

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

'04 JUN 30 P10:54

SENATE

RECEIVED BY: *Am*

S.B. NO. 1027

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Introduced by Sen. Jinggoy Ejercito Estrada

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### Explanatory Note

Section 3 of Article XIII of the 1987 Constitution enumerates the provisions which guarantee the full protection of the basic rights of workers and employers. Based on this premise, the full exercise of workers and employers' right to go on strike and to lock out respectively in furtherance of their interests is encouraged by the State as this will be beneficial to both parties in settling problems and disputes arising from their relationship.

Unfortunately, the above conditions are not made to prosper due to an existing legal situation wherein the Secretary of Labor and Employment can assume jurisdiction based merely on his opinion that the contending parties are engaged in activities that are considered indispensable to national interest.

While another constitutional provision mandates the State to regulate the relations between workers and employers, there is a need to cure the system such that the contending parties shall be given the leeway to settle their problems with minimum government intervention.

Hence, this bill. The proposed measure, seeks to limit the Labor Secretary's power to assume jurisdiction over dispute settlement to essential services only, such as hospital, water supply, electrical, and transportation. By doing so, the interruption in the delivery of these basic services, due to lockouts and strikes, would not be as inimical to public health safety.

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

  
JINGGOY EJERCITO ESTRADA  
Senator

SENATE  
OFFICE OF THE SECRETARY

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AN ACT

LIMITING THE POWER OF ASSUMPTION OR CERTIFICATION OF LABOR DISPUTES BY THE SECRETARY OF LABOR AND EMPLOYMENT TO ACTIVITIES OR UNDERTAKING WHICH INVOLVE ESSENTIAL SERVICES, AMENDING FOR THIS PURPOSE ARTICLE 263 (G) OF PD 422, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES, AS AMENDED AND FOR OTHER PURPOSES

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

SECTION 1. The State recognizes the constitution of labor in national development and guarantees their rights among others to engage in peaceful concerted activities including the rights to strike in accordance with the law.

SECTION 2. Article 263 (g) of the Labor Code, as amended is hereby further amended to read as follows:

“Art. 263. Strikes, picketing and lockouts. –

.xxx.xxx

(G)When [, in his opinion,] there exists a dispute causing or likely to cause a strike lockout in an industry [indispensable to the national interest,] INVOLVING ESSENTIAL SERVICES, the Secretary of Labor and Employment may assume jurisdiction over the dispute and decide [it or certify the same to the Commission for compulsory arbitration] THE SAME WITHIN FORTY FIVE (45) DAYS AFTER SUCH ASSUMPTION. THE SECRETARY'S DECISION SHALL BE FINAL

AND EXECUTORY. [Such] THE assumption or certification ORDER shall have the effect automatically enjoining the intended or impending strike or lockout [as] specified [in the assumption or certification order] THEREIN. If [one] A STRIKE OR LOCKOUT has already taken place at the time of assumption [or certification], all striking or locked out employees UNDER PAIN OF CONTEMPT AND PAYMENT OF WAGES OR SALARIES OF THE WORKERS, shall immediately resume operations and readmit all workers under the same terms and conditions prevailing before the strike or lockout: PROVIDED, HOWEVER, THAT WHERE THERE IS NO DECISION BY THE SECRETARY WITHIN THE SAID FORTY-FIVE (45) DAY PERIOD, THE PARTIES MAY THEN EXERCISE THEIR RESPECTIVE RIGHTS UNDER THIS CODE.

The Secretary of Labor and Employment [or the Commission] may seek the assistance of law enforcement agencies to ensure compliance with this provisions as well as such orders as he may issue to enforce the same. FOR PURPOSES OF THIS SECTION, ESSENTIAL SERVICES SHALL MEAN HOSPITAL, WATER SUPPLY, AND ELECTRICAL SERVICES, TRANSPORTATION SERVICES, THE LACK OF WHICH WOULD ENDANGER LIFE OR PUBLIC SAFETY.

"In line with the national concern for the highest respect accorded to the right of patients to life and health, strikes and lockouts in hospitals, clinics and similar medical institutions shall, to every extent possible, be avoided, and all serious efforts, not only by labor and management but government as well, be exhausted to substantially *minimize, if not prevent, their adverse effects on such life and health,* through the exercise, however legitimate, by labor of its right to strike and by management to lockout. In labor disputes adversely affecting the continued operation of such hospitals, clinics or medical institutions, it shall be the duty of the striking union or locking out employer to provide and maintain an effective skeletal workforce of medical and other health personnel, whose movement and services shall be unhampered and unrestricted as are necessary to ensure the proper and adequate protection of the life and health of its patients, most especially emergency causes, for the duration of the strike or lockout. In such cases, therefore, the Secretary of Labor and

Employment may immediately assume, within twenty-four (24) hours from knowledge of the occurrence of such strike or lockout, jurisdiction over the same [or certify it to the Commission for compulsory arbitration]. For this purpose the injunctions as are issued by the Secretary of Labor [or the Commission], under pain of immediate disciplinary action, including dismissal or loss of employment or payment by the locking-out employer of back wages [,] AND OTHER BENEFITS, damages, ADMINISTRATIVE FINES OF NOT LESS THAN TEN THOUSAND PESOS (P10,000.00) AND NOT MORE THAN TWENTY THOUSAND PESOS (P20,000.00) AND OTHER AFFIRMATIVE RELIEF, [even] INCLUDING criminal prosecution against either or both [of them] EMPLOYERS AND EMPLOYEES.

“The foregoing notwithstanding, the President of the Philippines shall not be precluded, AT ANY TIME, from [determining the industries that, in his opinion, are indispensable to the national interest, and from intervening at any time and] assuming jurisdiction over any labor dispute in order to settle or terminate the same. THE PRESIDENT’S DECISION SHALL ALSO BE FINAL AND EXECUTORY.”

SECTION 3. The Secretary of Labor and Employment shall issue within thirty (30) days after the effectivity of this Act the corresponding implementing the rules and regulations.

SECTION 4. Should any provision of this Act or any part thereof be declared *invalid, the other provisions, so far as they are separable from the invalid ones, shall remain in force and effect.*

SECTION 5. All laws, decrees, rules or regulations and other issuances or parts thereof, which are inconsistent with this Act, are hereby repealed, amended or modified accordingly.

SECTION 6. Act shall take effect after fifteen (15) days following its publication either in the *Official Gazette* or in a newspaper of general circulation.

APPROVED,