing mandate under Executive Order No. 180, Series of 1987, and the Labor Code of the Philippines, as amended, continue to conduct hearings on inter or intra-union disputes with respect to public sector organizations, including the registration and cancellation of registration of employees' organization, federation or confederation. The decision of the BLR shall be appealable to the PSLRB within fifteen (15) calendar days from the date of receipt thereof by the parties.

(c) The NCMB shall, for purposes of this Act, create a conciliation-mediation unit and assign the appropriate personnel who shall take

cognizance of public sector concerns for conciliation-mediation services whether individual or disputes arising from collective bargaining negotiations or interpretations. Unless there is a need for adjustments, the existing guidelines on conciliation-mediation services shall be observed.

Further, a unit for public sector labor relations disputes shall be created from the existing voluntary arbitration system administered by the NCMB as established pursuant to Title VII-A, Book V of the Labor Code of the Philippines, as amended, to take cognizance of disputes such as unfair labor practice or assumed cases by the PSLRB or any other cases that the parties may opt to submit to voluntary arbitration subject to existing guidelines and schedule of fees. The PSLRB however, at its option, may directly conduct voluntary arbitration.

Any national or local law enforcement agency or instrumentality of the government may be tapped by the PSLRB to act under its direct and immediate supervision, to enforce and execute its decision, orders, and rulings.

SEC. 17. *Writ of Preliminary Injunction or Temporary Restraining Order.*

The PSLRB may issue a writ of preliminary injunction or temporary restraining order when, on the basis of the allegations in a petition, it is established that the acts indicated in the complaint involve or is arising from an employee-management dispute, if not restrained, will cause grave or irreparable injury to any party or render ineffectual any decision in favor of such party.

The PSLRB shall require the petitioner to post a bond and the writ of preliminary injunction or temporary restraining order shall become effective only upon approval of the bond which shall answer for any damage that may be suffered by the party enjoined if it is finally determined that the petitioner is not entitled to the ancillary relief prayed for.

SEC. 18. *Issuance of Subpoenas.* The PSLRB shall have the power to require the appearance of any person or the production of any paper, document or matter relevant to a labor dispute under its jurisdiction, either at the request of any interested party or upon its initiative.

SEC. 19. *Grounds for Contempt.* The PSLRB may cite a person for contempt on any of the following grounds:

- (a) Disobedience or resistance to lawful orders, decisions, rulings, summons or subpoena, or any other issuance of the PSLRB, or
- (b) Unlawful interference with the proceedings of the PSLRB, improper conduct tending to directly or indirectly impede, obstruct, delay or hamper the implementation of any order, decision or ruling as provided for in this Act.

SEC. 20. *Decisions of the PSLRB.* The decisions of the PSLRB in the exercise of its appellate jurisdiction are final and executory unless a motion for reconsideration is filed by the aggrieved party within fifteen (15) calendar days from the receipt of the decision and only on the basis of palpable or potent errors. The PSLRB shall not entertain any second motion for reconsideration.

The decisions of the PSLRB, in the exercise of its original or appellate jurisdiction, may be elevated to the Court of Appeals through the extra-ordinary remedy of petition for certiorari.

SEC. 21. *Operations of the PSLRB.* The PSLRB shall have a Technical Executive Committee (TEC) as its technical and implementing arm and a permanent Secretariat. The PSLRB shall designate from among themselves the chairperson and shall determine the number and composition of the members of the TEC. The TEC shall regularly meet to: (a) pre-process issues and concerns and submit recommendations for approval and issuance by the PSLRB; (b) monitor, perform or implement decisions, activities and projects as approved by the PSLRB; and (c) perform such other functions as may be required by the PSLRB.

The DOLE shall allocate the necessary funds and resources to ensure the smooth operations of the PSLRB.

ARTICLE VI REGISTRATION AND CANCELLATION OF REGISTRATION

SEC. 22. *Requirements for registration.* An employees' organization, federation or confederation shall acquire legal personality and shall be entitled to the rights and privileges under this Act on the date of issuance of a certificate of registration by the BLR.

- (a) The application for registration of employees' organization shall be accompanied by the following:
 - (1) A statement indicating the name of the applicant employees' organization, its principal address, names of its officers, total number of members and the number of employees in the organizational unit where the applicant seeks to operate;
 - (2) Duly ratified constitution and by-laws, minutes of its adoption or ratification and list of members who participated in its adoption and ratification;
 - (3) Support signatures of at least ten percent (10%) of the total membership of the applicant organization;
 - (4) If the applicant union has been in existence for one or more years, copies of its annual financial report; and;

- (5) A registration fee of such amount as may be determined by the BLR, charged upon every application for registration of employees' organizations under this Act.
- (b) The application for registration of a chartered employees' organization shall be accompanied by the following:
 - (1) Duly authenticated copy of the issued federation charter certificate;
 - (2) Duly ratified constitution and by-laws, minutes of its adoption or ratification and list of members who participated in its adoption and ratification;
 - (3) If the applicant union has been in existence for one or more years, copies of its annual financial report; and,
 - (4) A registration fee of such amount as may be determined by the BLR, charged upon every application for registration of employees' organizations under this Act.
- (c) The application for registration of a federation or confederation shall be accompanied by the following:
 - (1) A statement indicating the name of the applicant federation or confederation, its principal address, and the names of its officers;
 - (2) Duly ratified constitution and by-laws, minutes of the organizational meeting on its adoption or ratification, and list of affiliated unions and members who participated in its adoption and ratification;
 - (3) Copies of registration certificates and affiliation confirmation resolution of at least five (5) affiliate or member labor organizations in the case of federations;
 - (4) Copies of registration certificates and affiliation confirmation resolution of at least two (2) affiliate or member federations in the case of confederations;
 - (5) If the applicant has been in existence for one or more years, copies of its most recent audited financial statement; and,
 - (6) A registration fee of such amount as may be determined by the BLR, charged upon every application for registration of employees' organizations under this Code.
- (d) All applications for registration and its accompanying documents as stated shall be verified under oath by the applicant's secretary or treasurer, and attested to by its president.

SEC. 23. *Incomplete application; Non-denial.* Incomplete applications for registration shall not be accepted. Upon receipt of the BLR, an application for registration that has complied with all the required documentation and payment of registration fees shall be deemed approved.

SEC. 24. *Reportorial Requirements; Probative value.* All registered employees' organizations shall annually submit an organizational report such as the elected officers, principal address, audited annual financial statement and updated list

of members with list of set of officers, complete address and contact persons. The reportorial requirements submitted to the BLR shall have probative value and shall serve as evidence on the state of affairs of the organization and on issues internal or subject of intra-organizational dispute. Non-submission of reportorial requirements shall not be a ground for cancellation of registration.

SEC. 25. *Grounds for cancellation of registration.* A petition for the cancellation of registration of an employees' organization or federation or confederation is an independent proceeding filed by at least forty percent (40%) of the total membership of the subject organization before the BLR on the ground of misrepresentation, false statement, or fraud in the formation of the organization. No *motu proprio* or administrative cancellation of registration by the BLR or by the PSLRB shall be allowed.

SEC. 26. *Effect of pendency of a petition for cancellation of registration.* The pendency of the petition for cancellation of registration shall not affect the legitimate personality of the employees' organization and all the rights appurtenant thereto, including the right to participate or file a petition for certification election or be certified as the exclusive bargaining agent to negotiate a collective bargaining agreement, absent a cease-and-desist order from the BLR, or the PSLRB, in the case of an appeal for the reconsideration of the cancellation of registration.

SEC. 27. *Bureau of Labor Relations' report of registration and cancellation to the PSLRB.* The BLR shall make a periodic report on registered and cancelled registration of employees' organizations, federations and confederations to the PSLRB.

ARTICLE VII EXCLUSIVE BARGAINING REPRESENTATIVE

SEC. 28. *Certification of exclusive bargaining representative in an unorganized organizational unit.* A duly registered employees' organization, which has the support of at least twenty percent (20%) of the total membership of the appropriate organizational unit, may petition for the conduct of a certification election before the PSLRB and to be certified as the exclusive bargaining representative of the said organizational unit. The PSLRB shall refer the petition to the BLR for determination and conduct of a certification election.

The employees' organization who garnered the most number of votes shall be certified by the PSLRB as the exclusive bargaining representative of the rank-and-file employees in the organizational unit sought to be represented.

SEC. 29. *Request for voluntary recognition.* A duly registered employees' organization may opt to file a request for recognition with the appropriate authority in

the organizational unit if it has the support of more than a majority of employees in the organizational unit sought to be represented.

A joint submission, under oath, to the PSLRB of majority support from the members of the organizational unit and confirmation of majority support by the appropriate authority therein shall warrant the posting of the request for fifteen (15) days in at least two (2) conspicuous places in the organizational unit sought to be represented. After compliance with the posting requirement, a certificate of recognition shall be issued to the employees' organization as the exclusive bargaining representative.

However, when there are two (2) or more registered employees' organizations in the organizational unit sought to be represented at the time the request for recognition was filed with the appropriate authority, or if there is a question on the claimed majority support, the PSLRB shall direct the BLR to conduct a certification election to determine the exclusive bargaining representative regardless of the willingness of the appropriate authority to grant recognition.

SEC. 30. *Representation issue in an organized organizational unit.* In an organized organizational unit, a duly registered employees' organization may challenge the representative status of the incumbent exclusive bargaining representative by filing with the PSLRB a petition for certification election, with the support signatures of at least twenty percent (20%) of its total membership, within the freedom period of sixty (60) days before the expiration of the collective bargaining agreement.

All existing registered employees in the organizational unit at the time of filing of the petition for certification election shall be a choice in the certification election. There shall be no union choice in the certification election.

The employees' organization that garnered a majority of the votes shall be certified by the PSLRB as the exclusive bargaining representative.

ARTICLE VIII COLLECTIVE BARGAINING AND NEGOTIATION

SEC. 31. *Levels of Collective Bargaining and Negotiation.* Collective bargaining and negotiation being essentially a social dialogue between all public sector workers and government authorities shall be regularly conducted, whether simultaneous or in succession, at the national, sectoral, and organizational levels at intervals deemed appropriate by the parties but in no case it shall be conducted beyond six (6) years.

SEC. 32. *Funding for implementation of Collective Bargaining and Negotiation agreement.* To ensure mutual full implementation of collective bargaining and negotiation agreements throughout the effectivity period, financial and other resources agreements shall be appropriated through the annual budget of the legislative, judiciary, constitutional bodies, uniformed agencies, national government agencies, state and local universities and colleges, local government units and government owned and controlled corporations. National, sectoral, and organizational bargaining agreements shall be concluded between the months of January to May before the annual budgeting processes and respective budget approval.

SEC. 33. *National bargaining and negotiation agreement Coverage.* General terms and conditions of employment of national application including the standardization of salaries, allowances and benefits for government employees that require legislative action shall be subject to collective bargaining and negotiation between representatives of all accredited public sector federations or confederations and national government authorities at regular intervals. Such terms and conditions of employment may include the following:

- (a) Reclassification, review, creation, abolition, or upgrading of positions;
- (b) Wages, and review and revision of the compensation structure;
- (c) Increase in standard allowances granted uniformly across the government;
- (d) Creation of anti-corruption advocacy and monitoring units at the national, sectoral and organizational units;
- (e) Creation of social dialogue mechanisms at the national, sectoral and organizational units;
- (f) Humane working conditions; and
- (g) Such other benefits.

SEC. 34. *Sectoral bargaining and negotiation agreement.* Sectoral collective bargaining and negotiations shall be undertaken on sector specific concerns between elected sectoral representatives and the concerned sectoral government authority, which may include terms and conditions of employment unique to the sector covered and incentives including wage and salary structure.

SEC. 35. *Organizational bargaining and negotiation agreement; Coverage.* Personnel enhancements, welfare and benefits, which must not be lower than the national or sectoral standards, may be negotiated at the level of the negotiating unit between the certified employees' union and concerned government authority:

- (a) Schedule of vacation and other leaves;
- (b) Work assignment of pregnant women;
- (c) Personnel growth and development;
- (d) Communication system within the organizational unit;

- (e) Provisions for occupational safety and health;
- (f) Provisions and facilities for handicapped personnel;
- (g) Use of gender and development budget;
- (h) Wellness and physical fitness program;
- (i) Establishment of day care facilities;
- (j) Annual medical and physical examination;
- (k) Recreational, social, athletic, and cultural activities;
- (l) Facilities requiring capital outlays;
- (m) Provident fund (management counterpart);
- (n) Hospitalization, medical, and dental services;
- (o) Rice, sugar and other subsidies;
- (p) Travel expenses;
- (q) Representation in different committees in the organizational unit, particularly in committees where decisions on employee welfare and development and productivity are being made;
- (r) Work organization;
- (s) Productivity and collective negotiation incentive;
- (t) Health maintenance benefit;
- (u) Staple food benefit;
- (v) Disaster Risk Assistance Management Allowance (DRAMA);
- (w) Renewal of licenses if these are a requirement of the work or functions being performed;
- (x) Free legal assistance for work related cases or in the exercise of the mandate of the office or function; and
- (y) Other retirement benefits.

SEC. 36. *Duty to bargain and negotiate in good faith.* Both parties to a collective negotiation and bargaining must make every effort to, in the fullest possible terms, arrive at agreed solutions on all matters of mutual interest, which must be observed and mutually carried out in good faith. Good faith includes observance of its binding effect on the parties and their successors-in-interest, even after a change in administration or leadership, of the terms and conditions of their collective bargaining agreement.

Collective agreements at all levels must include a built-in and binding dispute resolution mechanism such as a grievance machinery and resort to voluntary arbitration on issues of implementation or interpretation of its provisions.

SEC. 37. *Registration of Collective Bargaining and Negotiation Agreements.* Collective bargaining and negotiation agreements whether in a national, sectoral, or a specific organizational unit shall be submitted to the PSLRB for administration and monitoring, and to the BLR for registration, recording, and statistical purposes.

ARTICLE IX

UNFAIR LABOR PRACTICE

SEC. 38. *Unfair Labor Practice of the Agency.* The following acts shall constitute unfair labor practices on the part of a government agency:

- (a) Interfering with, restraining or coercing employees in the exercise of their right to self-organization;
- (b) Requiring as a condition of employment that an employee joins or not join an employee organization, federation, or confederation, or withdraw from one to which the employee belongs;
- (c) Discriminating in regard to work schedule, granting of benefits, places of assignment, and other terms and conditions of employment in order to encourage or discourage membership in any employee organization;
- (d) Terminating the services or discriminating against an employee for having filed charges or express willingness to expose corrupt practices of heads of agencies, or members of the board, or any government executive;
- (e) Refusing to enter into collective bargaining with the accredited or certified employee organization;
- (f) Violating any of the provision of the collective bargaining agreement;
- (g) Union busting;
- (h) Violation of the freedom of association and the right to strike;
- (i) Indiscriminate use of management prerogatives;
- (j) Failure to act on any form of violence in the workplace; and
- (k) Red-tagging.

SEC. 39. *Unfair labor practice of the employees' organization.* The following acts shall constitute unfair labor practice on the part of the employee organizations:

- (a) Restraining or coercing employees in the exercise of their right to self-organization;
- (b) Causing or attempting to cause the agency head to discriminate against an employee who has not joined the employee organization;
- (c) Refusing to negotiate collectively with the duly authorized representative of the agency; and
- (d) Violating any of the provision of the collective bargaining agreement.

ARTICLE X

GRIEVANCE MACHINERY AND SETTLEMENT OF DISPUTES

SEC. 40. *Settlement of disputes arising in connection with the determination of terms and conditions of employment.* There shall be established an independent, efficient, speedy and impartial dispute settlement mechanism for terms and conditions of employment which shall start at the organizational unit through the grievance

machinery, third party intervention through conciliation-mediation services unit for unresolved grievance, and voluntary arbitration for all unresolved labor relations-related disputes.

SEC. 41. *Grievance machinery.* Each department or agency and employees' organization of the organizational unit shall establish and administer a grievance machinery.

Every employee has the right to have one's grievance adjudicated as expeditiously and as fairly as possible.

A complaint may be filed by an aggrieved employee or by the employee organization to which the employee belongs in accordance with the rules issued by the PSLRB.

SEC. 42. *Conciliation-mediation public sector individual or collective bargaining labor dispute.* Unresolved grievance, or an individual or collective bargaining dispute may be processed, at the option of the parties, through the conciliation-mediation services of the NCMB, upon referral by the PSLRB.

SEC. 43. *Voluntary arbitration.* All labor relations and related disputes in the public sector shall be submitted for voluntary arbitration.

SEC. 44. *Voluntary arbitration unit; Accreditation.* The voluntary arbitrators for the public sector shall be accredited by the PSLRB pursuant to an accreditation procedure and requirements it may promulgate which shall include minimum hours of training on public service laws, rules and regulations, and appropriate clearances.

Accredited voluntary arbitrators shall submit to the PSLRB, regular reports on cases handled, and shall undergo enhancement training on public sector rules and regulations to be listed in the roster of public sector arbitrators of good standing.

SEC. 45. *Assignment of cases; Finality of voluntary arbitration decision.* In the absence of an agreement by the parties to their voluntary arbitrators, the PSLRB shall facilitate the assignment and raffle of cases to arbitrators of good standing.

SEC. 46. *Award or decisions of the voluntary arbitrators.* Awards or decisions of the voluntary arbitrator shall contain the facts and the law on which the award or decision is based. The award or decision shall be final and executory ten (10) calendar days after the receipt of the copy of the award or decision by the parties unless an appeal is timely filed to the Court of Appeals.

ARTICLE XI STRIKES

SEC. 47. *Right to strike.* The right of government employees to engage in peaceful concerted activities including the right to strike for purposes of collective bargaining or for mutual benefit and protection shall be recognized and respected: *Provided*, That the grounds, procedures and cooling off period requirement in Article 278 of the Labor Code of the Philippines, as amended, shall be observed: *Provided further*, That an inter-union or intra-union dispute shall not be a ground for strike.

SEC. 48. *Minimum service requirement.* Considering the nature of public service, the duly registered employees' organization and the appropriate authority in the organizational unit shall ensure a minimum level of continuous service to the public for the duration of the concerted activities or strike.

SEC. 49. *Compulsory arbitration by the PSLRB in essential services.* The PSLRB shall assume cases of concerted activities and strikes by employees and duly registered employees' organizations in an organizational unit that renders essential services where any interruption will cause imminent danger to the life, safety or health of part or in whole of the population, which include direct patient care in public health institutions, public air traffic control, or prison services, for speedy conciliation and compulsory arbitration proceedings and resolution.

SEC. 50. *Compensatory guarantee.* The PSLRB shall decide or resolve a dispute within thirty (30) calendar days from the date of assumption of the labor dispute. The resolution or decision of the PSLRB shall be final and executory ten (10) calendar days from receipt by the parties of the copy of the resolution or decision.

SEC. 51. *No disciplinary action arising from a labor dispute.* No administrative or disciplinary action shall be imposed against any employee involved in the legitimate exercise of the right to strike or freedom of expression and assembly.

SEC. 52. *Guarantees against unreasonable searches or arrest arising from a labor dispute.* Pursuant to the Constitutional guarantee on the right of the people to be secured from unreasonable searches and seizures, no search or arrest arising from a labor dispute shall be made except through a valid court warrant. Government prosecutors shall first secure a clearance from the PSLRB before taking cognizance of complaints or conducting a preliminary investigation thereon and before filing in court of the corresponding information on cases arising out of or related to a labor dispute, including cases with allegations of violence, coercion, physical injuries, assault upon a person in authority and other similar acts of intimidation, or obstructing the free ingress to and egress from the workplace.

ARTICLE XII

REPRESENTATION AND SOCIAL DIALOGUE

SEC. 53. *Institutionalization of Social Dialogue.* The genuine participation and representation of public sector employees' organization, federation and confederation at various levels of policy and decision making bodies and institutions with provisions for their representation in the board such as the Government Service and Insurance System (GSIS), Employees Compensation Commission (ECC), Overseas Workers Welfare Administration (OWWA), Occupational Safety and Health Center (OSHC), PhilHealth Insurance Corporation (PHIC), Technical Education and Skills Development Authority (TESDA), Pag-IBIG Fund, Social Security System (SSS), National Tripartite Industrial Peace Council (NTIPC), Regional Tripartite Industrial Peace Council (RTIPC) and the Board of Regents or Trustees of state and local universities and colleges, shall be upheld at all times. To fully comply with the requirement for representation in social dialogue, no appointments of representatives for government employees shall be issued without the concurrence and endorsement of duly registered public sector employees' federation or confederation.

SEC. 54. *Consultative mechanisms in the civil service.* To make the delivery of government process and services transparent, graft-free and effective, and ensure harmonious labor-management relations in the civil service, the Civil Service Commission shall establish a mechanism for social dialogue and consultation with the government employees in all branches, subdivisions, instrumentalities, and agencies of the government, including government-owned or controlled corporations with or without original charters.

SEC. 55. *Representation in tripartite policy-making and/or quasi-judicial bodies.* Public sector employees shall be afforded representation in the National Tripartite Industrial Peace Council and where appropriate, in the regional and industry specific tripartite industrial peace councils lodged with the DOLE including the Tripartite Voluntary Arbitration Advisory Council (TVAAC) at the NCMB.

SEC. 56. *Presidential social dialogue and consultation.* The PSLRB, as attached to the DOLE shall regularly convene, *motu proprio* or upon request, for social dialogue and consultation between the President of the Philippines and the public sector employees' organizations on matters of national concern or major policies affecting the civil service.

SEC. 57. *Dispute or Conflict Resolution.* Cases wherein disputes arise between the employees' organization and an agency attached to or under the administration or supervision of either the duly appointed government representative as the Chairperson of the PSLRB or the Secretary of the DOLE shall be directly heard and decided by the PSLRB. In addition, the Chairperson of the PSLRB shall be excluded from all hearings and discussions thereon.

ARTICLE XIII PENAL PROVISIONS

SEC. 58. *Violation on the part of employees' organization, federation and confederation.* Any violation of the rights and conditions of membership provided in Sections 11 and 12 of this Act shall be a ground for expulsion of the officers from the employees' organization, federation or confederation. At least thirty percent (30%) of the total membership of an employees' organization or of total number of affiliated employees' organization in the case of federation or confederation, or any member or members specially concerned, may report such violation to the PSLRB. The PSLRB shall have the power to hear and decide any reported violation to mete the appropriate penalty.

Criminal and civil liabilities arising from violations of above rights and conditions of membership shall continue to be under the jurisdiction of ordinary courts.

SEC. 59. *Violation on the part of public employer.* The heads of offices and other officers of the agency as well as officers and members of an employee organization, who participate in or authorize an unfair labor practice, provided on Section 38 of this Act shall be held administratively liable and meted the penalty of suspension for a period not exceeding one (1) year, or both, for such participation or grant of authority, without prejudice to civil and criminal liability.

ARTICLE XIV MISCELLANEOUS PROVISIONS

SEC. 60. *Tax Exemptions.* The income of a legitimate employee organization, federation, or confederation shall be exempt from tax in accordance with Section 30 (a) of the National Internal Revenue Code of 1997, as amended: *Provided*, That the income of whatever kind and character of the foregoing organizations from any owned property, real or personal, or any activity conducted for profit regardless of the disposition made of such income, shall be subject to tax imposed under the same code.

All grants, bequests, endowments, donations, and contributions made to and used directly and exclusively by the employee organization, federation, or confederation for official purposes shall be exempt from donor's tax. The same shall be considered an allowable deduction from gross income to compute the donor's taxable income in accordance with the provisions of the National Internal Revenue Code of 1997, as amended.

SEC. 61. *Implementing Rules and Regulations.* Within ninety (90) days from the effectivity of this Act, the PSLRB shall, in coordination with the DOLE,

CSC, Department of Budget and Management, Department of Interior and Local Government, Commission on Higher Education along with representatives from the public sector federations and confederations, promulgate the necessary implementing rules and regulations.

SEC. 62. *Transitory Provisions.* Upon the effectivity of this Act, all existing and effective collective agreements shall continue to be honored and implemented until their expiration. This Act shall have no retroactive effect and will only apply to new collective bargaining agreements, signed and approved, upon the effectivity of this Act.

SEC. 63. *Separability Clause.* If any part or provision of this Act is held unconstitutional or invalid, the other parts or provisions that are not affected shall continue to be in full force and effect.

SEC. 64. *Repealing Clause.* Executive Order No. 180, Series of 1987, is hereby repealed. All laws, orders, rules, or regulations inconsistent or contrary to the provisions of this Act are hereby amended or repealed accordingly.

SEC. 65. *Effectivity.* This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved.