13th CONGRESS OF THE REPUBLIC) OF THE PHILIPPINES) FIRST REGULAR SESSION)

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14-58 (S. 283)

SENATE

S. BILL NO.

INTRODUCED BY HONORABLE RALPH G. RECTO

1383

EXPLANATORY NOTE

This bill seeks to protect workers in the event of company closures or cessation of operations by establishing the proper mechanism and standards.

This legislation provides for a mandatory notification requirement of 90 days in case of business/plant closure, mass layoff, shutdown or any form of cessation of operations. Allowing the affected employees to use a specific amount of paid work time to seek alternative employment would not unduly prejudice the employer, but it will definitely benefit the employee concerned.

Under this Act, the Labor Protection Board as herein created shall investigate possible anomalies arising from the intended closure or cessation of operations by an employer. Furthermore, the proposal recognizes the right of affected employees or their collective bargaining representative to file civil actions against unscrupulous employers.

In line with the policy of the State to protect workers from economic insecurity due to involuntary unemployment and promote their rights in the event of said contingencies, the immediate approval of this proposed measure is urgently sought

RAMPH & RECTO

ESTERATIV 12.00

THIRTEENTH CONGRESS OF THE REPUBLIC OF THE PHILIPPINES First Regular Session

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HECEIVED BY

SENATE

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s. BILL NO. _____383

Introduced by SENATOR RALPH G. RECTO

AN ACT

TO PROTECT WORKERS IN THE EVENT OF COMPANY CLOSURES OR CESSATION OF OPERATIONS BY ESTABLISHING THE MECHANISM AND PROPER STANDARDS THEREFOR, AND FOR OTHER PURPOSES

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

CHAPTER 1 - PRELIMINARY PROVISIONS

1	SE	CTION 1. Short Title This Act may be cited as the "Workers' Protection Act
2	of 2004."	
3		
4	SE	C. 2. Declaration of Policy It is hereby declared the policy of the State to
5	protect wo	rkers from economic insecurity due to involuntary unemployment and promote
б	their rights	in the event of such. For this purpose, the State hereby recognizes the right of
7	all workers	S:
8	(1)	to a reasonable period of notice for termination of employment;
9	(2)	to seek alternative employment during the period of notice;
10	(3)	to guarantee payments of wage claims, and
11	(4)	to petition the proper government agency to review any act of an employer
12		to close shop, cease operations, and/or order a mass layoff of employees.
13		
14	SE	C. 3. Definition of Terms As used in this Act, the following terms:
15	a.	Bankruptcy shall mean a condition whereby an employer, who after a petition
16		to the court by himself or his creditors, is judged legally insolvent.
17	b.	Closure shall mean the permanent cessation of operations due to insolvency,
18		bankruptcy, foreclosure, and/or dissolution resulting in an employment loss.
19	с.	Cessation of operations shall mean the permanent or temporary shutdown of a
20		single site of employment or one or more facilities or operating units within a
21		single site of an employment, if the shutdown results in an employment loss at
22		the single site of employment. For purposes of this Act, it shall include but not

1		exclusive of, cessation of operations due to bankruptcy, closure, foreclosure,	
2		insolvency, dissolution and other similar acts.	
3	d.	Insolvency shall mean the condition whereby an employer is unable to meet	
4		his obligations as they accrue in the course of his trade or business.	
5	e.	Employer shall mean any person acting directly or indirectly in the interest of	
6		an employer in relation to an employee and shall include, all government-	
7		owned or controlled corporations and institutions, as well as non-profit private	
8		institutions, or organizations.	
9	f.	Employee shall mean any individual employed an employer.	
10	g.	Mass lay-off shall mean a reduction in force which (i) is not a result of a	
11		closure and (ii) results in an employment loss at the single site of employment	
12		during any 30-day period for (1) at least 33% of employees, and/or (2) at least	
13		50 employees, excluding part-time employees.	
14	h.	Affected employees shall mean employees who may reasonably be expected to	
15		experience an employment loss as a consequence of a proposed cessation of	
16		operations or mass layoff by their employer.	
17	i.	Involuntary unemployment shall mean the termination of employment by an	
18		employer as a result of cessation of operations.	
19	j.	Employment loss shall mean (i) a termination of employment, other than a	
20		discharge for cause, voluntary departure or retirement, (ii) a layoff exceeding	
21		six (6) months, or (iii) a reduction in hours of work of more than fifty per cent	
22		(50%) during each month of any six-month period.	
23	k.	Foreclosure shall mean the process by which a mortgagee acquires an	
24		absolute title to the property of which he had previously been only the	
25		conditional owner, or upon which he had previously a mere lien or	
26		encumbrance.	
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28		CHAPTER 2 - NOTIFICATION REQUIREMENT	
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30	SE	EC. 4. Notification Requirement An employer shall not order a plant closure,	
31	mass layoff, shutdown or any form of cessation of operations until the end of a 90-day		
32	period afte	er the employer serves written notice of such an order:	
33	(a)	to each affected employee;	
34	(b)	to each collective bargaining representative;	
35	(c)	to the chief elected official of the local government unit within such	
36		closing or lay-off to occur, and	
37	(d)	to the Labor Protection Board as herein created.	
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1 SEC. 5. *Right to Alternative Employment*. - During the 90-day notice period 2 which shall commence upon the receipt of the said notice by the affected employee, an 3 employer shall allow the affected employee to use a specific amount of paid work time to 4 seek alternative employment.

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6 SEC. 6. Right to Petition the Act of the Employer. - During the 90-day notice 7 period, the affected employees or their collective bargaining representative may 8 petition the Labor Protection Board as herein created to investigate possible 9 anomalies arising from the intended closure or cessation of operations by an 10 employer.

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12 SEC. 7. *Civil actions against employers.* - Any employer who orders a closure or 13 mass layoff or shutdown or any form of cessation of operations or mass layoff in 14 violation of Sec. 4 of this Act shall be liable to each aggrieved employee who suffers 15 an employment loss as a result of such closure or mass layoff or any form of cessation 16 of operations for the following:

(a) back pay for each day of violation at a rate of compensation not less than
the final regular rate received by such employee, including benefits and contributions,
and

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(b) mandatory severance pay.

Any employer who violates Sections 4 and 5 of this Act shall be subject to a civil penalty of fifteen thousand pesos (P15,000.00) for each day of violation, provided however that such penalty shall not apply if the employer pays to each aggrieved employee the amount for which the employer is liable to that employee within three (3) weeks from the date the employer orders the closure or mass layoff or shutdown or cessation of operations.

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CHAPTER 2 - THE LABOR PROTECTION BOARD

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SEC. 8. *The Labor Protection Board*. - For purposes of this Act, there shall be created an independent agency to be known as the Labor Protection Board (LPB).

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33 SEC. 9. *Composition*. - The Board shall be composed of a Chairman and three 34 Members who shall be nominated and elected in a Labor Conference called for this 35 purpose except for the Chairman who shall be appointed by the President from a selection 36 of three nominees submitted by the Labor Conference. The Labor Conference shall be 37 held within thirty days following the effectivity of this Act and shall be attended by 38 delegates representing major labor federations.

2 SEC. 10. *Qualifications of Nominees* - The nominees for both the Chairman 3 and Members must have the following qualifications:

4 (a) Satisfactory background on labor and commerce particularly on corporation
 5 rules and laws.

6 (b) Must not have worked or performed functions in any management of a 7 company or establishment in the past.

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(c) Must not have business interests in any corporation or establishment.

9 (d) Must not be related to any corporate official within the fourth degree of 10 consaguinity.

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12 SEC. 11. *Powers and Functions* - The Board shall, in coordination with the 13 Department of Labor and Employment (DOLE), Securities and Exchange Commission 14 (SEC), and the Department of Justice (DOJ), perform the following functions:

(a) Undertake the investigation of companies and establishments that would
 undergo closure or cessation of operations, shutdown, rotation or retrenchment of
 workers/employees due to labor saving devices, to prevent losses, dissolution, insolvency
 or bankruptcy;

(b) Compel the disclosure and submission of its book of accounts and other
 financial records following an information to the Board that the company or
 establishment will lead to closure or cessation of operation, shutdown, rotation or
 retrenchment of employees/workers;

(c) Issue subpoenas to any official of a company or establishment and other
 parties concerned to require attendance in the investigation;

(d) Hold custody of the company's machinery and other production equipment
 from the commencement of the investigation, or to require the posting of bond or both to
 secure the interests of the affected workers/employees;

(e) Ensure that payment of wages/salaries and other benefits were being made
 continuously while the company is undergoing an investigation;

(f) Ensure the issuance of notices to workers/employees as required in this Act
 and the enforcement of the period to seek alternative employment;

(g) Facilitate the immediate release of monetary claims of workers/employees
which may be made through banks or which may be deemed sufficient by the Board;

(h) Conduct quarterly inspection on the book of accounts and financial records of
 the companies and establishments registered with the Securities and Exchange
 Commission to monitor its operations, and

(i) Initiate legal action against any company or establishment found to violate anyof the provisions of this Act.

	1	SEC. 12. Funding - All employees except managerial employees registered
•	2	under this Act shall pay annual contributions in the amount to be determined by the
	3	Board; Provided That, it shall not exceed the amount of twenty pesos (20.00) and not be
	4	lower than ten pesos (10.00); Provided Further That, it shall be used solely for the
	5	operations of the Board.
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	7	Any additional funding requirements necessary to carry out the provisions of this
	8	Act shall be charged to the current fiscal year appropriations of the Department of Labor
	9	and Employment. Thereafter, such sum as may be necessary is hereby authorized to be
	10	appropriated in the General Appropriations Act of the year following its enactment into
	11	law.
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	13	CHAPTER 3 - FINAL PROVISIONS
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	15	SEC. 13. Implementing Rules and Regulations The implementing rules and
	16	regulations to carry out the provisions of this Act shall be adopted and promulgated by
	17	the Department of Labor and Employment.
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	19	SEC. 14. Repealing Clause All laws, executive orders and provisions thereof
	20	inconsistent with this Act are hereby repealed or modified accordingly.
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	22	SEC. 15. Separability Clause If any provision or part of this Act, or the
	23	application thereof to any person or circumstance, is held invalid or unconstitutional, the
	24	remainder of this Act or the application of such provision or part thereof to other persons
	25	or circumstances shall not be affected thereby.
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	27	SEC. 16. Effectivity Clause This Act shall take effect fifteen days after its
	28	publication in at least two (2) national newspapers of general circulation.
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	30	Approved,

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