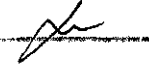


FOURTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

7 OCT -2 P5:10

SENATE
S. No. 1677

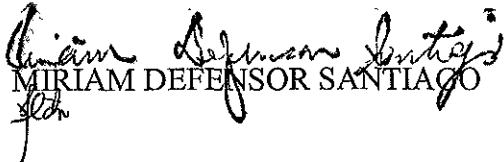
RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Presidential Decree No. 442, also known as the Labor Code, Article 248, makes it an unfair labor practice for employees "to contract out services or functions being performed by union members...". Clearly, the provision does not cover situations where employers merely threaten to contract out services being performed by the latter. A threat has the same coercive effect as actually contracting out services as it instills fear in the laborer of losing his job.

This bill extends the protection of Article 248 by making it unlawful for employers to threaten to contract out services being performed by union members.*

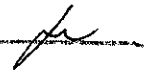

MIRIAM DEFENSOR SANTIAGO

* This bill was originally filed during the Thirteenth Congress, First Regular Session.

FOURTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
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SENATE
S. B. No. 1677

RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago

1 AN ACT
2 AMENDING PRESIDENTIAL DECREE NO. 442 ALSO KNOWN
3 AS THE LABOR CODE, ART. 248, MAKING IT UNLAWFUL FOR EMPLOYERS TO
4 THREATEN TO CONTRACT OUT SERVICES BEING PERFORMED
5 BY UNION MEMBERS

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

8 SECTION 1. P.D. No. 448 also known as the Labor Code, Article 248, is amended by
9 deleting paragraph (c) and replacing it with a new paragraph to read as follows:

10 "(c) TO PROMISE, TO THREATEN, OR TO TAKE OTHER ACTION (1) TO HIRE A
11 PERMANENT REPLACEMENT OR AN EMPLOYEE WHO

12 (A) AT THE COMMENCEMENT OF A LABOR DISPUTE WAS AN
13 EMPLOYEE OF THE EMPLOYER IN A BARGAINING UNIT WHICH A LABOR
14 ORGANIZATION —

15 (I) WAS THE CERTIFIED OR RECOGNIZED EXCLUSIVE
16 BARGAINING REPRESENTATIVE; OR

17 (II) AT LEAST THIRTY (30) DAYS PRIOR TO THE
18 COMMENCEMENT OF THE DISPUTE HAD FILED A
19 PETITION FOR CERTIFICATION ELECTION
20 PURSUANT TO ARTICLES 256 AND 257 OF THIS
21 CODE, AND THE BUREAU OF LABOR RELATIONS
22 HAS NOT COMPLETED THE REPRESENTATION
23 PROCEEDING; AND

24 "(B) IN CONNECTION WITH THAT DISPUTE HAS ENGAGED IN
25 CONCERTED ACTIVITIES FOR THE PURPOSE OF COLLECTIVE BARGAINING OR

1 OTHER MUTUAL AID OR PROTECTION OR DENY ANY OTHER EMPLOYMENT
2 RIGHT OR PRIVILEGE TO AN EMPLOYEE WHO IS WORKING FOR OR HAS
3 UNCONDITIONALLY OFFERED TO RETURN TO WORK FOR THE EMPLOYER, OUT
4 OF A PREFERENCE FOR ANY OTHER INDIVIDUAL, THAT IS BASED ON THE FACT
5 THAT THE INDIVIDUAL IS PERFORMING, HAS PERFORMED, OR HAS INDICATED A
6 WILLINGNESS TO PERFORM BARGAINING UNIT WORK FOR THE EMPLOYER
7 DURING THE LABOR DISPUTE.”

8 SECTION 2. *Separability Clause.* – If any provision or part hereof is held invalid or
9 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
10 valid and subsisting.

11 SECTION 3. *Repealing Clause.* – Any law, presidential decree or issuance, executive
12 order, letter of instruction, administrative order, rule or regulation contrary to, or inconsistent
13 with, the provision of this Act is hereby repealed, modified or amended accordingly.

14 SECTION 4. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
15 publication in at least two (2) newspapers of general circulation.

16 Approved,