

COMMITTEE REPORT NO. 242 '18 FEB 20 P2:00

Prepared and submitted jointly by the Committees on Labor, Employment and Human Resources Development, National Defense and Security, and Finance on **FEB 20 2018**.

Re: Senate Bill No. 1698

Recommending its approval in substitution of Senate Bill No. 1607.

Sponsors: Senators Villanueva and Aquino IV

**MR. PRESIDENT:**

The Committees on Labor, Employment and Human Resources Development, National Defense and Security, and Finance, to which was referred **Senate Bill No. 1607**, introduced by Senator Paolo Benigno "Bam" Aquino IV, entitled:

**"AN ACT  
STRENGTHENING THE EMPLOYMENT RIGHTS FOR MEMBERS OF THE CITIZEN  
ARMED FORCES OR THE RESERVE FORCE OF THE ARMED FORCES OF THE  
PHILIPPINES AND FOR OTHER PURPOSES"**

have considered the same and have the honor to report it back to the Senate with the recommendation that the attached Senate Bill No. 1698, prepared by the Committees, entitled:

**"AN ACT  
STRENGTHENING THE EMPLOYMENT RIGHTS FOR MEMBERS OF THE CITIZEN  
ARMED FORCES OR THE RESERVE FORCE OF THE ARMED FORCES OF THE  
PHILIPPINES AND FOR OTHER PURPOSES"**

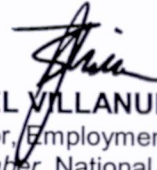
be approved in substitution of Senate Bill No. 1607, with Senators Paolo Benigno "Bam" Aquino IV, Joel Villanueva, Gregorio B. Honasan II, and Loren B. Legarda as authors thereof.

Respectfully submitted:

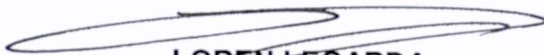
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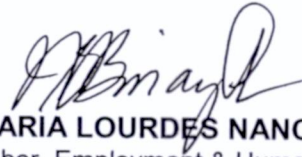
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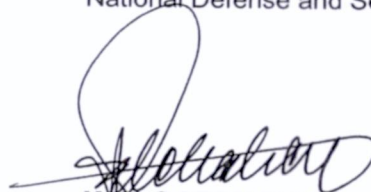
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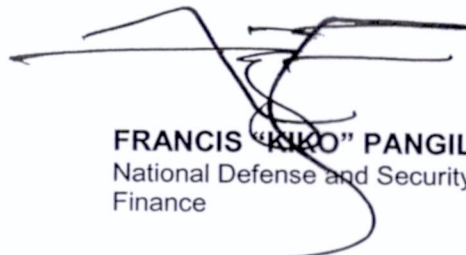


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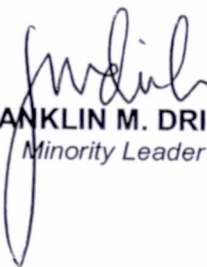
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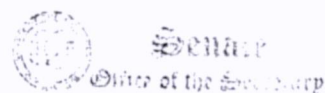
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MAY INTERPELLATE

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*Senate President*  
Senate of the Philippines  
Pasay City



SENATE  
S.B. No. 1698

'18 FEB 20 P 2:00

Prepared by the Committees on Labor, Employment and Human Resources Development;  
National Defense and Security; and Finance with Senators Paolo Benigno "Bam" Aquino  
IV, Joel Villanueva, Gregorio B. Honasan II, and Loren B. Legarda as authors

AN ACT  
STRENGTHENING THE EMPLOYMENT RIGHTS FOR MEMBERS OF THE CITIZEN ARMED  
FORCES OR THE RESERVE FORCE OF THE ARMED FORCES OF THE PHILIPPINES  
AND FOR OTHER PURPOSES

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

CHAPTER 1  
GENERAL PROVISIONS

**SECTION 1. Short Title.** – This Act shall be known as the “Reservist Employment Rights Act.”

**SECTION 2. Declaration of Policy.** – It is hereby declared the policy of the State to:

- a. Strengthen the Citizen Armed Forces or the Reserve Force of the Armed Forces of the Philippines (AFP) and recognize its role in the mission areas of the AFP and in national security;
- b. Protect the rights of reservists, and prevent and prohibit discrimination on the basis of rendering military service to the State;
- c. Encourage service in the Reserve Force of the AFP by eliminating or minimizing the disadvantages to civilian careers and employment which can result from rendering military service to the State; and
- d. Ensure the observance of all employers of the rights of reservists called to perform military service to the State.

The prime duty of the State is to serve and protect the people. For this reason, the State may call upon the people to defend the State, and in fulfillment thereof, may require its citizens to render military or civil service under conditions provided by law.

**SECTION 3. Coverage.** – The provisions of this Act shall apply to all employers, whether private or public, including all government agencies and political subdivisions as well as

1 government-owned or -controlled corporations, non-government organizations, and other  
2 socioeconomic entities.

3  
4 **SECTION 4. *Definition of Terms.*** – As used in this Act, the following terms shall mean:

- 5 a. Active Duty Training – the compulsory or voluntary trainings for reserve units and/or  
6 individual reservists provided by the AFP to update their working knowledge in the  
7 current military organization, doctrines, tactics, techniques and procedures or TTPs, in  
8 order to maintain a desirable state of readiness, enable them to satisfy the active  
9 service-in-grade required for promotion to higher grades, and maintain a level of  
10 proficiency and competency for those reservists designated as instructors in Reserve  
11 Officers’ Training Corps (ROTC) and other reservists training programs;
- 12 b. Auxiliary Service – the voluntary performance of a service by a reservist for the  
13 purpose of helping maintain local peace and order, meeting local insurgency and  
14 terror threats for intelligence requirements, assisting in rescue and relief operations  
15 during disasters and calamities, health welfare activities and participating in local  
16 socioeconomic development projects;
- 17 c. Citizen Soldier or Reservist – members of the Reserve Force of the AFP composed of  
18 the following:
- 19 i. Graduates of the ROTC basic and advance courses and who were issued orders  
20 as enlisted reservists or reserve officers of the AFP;
- 21 ii. Graduates of authorized basic military training instructions who, as a result  
22 thereof, were issued orders as enlisted reservists or reserve officers;
- 23 iii. Ex-servicemen and retired officers of the AFP who have been incorporated into  
24 the Reserve Force of the AFP; and
- 25 iv. Reservist officers and enlisted reservists including those procured under  
26 existing laws and included in the present AFP roster.

27 There shall be three (3) categories of citizen soldiers or AFP reservists: the First  
28 Category Reserve, the Second Category Reserve, and the Third Category Reserve  
29 based on age.

30 First Category Reserve – The First Category Reserve shall be composed of able  
31 bodied reservist whose ages are between eighteen (18) years and thirty-five (35)  
32 years, inclusive.

33 Second Category Reserve – The Second Category Reserve shall be composed  
34 of able-bodied reservist whose ages are between thirty-six (36) years and fifty-one (51)  
35 years, inclusive.

36 Third Category Reserve – The Third Category Reserve shall be composed of  
37 able- bodied reservist who are above fifty-one years (51) of age.

1                   Based on the categorization above, the Reserve Force units shall further be  
2 classified into the Ready Reserve, the Standby Reserve, and the Retired Reserve based  
3 on their operational readiness for immediate deployment/utilization;  
4

- 5       d. Employment – the act of hiring, and continued engagement including the  
6 reintegration of an employee called to military service to his or her former position,  
7 or if not practicable to a substantially equivalent position, without loss of seniority  
8 rights and diminution of pay;
- 9       e. Military Service – any service rendered by a citizen soldier or reservist to the State  
10 upon orders of the AFP or call to active duty (CAD) to meet active duty training (ADT)  
11 requirements, or for any purpose that the AFP leadership may deem necessary in  
12 order to augment and support the Regular Force operations in times of war, national  
13 emergency or such other times as the national security requires;
- 14       f. Mobilization – the utilization of the Reserve Force of the AFP in times of emergency to  
15 meet threats to national security;
- 16       g. Reintegration – the actual resumption of work of an employee after his or her military  
17 service to his or her former position, or if not practicable to a substantially equivalent  
18 position, without loss of seniority rights and diminution of pay;
- 19       h. Reserve Force – those composing of members of the reserve components of the AFP;
- 20       i. Ready Reserve – citizen soldiers/reservists belonging mostly to the First Category  
21 reserve, who shall be organized, trained and maintained as mobilizable ready reserve  
22 subject to being called at any time to augment the regular armed force of the AFP not  
23 only in times of war or national emergency but also to meet local emergencies arising  
24 from calamities, disasters and threats to peace, order, security and stability in any  
25 locality, including the need to provide assistance in relief and rescue work and other  
26 civil assistance activities;
- 27       j. Standby Reserve – citizen soldiers or reservists belonging mostly to the Second  
28 Category Reserve and the Third Category Reserve. The members of the Standby  
29 Reserve shall be organized and assigned to specific reserve units and shall be  
30 maintained through annual assembly test to update their records and present  
31 addresses, among others. The Standby Reserve may be mobilized or ordered to active  
32 duty only in times of national emergency or war. The ranks of the members of the  
33 Standby Reserve may be upgraded if they voluntarily participate in training or serve  
34 with the Ready Reserve units in their areas or if their Standby Reserve unit undergo  
35 retraining. They will however be encouraged to upgrade their military knowledge and  
36 skills by taking up nonresident or resident courses which shall be set up for the  
37 purpose.

38                   Furthermore, members of the AFP Affiliated Reserve units of various  
39 government and private utilities and services considered essential for the preservation  
40 of economic stability of the country or particular locality, such as power and electricity,

1 water supply, transportation and communications, among others, regardless of their  
2 categorization shall be classified as Ready Reserve.

3 All citizen soldiers belonging to the First Category Reserve, except those  
4 exempted under Republic Act No. 7077, otherwise known as the Citizen Armed Forces  
5 of the Philippines Reservist Act, and other pertinent policies, shall be required to serve  
6 with the Ready Reserve units and will have assignments and promotions in accordance  
7 with existing policies of the AFP until transferred to the Standby Reserve by virtue of  
8 their age;

9 k. Retired Reserve – citizen soldiers who have qualified for retirement through length of  
10 service, old age or disability. For this purpose, sixty-five (65) years shall be considered  
11 as the retirement age. However, if qualified and fit for duty, a member of the Retired  
12 Reserve may be ordered to active duty in times of local or national emergencies if  
13 he/she volunteers for active duty and when the Secretary of National Defense  
14 determines that there are not enough qualified citizen soldiers with his/her special  
15 skills and qualifications in the Ready Reserve or Standby Reserve in his/her particular  
16 area of residence.

17 **CHAPTER 2**  
18 **NON-DISCRIMINATION OF RESERVISTS**

19 **SECTION 5. *Anti-Reservists Discrimination.* –**

20 a. It shall be unlawful for an employer, or those acting in the interest of the employer,  
21 whether private or public, including all government agencies and political subdivisions,  
22 as well as government-owned or -controlled corporations, non-government  
23 organizations, and other socioeconomic entities to:

24 i. Discriminate against an individual in terms of compensation, terms and  
25 conditions, or privileges of employment on account of such individual's  
26 membership, application for membership, performance of military service,  
27 application for military service or obligation with the Reserve Force of the AFP;

28 ii. Print or publish, or cause to be printed or published, in any form of media,  
29 including the internet, any notice of advertisement relating to employment  
30 suggesting preferences, limitations, specifications, and discrimination based  
31 on membership, application for membership, performance of military service,  
32 application for military service or obligation with the Reserve Force of the AFP;

33 iii. Require the declaration of application for membership, or status of  
34 membership in the Reserve Force of the AFP;

35 iv. Decline employment on the basis of membership in the Reserve Force of the  
36 AFP;



- 1 v. Deny any employee's or worker's promotion or opportunity for training on the  
2 basis of membership, application for membership, performance of military  
3 service, application for military service or obligation with the Reserve Force of  
4 the AFP;
- 5 vi. Lay off an employee or worker because of membership, application for  
6 membership, performance of military service, application for military service  
7 or obligation with the Reserve Force of the AFP; or
- 8 vii. Impose early retirement on the basis of such employee's or worker's  
9 membership, application for membership, performance of military service,  
10 application for military service or obligation with the Reserve Force of the AFP;
- 11 b. It shall be unlawful for a labor contractor or subcontractor, if any, to refuse to refer  
12 for employment or otherwise discriminate against any individual because of such  
13 person's membership, application for membership, performance of military service,  
14 application for military service or obligation with the Reserve Force of the AFP.
- 15 c. It shall be unlawful for any organization to:
- 16 i. Deny membership to any individual because of such person's membership,  
17 application for membership, performance of military service, application for  
18 military service or obligation with the Reserve Force of the AFP;
- 19 ii. Exclude from its membership any individual because of such person's  
20 membership, application for membership, performance of military service,  
21 application for military service or obligation with the Reserve Force of the AFP;  
22 or
- 23 iii. Cause or attempt to cause an employer to discriminate against an individual in  
24 violation of this Act.
- 25 d. It shall be unlawful for a publisher to print or publish any notice of advertisement  
26 relating to employment suggesting preferences, limitations, specifications, and  
27 discrimination based on a person's membership, application for membership,  
28 performance of military service, application for military service or obligation with the  
29 Reserve Force of the AFP.

30 **CHAPTER 3**  
31 **EMPLOYMENT RIGHTS**

32 **SECTION 6. *Employment Rights of Citizen Soldiers/Reservist.*** – The following are the  
33 rights of reservists who perform military service in the Reserve Force of the AFP:

- 1 a. Reservists who perform military service are entitled to their original position, or when  
2 not practicable to a substantially equivalent position, without loss of seniority rights  
3 and diminution of their pay;
- 4 b. Military service shall not be considered a break in the employment for retirement  
5 purposes or for granting benefits provided for under the Labor Code and other special  
6 laws;
- 7 c. Reservists cannot be required to use earned or entitled vacation or service incentive  
8 leaves for leave of absence in connection with the performance of military service in  
9 the Reserve Force; and
- 10 d. Reservists who suffer any temporary or permanent disability due to military service  
11 shall not be denied reintegration if such employee can still perform the essential  
12 functions of their original employment, whether with or without reasonable  
13 accommodations.

14 **SECTION 7. *Hiring of Substitute Employee.*** – An employer whose reservist employee  
15 is called to military service may hire another employee as substitute during the period of the  
16 military service of the reservist employee.

17 The employment of the substitute employee shall be deemed terminated upon the  
18 reintegration of the reservist employee. The employer, or those acting in the interest of the  
19 employer may, however, consider the substitute employee for another position, if  
20 practicable.

21 **SECTION 8. *Reintegration Duty of an Employer.*** – It shall be the duty of the employer,  
22 or those acting in the interest of the employer, to reintegrate reservists returning from  
23 military service to their former position, or when not practicable to a substantially equivalent  
24 position, without loss of seniority rights and diminution of their pay.

25 **SECTION 9. *Conditions for Reintegration of Reservists.*** – Reservists shall be entitled  
26 to reintegration as provided in Section 8 of this Act, subject to the following conditions:

- 27 a. The reservist has rendered or performed military service as a member of the Reserve  
28 Force of the AFP;
- 29 b. The employer, or those acting in the interest of the employer, has been given a written  
30 notice by the AFP or the reservist, which if practicable shall indicate the duration of  
31 military service, at least thirty (30) days prior to departing for military service unless  
32 precluded by military necessity, or under all of the relevant circumstances, the timely  
33 provision of notice is otherwise impossible or unreasonable;
- 34 c. The employer, or those acting in the interest of the employer, shall immediately  
35 reintegrate the reservist after he or she is officially discharged from military service in  
36 accordance with the notice issued by the AFP; and

1 d. The employer, or those acting in the interest of the employer, shall provide its reservist  
2 employee the prevailing salary or wage at the time of reintegration of the reservist.

3 The AFP shall issue and provide the pertinent notices and documents to reservists and  
4 their employers, and those acting in the interest of the employers, in a timely manner to  
5 facilitate the reintegration of the reservists to their employment.

6 **SECTION 10. *Period to Notify of Intent to Return.*** – Reservists are hereby required to  
7 notify their employers, or those acting in the interest of the employer, of their intent to return  
8 to work subject to the following circumstances and conditions:

9 a. In the case of reservists called to military service for a definite period when indicated  
10 in the call for active duty training or such other notice issued by the AFP, the employer,  
11 or those acting in the interest of the employer, shall be deemed notified of the intent  
12 to return when furnished a copy of the pertinent notice from the AFP prior to the  
13 absence of the reservist for military service;

14 b. In the case of reservists called to military service for an indefinite period when not  
15 indicated in the call for active duty training or such other notices issued by the AFP,  
16 the employer, or those acting in the interest of the employer, shall be deemed notified  
17 of the intent to return when furnished a copy of the pertinent notice from the AFP  
18 indicating the impending discharge of reservists at least fifteen (15) days prior to the  
19 end of the military service;

20 *Provided,* That the reservists shall not be deemed ineligible when circumstances do  
21 not permit the timely prior notification of absence due to military service and/or intent to  
22 return of a reservist in compliance with this provision in accordance with Sections 9(b) and  
23 9(d) of this Act.

24 *Provided, further,* That reservists who suffer from illness or injury incurred in, or  
25 aggravated during, the performance of military service shall be allowed to indicate their  
26 desire to return to their former position within a reasonable time as prescribed by a military  
27 doctor.

28 *Provided, finally,* That the AFP shall ensure that its policies and administrative  
29 processes, whenever practicable, allow for at least fifteen (15) days prior notification of  
30 employers, or those acting in their interest, of the absence of reservists for military service  
31 and their capacity and intent to return to their employment.

32 **SECTION 11. *Compensation for Non-Reintegration of Reservists.*** – In cases of  
33 authorized causes or circumstances, subject to the determination and approval of  
34 Department of Labor and Employment (DOLE), where reintegration is impossible or  
35 unreasonable the reservist shall be entitled to at least three (3) months' worth of his or her  
36 basic salary or to a separation pay equivalent to his or her one-month basic salary per year of  
37 service, whichever is higher.

1           **SECTION 12. *Compensation of Reservists for Military Service.*** – In order to enhance  
2 the general welfare, commitment to service and professionalism of the members of the  
3 Reserve Force of the AFP, the reservist rendering military service shall be entitled to the base  
4 pay commensurate to their rank consistent with their counterpart in the regular force.

5           The mother agency of the reservist shall promptly pay and remit the reservist  
6 employees' premium contributions, based on his or her salary, during their absence due to  
7 military service, whether to the Government Service Insurance System (GSIS), the  
8 Pagtutulungan sa Kinabukasan: Ikaw, Bangko, Industriya, at Gobyerno (PAG-IBIG), Philippine  
9 Health Insurance Company (PhilHealth), and all pertinent contributions related to his or her  
10 employment, and shall not reflect any gap in contributions in the records.

11           Reservists shall have the option to pay their Social Security System (SSS) contributions  
12 as a voluntary paying SSS member to avoid any gap in their contribution records and afford  
13 their full entitlement to SSS benefits in accordance with existing guidelines.

14           The AFP shall establish the necessary administrative process to assist reservists in the  
15 timely remittance of pertinent contributions, whether mandatory or voluntary.

16           **SECTION 13. *Multi-stakeholder Engagements and Advocacies.*** – The Department of  
17 National Defense (DND) and AFP shall strengthen coordination and cooperation among  
18 stakeholders through a sustained and comprehensive advocacy campaign for the purpose of  
19 ensuring that the employment rights of reservists are understood and protected by all  
20 concerned.

21           For this purpose, the Department of Budget and Management (DBM) in consultation  
22 with the DND and the AFP shall create the necessary plantilla or non-tenured positions. The  
23 necessary funds for the implementation of this provision shall be included in the budget of  
24 the DND and AFP in the annual General Appropriations Act.

25           **SECTION 14. *Tax Benefits and Incentives.*** – The Department of Finance (DOF), in  
26 coordination with the DND, AFP, and other appropriate governments agencies, shall develop  
27 the appropriate rules and regulations on the provision of tax benefits and incentives based  
28 on justified costs and expenses by employers associated with organizational adjustments  
29 borne out of the absence of reservists in an organization in compliance with this Act, Republic  
30 Act No. 7077, and other appropriate laws, rules, and regulations.

31           **SECTION 15. *Administrative Fines and Penalties.*** – Violation of any of the provision of  
32 this Act shall be punished with a fine of not less than Fifty thousand pesos (PHP 50,000.00)  
33 but not more than One million pesos (PHP 1,000,000.00), or imprisonment of not less than  
34 three (3) months but not more than two (2) years, or both, at the discretion of the court. If  
35 the offense is committed by a corporation, trust, firm, partnership or association or other  
36 entity, the penalty shall be imposed upon the responsible officer or officers of such  
37 corporation, trust, firm, partnership or association or entity.

1           **SECTION 16. *Military Duty Leave.*** – Every reservist shall be entitled to a leave of seven  
2 (7) days with pay per year for the purposes of military training or military activities. This shall  
3 be on top of applicable leaves entitled a reservist from his or her employer.

4                                   **CHAPTER 4**  
5                                   **FINAL PROVISIONS**

6           **SECTION. 17. *Appropriations.*** – The amount necessary for the immediate and  
7 effective implementation of this Act shall be charged against any available funds of the DND  
8 and the AFP. Thereafter, such sums as may be necessary for the implementation of this Act  
9 shall be included in the annual appropriations of the Armed Forces of the Philippines.

10          **SECTION 18. *Implementing Rules and Regulations.*** – Within sixty (60) days from the  
11 effectivity of this Act, the DOLE in coordination with the DND, the AFP, the Civil Service  
12 Commission (CSC) and appropriate government agencies shall promulgate the rules and  
13 regulations for the effective implementation of this Act.

14          **SECTION 19. *Separability Clause.*** – Should any provision herein be declared  
15 unconstitutional, the same shall not affect the validity of the other provisions of this Act.

16          **SECTION 20. *Repealing Clause.*** – All laws, decrees, orders, rules, and regulations or  
17 other issuances or parts inconsistent with the provisions of this Act are hereby repealed,  
18 amended, or modified accordingly.

19          **SECTION 21. *Effectivity Clause.*** –This Act shall take effect in fifteen (15) days after  
20 publication in the Official Gazette or in one (1) newspaper of general circulation in the  
21 Philippines.

22           *Approved,*