

THIRTEENTH CONGRESS OF THE REPUBLIC }  
OF THE PHILIPPINES }  
First Regular Session }

04 JUN 30 P4 59

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S E N A T E

S. No. 382

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Introduced by Senator S. R. Osmeña III

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#### EXPLANATORY NOTE


The State is mandated to guarantee the worker's right to security of tenure. Nowhere is this more evident than in the second paragraph of Sec. 3, Article XIII of the Constitution entitled "Social Justice and Human Rights which provides:

"(The State) shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law."

Article 277 of the Labor Code of the Philippines emphasizes the employee's right to due process. However, the procedures specifically guaranteeing the worker's right to due process are prescribed only as part of the Implementing Rules of the Labor Code, and not in the law itself. This could allow room for interpretation which may be prejudicial to labor.

This bill seeks to correct this flaw by integrating provisions of the right to due process within the law itself, leaving no room for interpretation against the rights of labor.

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

  
SERGIO OSMEÑA III  
Senator

THIRTEENTH CONGRESS OF THE REPUBLIC  
OF THE PHILIPPINES  
*First Regular Session*

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RECEIVED BY: Cebu

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AN ACT  
PRESCRIBING THE GROUNDS AND PERIOD OF PREVENTIVE  
SUSPENSION IN DISMISSAL CASES AMENDING FOR THIS PURPOSE  
ARTICLE 277 (b) OF PRESIDENTIAL DECREE NO. 442, AS AMENDED,  
OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES.

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

1           SECTION 1. Declaration of Policy. - It is hereby declared the policy of  
2 the State to afford full protection to labor. Towards this end, the State shall  
3 enhance workers' entitlement to security of tenure by regulating the conditions  
4 under which preventive suspension may be imposed.

5           SEC. 2. Paragraph (b), Article 277 of Presidential Decree No. 442, as  
6 amended, otherwise known as the Labor Code of the Philippines is hereby  
7 further amended to read as follows:

8                           "ART. 277. Miscellaneous provisions. -

9                           (a) All unions are authorized to collect reasonable membership  
10 fees, union dues, assessments and fines and other contributions for labor  
11 education and research, mutual death and hospitalization benefits, welfare  
12 fund, strike fund and credit and cooperative undertakings.

13                          (b) Subject to the constitutional right of workers to security against  
14 dismissal except for a just and authorized cause and without prejudice to  
15 the requirement of notice under Article 283 of this Code, the employer

1 shall furnish the worker whose employment is sought to be terminated a  
2 written notice containing a statement of the causes for termination and  
3 shall afford the latter ample opportunity to be heard and to defend himself  
4 with the assistance of his representative if he so desires in accordance  
5 with company rules and regulations promulgated pursuant to guidelines  
6 set by the Department of Labor and Employment. Any decision taken by  
7 the employer shall be without prejudice to the right of the worker to contest  
8 the validity or legality of his dismissal by filing a complaint with the regional  
9 branch of the National Labor Relations Commission. The burden of  
10 proving that the termination was for a valid or authorized cause shall rest  
11 on the employer. The Secretary may suspend the effect of the  
12 Termination pending resolution of the dispute in the event of a prima facie  
13 finding by the appropriate official of the Department of Labor and  
14 Employment before whom such dispute is pending that the termination  
15 may cause a serious labor dispute or is in implementation of a mass lay-  
16 off.

17 THE EMPLOYER WHO SEEKS TO DISMISS HIS WORKER  
18 MAY PLACE THE WORKER CONCERNED UNDER PREVENTIVE  
19 SUSPENSION IF HIS CONTINUED PRESENCE IN THE WORKPLACE  
20 POSES SERIOUS AND IMMINENT DANGER TO THE LIFE OR  
21 PROPERTY OF THE EMPLOYER OR THE PHYSICAL SAFETY OF HIS  
22 CO-WORKERS. NO PREVENTIVE SUSPENSION SHALL LAST  
23 LONGER THAN THIRTY (30) DAYS. THE EMPLOYER SHALL  
24 IMMEDIATELY THEREAFTER READMIT THE WORKER TO HIS  
25 POSITION STATUS QUO ANTE OR THE EMPLOYER MAY EXTEND  
26 THE PERIOD OF SUSPENSION WHICH SHALL IN NO CASE BE  
27 LONGER THAN THIRTY (30) DAYS PROVIDED THAT DURING THE  
28 PERIOD OF SUSPENSION, HE PAYS THE WAGES AND OTHER  
29 BENEFITS DUE TO THE WORKER. IN SUCH CASE, THE WORKER

1           SHALL NOT BE BOUND TO REIMBURSE THE AMOUNT PAID TO HIM  
2           DURING THE EXTENSION IF THE EMPLOYER DECIDES, AFTER  
3           COMPLETION OF THE HEARING, TO DISMISS THE WORKER.

4                       XXXXXXXX           XXXXXXXX           XXXXXXXX

5                       XXXXX

6           SEC. 3. Rule-Making. - The Secretary of Labor and Employment shall,  
7           within thirty (30) days from the effectivity of this Act, promulgate such rules and  
8           regulations necessary to effectively implement its provisions.

9           SEC. 4. Repealing Clause. - All laws, decrees, executive orders and  
10          rules and regulations or part or parts thereof inconsistent with any provision of  
11          this Act are hereby repealed, modified, superseded or amended accordingly.

12          SEC. 5. Effectivity. - This Act shall take effect fifteen (15) days after its  
13          complete publication in the Official Gazette or in at least two (2) national  
14          newspapers of general circulation, whichever comes earlier.

          Approved,