

AN ACT REGULATING THE HOURS OF LABOR, LEAVES OF ABSENCE, AND TRANSPORTATION OF OFFICERS AND EMPLOYEES IN THE PHILIPPINE CIVIL SERVICE, AND REPEALING ACT NUMBERED EIGHTY, AND ALL...

Act No. 1040, January 12, 1904

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By authority of the United States, be it enacted by the Philippine Commission, that:

SECTION 1. The required office hours of all Bureaus and Offices in the Philippine civil service shall be fixed by executive order, but they shall not be less than six and one-half hours of labor each day, not including time for lunch and exclusive of Sundays and of days declared public holidays by law or executive order: Provided, That when the nature of the duties to be performed or the interests of the public service require it officers and employees may, by direction of the head of the Bureau or Office, be required to work on Sundays and holidays without additional compensation unless otherwise specifically authorized by law. It shall be the duty of heads of Bureaus or Offices to require of all employees, of whatever grade or class, not less than the number of hours of labor authorized by law or executive order, but the head of any Department, Bureau, or Office may, in the interests of the public service, extend the daily hours of labor therein specified for any or all of the employees under him, and in case of such extension it shall be without additional compensation unless otherwise provided by law: Provided, however, That during the heated term from the first day of April to the fifteenth day of June in each year and on Saturdays throughout the year the Civil Governor may, by executive order, reduce the required number of hours of labor on each day to five hours. This executive order shall not oblige the head of a Department, Bureau, or Office in the Philippine civil service to reduce the hours of labor to five hours, but it shall be within his discretion to reduce the number of hours if consistent with the needs of the public service; nor shall this provision be regarded as conferring a right upon officers or employees. This reduction of the required hours of labor shall not apply to the officers or employees of any Bureau or Office to whom an overtime wage is allowed and paid. The length of sessions of the courts shall be regulated by existing law, but the provisions of this Act shall apply to all officers and employees in the Bureau of Justice except judges. The number of hours for the daily sessions of the public schools shall be fixed by the Secretary of Public Instruction, but they shall not be less than five hours a day.

SEC. 2. (a) After at least two years' continuous faithful, and satisfactory service, the Civil Governor or proper head of a Department shall, subject to the necessities of the public service, and upon proper application therefor, grant each regularly and permanently appointed officer or employee in the civil service. Insular or provincial, or of the city of Manila, except as herein after provided, accrued leave of absence with full pay, inclusive of Sundays and of days declared public holidays by law or executive order, for each year of service in accordance with the following schedule: An employee receiving an annual salary of less than nine hundred dollars shall be granted twenty days' leave; an employee receiving an annual salary of from six hundred to nine hundred dollars with board and quarters, and an officer or employee receiving an annual salary of nine hundred dollars or more, but less than one thousand eight hundred dollars, shall be granted thirty days' leave; an officer or employee receiving an annual salary of one thousand eight hundred dollars or more shall be granted thirty-five days' leave. Leave

shall accrue while an officer or employee is on duly authorized leave of absence with pay.

(b) If an officer or employee elects to postpone the taking of any or all of the leave to which he is entitled under this section, such leave may accumulate until January first, nineteen hundred and five, after which date no person shall at any time have to his credit more than the accrued leave allowed for five years' service, and if his salary changes he shall receive the same amount of leave and pay as if he had taken the leave while receiving the salary at which it accrued.

(c) An officer or employee who has served in the Islands for three years or more, or two years if appointed under the provisions of Act Numbered Eighty, as amended, and who has accumulated to his credit the accrued leave allowed for two full years, may be granted permission to visit the United States: Provided, That such permission shall not be granted oftener than once in every three years.

(d) A person in the teaching service shall not be granted accrued leave in accordance with the schedule provided in this section, but in lieu thereof he may be granted leave on full pay during vacation periods, with permission to spend a vacation period in the United States not oftener than once in every three years.

(e) In case an officer, teacher, or other employee is granted leave to visit the United States, he shall be allowed, with half pay in addition to the leave granted, sixty days for the time occupied by him in going to and returning from the United States if he is serving in Manila, and if serving in the provinces sixty days plus the actual and necessary time consumed from date of departure from station to date of departure from Manila, and on returning, from date of arrival at Manila to date of arrival at station, such half salary to be paid on return to duty. On the completion of two years of continuous, faithful, and satisfactory service, after returning to the Islands from leave of absence to visit the United States granted for three or more years' service, he shall be allowed his actual and necessary traveling expenses from his place of residence in the United States to Manila, if he come by the route and steamer directed.

(f) Semiskilled and unskilled laborers, temporary and emergency employees, persons receiving a daily wage or salary, persons enlisted for a term of years, persons in the United States civil service who are paid in whole or in part from insular funds, and persons who receive compensation for official duties performed in connection with private business, vocation, or profession, such duties requiring only a portion of their time, shall not be entitled to the leave provided in this section.

(g) The provisions of this section shall be retroactive in effect so as to entitle officers and employees of the Philippine civil service, whether serving as such by regular appointment or by detail from the Army, the Navy, or the civil service of the United States, previous to the passage of this Act to any accrued leave to which they would have been entitled had Act Numbered Eighty, as amended, been applicable to them at the date of their employment or detail, computing the leave in the case of an officer on the basis of the salary and allowances received while on detail, and in the case of an enlisted man on the basis of first salary received in the Philippine civil service. No application for leave of absence presented by an officer or employee who has heretofore resigned without applying for leave shall be considered if presented after January first, nineteen hundred and four, or by an officer or employee who resigns after January first, nineteen hundred and four, if his application is not presented within six months of the date of the acceptance of his resignation.

SEC. 3. After at least six months' continuous, faithful, and a, satisfactory service the Civil Governor or proper head of a Department may, in his discretion, grant each officer or employee entitled to the accrued leave provided in section two of this Act in addition to such accrued leave, vacation leave of absence with full pay inclusive of Sundays and of days declared public holidays by law or executive order, for each calendar year of service, in accordance with the following schedule: An employee receiving an annual salary of less than one thousand dollars

may be granted twenty-one days' vacation leave, an officer or employee receiving an annual salary of one thousand dollars or more may be granted twenty-eight days' vacation leave. Vacation leave must be taken within the calendar year in which it is earned. The vacation leave provided for only one calendar year may be allowed in connection with accrued leave granted with or without permission to visit the United States. In cases of resignation vacation leave shall not be allowed in addition to accrued leave. All applications for vacation leave shall be made on a form prescribed by the Philippine Civil Service Board.

SEC. 4. (a) Absence from duty of teachers, due to illness, shall be charged against their vacations, and with the consent of the Secretary of Public Instruction they may remain on duty during vacations for a period equal to that lost on account of illness, in which case no deduction of pay shall be made on account of absence caused by illness.

(b) Absence of other regularly and permanently appointed officers and employees in the Philippine civil service on account of illness shall be charged first against vacation leave and then against accrued leave, until both are exhausted, when further absence shall be without pay.

(c) Payment of salary to an officer or employee for any absence during his first six months of service properly chargeable to vacation leave, or during his first two years of service properly chargeable to accrued leave, shall be withheld until such leave may properly be taken under the provisions of section two or three of this Act: Provided, however, That in case of absence due to illness the Civil Governor or proper head or Department may direct that payment for such absence be not withheld if not in excess of the vacation and accrued leave to his credit. In case absence is on account of wounds or injuries incurred in the performance of duty and extends beyond the vacation leave to his credit, the Civil Governor or proper head of Department may direct that such further absence shall be on full pay, if the absence caused by illness, wounds, or injuries shall exceed six months in any twelve months, the officer or employee shall be immediately separated from the service.

SEC. 5. If a regularly appointed officer or employee in the Philippine civil service who has rendered faithful and satisfactory service shall die while in the service, the unused accrued leave that might have been granted at the time of death shall be determined, and the salary equivalent of the accrued leave shall be paid to the person or persons entitled by law to receive the same.

SEC. 6. Whenever upon the resignation or death of an officer or employee it is necessary to the interests of the public service that the position occupied by him shall be immediately filled, the Civil Governor or proper head of Department may direct that all accrued leave granted him be commuted from the funds of the government, Insular or provincial, or of the city of Manila, in which he was serving at the time of his resignation or death. If he was in the service of the Insular Government, payment shall be made by settlement warrant from the insular salary and expense fund if he was in the service of the city of Manila, payment shall be made by settlement warrant from the salary and expense fund of the city of Manila; and if he was in the service of a province, the provincial board of such province is hereby authorized, upon direction of the Civil Governor as above provided, to commute from the provincial funds the accrued leave of absence granted such officer or employee. If there is no urgent necessity for filling the position at once, payment for the accrued leave granted shall be made from the salary appropriated for the position last filled by him.

This section shall be retroactive in effect so far as necessary to authorize, in cases now pending, the procedure herein provided.

SEC. 7. All applications for accrued leave of absence shall be made on a form prescribed by the Civil Service Board, and shall first be acted upon by the Chief of the Bureau or Office, and by him submitted to the Civil Service Board for its recommendation. The application shall then be forwarded by the Board to the head of the

Department in which the applicant is employed for his final decision, except in respect to those Bureaus or Offices not under any Department, in which cases the recommendations of the Board shall be forwarded to the Civil Governor for his final decision.

SEC. 8. The Civil Governor is authorized to promulgate executive orders regulating the method of enforcing the provisions of this Act, including the withholding of salary for leave granted.

SEC. 9. The appointment of all persons residing in the United States to the Philippine civil service, whether by transfer from the United States civil service or otherwise, shall be subject to the following conditions:

(a) A person residing in the United States who is appointed to the Philippine civil service may pay his traveling expenses from the place of his residence in the United States to Manila: Provided, That if any part of his traveling expenses is borne by the Government of the Philippine islands, ten per centum of his monthly salary shall be retained until the amount retained is equal to the amount borne by the Government: And provided further, That if he shall come by the route and steamer directed, his actual and necessary traveling expenses shall be refunded to him at the expiration of two years' satisfactory service in the Philippines.

(b) He shall be allowed half salary from the date of embarkation and full salary from the date of his arrival in the Islands: Provided, That he proceed directly to the Islands; otherwise, he shall be allowed half salary for such time only as is ordinarily required to perform the journey by the route directed: And provided further, That such half salary shall not be paid until after the expiration of two years of satisfactory service in the Philippines.

(c) A person residing in the United States accepting an appointment to a position in the civil service of the Government of the Philippine Islands, under the conditions named in this Act, shall, before receiving such appointment, execute a contract and deliver it to the Chief of the Bureau of Insular Affairs, War Department, wherein the appointee shall stipulate that he will remain in the service of the Government of the Philippine Islands for at least two years, unless released by the Civil Governor or proper head of a Department. A breach of the conditions provided in the contract or a removal for cause shall require the proper officer to withhold payment of all salary and traveling expenses due to the person employed and who has violated the conditions of his contract or been removed for cause, and shall debar such person from ever entering again the public service of the Philippine Government in any of its branches. In such case, an action shall be for the recovery of the amount expended by the Government in bringing the employee to the Philippine Islands.

(d) Irrespective of leave granted, a regularly appointed officer or employee who has rendered continuous, faithful, and satisfactory service for three years or more after arrival in the Philippine Islands shall, upon his retirement from the service, be allowed half salary for thirty days in addition to full salary for the period which may be granted him as leave of absence under the provisions of this Act; and if appointed prior to the passage of this Act, he shall also be furnished transportation from Manila to the San Francisco, or transportation of equal cost to the Government by any other route.

SEC. 10. The provisions of this Act shall not apply to judges of the Supreme Court, the Courts of First Instance, the Court of Land Registration, and the Court of Customs Appeals, but their leaves of absence and traveling expenses shall be governed by existing law or such law as may be hereafter enacted.

SEC. 11. All special contracts made with appointees of the Philippine civil service prior to the passage of this Act shall remain unaffected by the terms and provisions of this Act.

SEC. 12. Act Numbered Eighty and all amendments thereof, and all other Acts or parts of Acts in conflict with the provisions hereof, are hereby repealed: Provided however, That all leaves of absence accruing prior to January first, nineteen hundred and four, shall be computed under the schedule provided in section two of said Act

Numbered Eighty, as amended.

SEC. 13. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 14. This Act shall take effect on its passage, but its provisions shall be retroactive and effective as of January first, nineteen hundred and four.

Enacted, January 12, 1904.

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