

Congress of the Philippines }
First Regular Session }

SENATE OF THE PHILIPPINES
OFFICE OF THE SECRETARY
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S E N A T E

S. No. 132

Introduced by Senator Ernesto F. Herrera

EXPLANATORY NOTE

This Bill seeks to amend Article 287 of P. D. No. 442, as amended, otherwise known as the Labor Code of the Philippines, because it does not, by its own terminology or import, expressly grant retirement benefits.

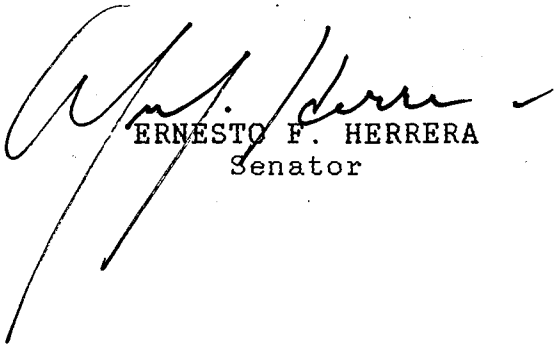
When the Labor Code in 1974 came into effect, retirement pay has been granted to employees in the private sector when they reach the age of sixty (60) years. This has been the rule observed by the employers pursuant to the implementing regulations of the Labor Code, particularly where there is no applicable collective agreement or retirement plan providing for retirement pay.

At present, however, the benefit of retirement pay is no longer available where there is no collective agreement thereon or any retirement plan. This is so because in a decision of the Supreme Court (Llora Motors vs. Drilon and NLRC, et al., G. R. No. 82895, 7 Nov. 1989) it was held that the grant of such benefit under the rules of the Labor Code is not supported by any express provision of the Labor Code itself. In short, there is no statutory basis for the grant of retirement benefit for employees reaching the age of 60 years.

Many employers have not been adopting any retirement plans considering that the now nullified implementing regulations of the Labor Code used to take care of the grant of retirement pay of employees in the private sector who reach the age of 60 years. With the nullification, there is no longer any legal compulsion to give retirement benefits to qualified employees.

The Bill seeks to restore the benefit under the nullified implementing rules of the Labor Code.

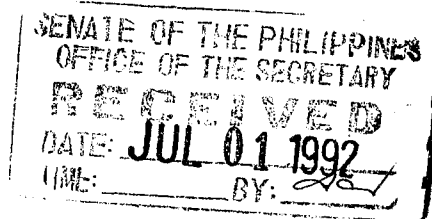
Based on the foregoing, the approval of this Bill is earnestly recommended.


ERNESTO F. HERRERA
Senator

Congress of the Philippines }
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S E N A T E

S. No. 132



Introduced by Senator Ernesto F. Herrera

"AN ACT
AMENDING ARTICLE 287 OF PRESIDENTIAL DECREE NO. 442, AS AMENDED,
OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES, BY
PROVIDING FOR RETIREMENT PAY TO QUALIFIED PRIVATE SECTOR
EMPLOYEES IN THE ABSENCE OF ANY RETIRMENT PLAN IN THE
ESTABLISHMENT"

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

1 SECTION 1. Article 287 of Presidential Decree No.
2 442, as amended, otherwise known as the Labor Code of
3 the Philippines, is hereby amended to read as follows:

4 "ART. 287. Retirement. Any employee
5 may be retired upon reaching the retirement
6 age established in the collective bargaining
7 agreement or other applicable employment
8 contract.

9 "In case of retirement, the employee
10 shall be entitled to receive such retirement
11 benefits as he may have earned under
12 existing laws and any collective bargaining
13 AGREEMENT and other agreements; PROVIDED,
14 HOWEVER, THAT AN EMPLOYEE'S RETIREMENT
15 BENEFITS UNDER ANY COLLECTIVE BARGAINING AND
16 OTHER AGREEMENTS SHALL NOT BE LESS THAN
17 THOSE PROVIDED HEREIN.

18 IN THE ABSENCE OF A RETIREMENT PLAN OR
19 AGREEMENT PROVIDING FOR RETIREMENT BENEFITS

1 OF EMPLOYEES IN THE ESTABLISHMENT, AN
 2 EMPLOYEE UPON REACHING THE AGE OF SIXTY (60)
 3 YEARS OR MORE MAY RETIRE AND SHALL BE
 4 ENTITLED TO RETIREMENT PAY EQUIVALENT TO AT
 5 LEAST ONE-HALF (1/2) MONTH SALARY FOR EVERY
 6 YEAR OF SERVICE, A FRACTION OF AT LEAST SIX
 7 (6) MONTHS BEING CONSIDERED AS ONE WHOLE
 8 YEAR."

9 UNLESS THE PARTIES PROVIDE FOR BROADER
 10 INCLUSIONS, THE TERM "MONTH SALARY" SHALL BE
 11 DEEMED TO INCLUDE 13TH MONTH PAY AND CASH
 12 EQUIVALENTS OF SERVICE INCENTIVE LEAVES OR
 13 VACATION LEAVES AND SICK LEAVES.

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

18 Approved,

