

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

SENATE

S. No. 677



Introduced by SENATOR RAMON BONG REVILLA, JR. ¹⁹JUL 22 P 2:20

AN ACT

RECEIVED

RATIONALIZING GOVERNMENT INTERVENTION IN LABOR DISPUTES BY ADOPTING THE ESSENTIAL SERVICES CRITERIA IN THE EXERCISE OF THE ASSUMPTION OR CERTIFICATION POWER OF THE SECRETARY OF LABOR AND EMPLOYMENT, AND DECRIMINALIZING VIOLATIONS THEREOF, AMENDING FOR THIS PURPOSE PRESIDENTIAL DECREE 442, AS AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES

EXPLANATORY NOTE

The State guarantees the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with the law. ¹ In line with this, Article 278 of the Labor Code of the Philippines provides that it is the policy of the State to encourage free trade unionism and free collective bargaining. Therefore, it is prohibited to enjoin a strike. However, Article 278 provides for some exceptions to this general rule: the Secretary of Labor may enjoin a strike when: *first*, when the industry wherein the strike occurs is an indispensable to the national interest. The phrase "indispensable to the national interest" is now sought to be rephrased as "essential services." The amendment now defines what an essential service is. It refers to functions or services rendered by an establishment which, if interrupted, would endanger the life, personal safety or health of the whole or part of the population. *Second*, a strike can be enjoined in case of hospitals as the health and safety of the populace should be protected. The same article also provides for an instance when the President is allowed to intervene in a

¹ Article XIII, Sec. 3, par. 2, 1987 Constitution of the Philippines

labor dispute which is when it involves essential services and only during severe national emergencies.

This proposed legislation was approved on Third Reading by the House of Representatives in the 17th Congress and transmitted to the Senate in May 2019.

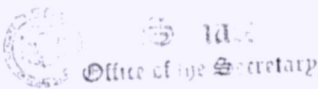
The right to strike springs from the right to self-organization. Since it is given a high regard by the highest law of the land, it shall be well-guarded. It is about time, therefore, that this measure is strengthened and not left watered-down by time.

Given the foregoing, the immediate passage of this measure is sought.


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RATIONALIZING GOVERNMENT INTERVENTION IN LABOR DISPUTES BY ADOPTING THE ESSENTIAL SERVICES CRITERIA IN THE EXERCISE OF THE ASSUMPTION OR CERTIFICATION POWER OF THE SECRETARY OF LABOR AND EMPLOYMENT, AND DECRIMINALIZING VIOLATIONS THEREOF, AMENDING FOR THIS PURPOSE PRESIDENTIAL DECREE 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. Article 278 of the Labor Code is hereby amended to read as follows:
- 2 "ART. 278. *Strikes, picketing, and lockouts.* – (a) It is the policy
- 3 of the State to encourage free trade unionism and free collective
- 4 bargaining.
- 5 "(b) Workers shall have the right to engage in concerted activities
- 6 for purposes of collective bargaining or for their mutual benefit and
- 7 protection. The right of legitimate labor organizations to strike and
- 8 picket and of employers to lockout [~~consistent with the national~~
- 9 ~~interest,~~] shall continue to be recognized and respected. However, no
- 10 labor union may strike and no employer may declare a lockout on
- 11 grounds involving inter-union and intra-union disputes.
- 12 "(c) In cases of bargaining deadlocks, the duly certified or
- 13 recognized bargaining agent may file a notice of strike or the employer
- 14 may file a notice of lockout with the [Ministry] **DEPARTMENT OF**
- 15 **LABOR AND EMPLOYMENT** at least **THIRTY (30)** days before the
- 16 intended date thereof. In cases of unfair labor practice, the period of

1 notice shall be **FIFTEEN** (15) days and in the absence of a duly certified
2 or recognized bargaining agent the notice of strike may be filed by any
3 legitimate labor organization in behalf of its members. However, in case
4 of dismissal from employment of union officers duly elected in
5 accordance with the union constitution and by-laws, which may
6 constitute union busting, where the existence of the union is threatened,
7 the **FIFTEEN** (15)-day cooling off period shall not apply and the union
8 may take action immediately.

9 "(d) The notice must be in accordance with such implementing
10 rules and regulations as the [~~Minister~~] **SECRETARY** of Labor and
11 Employment may promulgate.

12 "(e) During the cooling-off period, it shall be the duty of the
13 [~~Ministry~~] **DEPARTMENT OF LABOR AND EMPLOYMENT** to exert all
14 efforts at mediation and conciliation to effect a voluntary settlement.
15 Should the dispute remain unsettled until the lapse of the requisite
16 number of days from the mandatory filing of their notice, the labor union
17 may strike or the employer ay declare a lockout.

18 "(f) A decision to declare a strike must be approved by a majority
19 of the total union membership in the bargaining unit concerned,
20 obtained by secret ballot in meetings or referenda called for that
21 purpose. A decision to declare a a lockout must be approved by a
22 majority of the board of directors of the corporation or association or of
23 the partners in a partnership [~~7~~] obtained by a secret ballot in a meeting
24 called for that purpose. The decision shall be valid for the duration of
25 the dispute based on substantially the same grounds considered when
26 the strike or lockout vote was taken. The [~~Ministry~~] **DEPARTMENT OF**
27 **LABOR AND EMPLOYMENT** may, at its own initiative or upon the
28 request of any affected party, supervise the conduct of the secret
29 balloting. In every case, the union or the employer shall furnish the
30 [~~Ministry~~] **DEPARTMENT OF LABOR AND EMPLOYMENT** the results
31 of the voting at least seven (**7**) days before the intended strike or
32 lockout, subject to the cooling-off period herein provided.

1 “(g) When [~~in his opinion~~] there exists a labor dispute causing
2 or likely to cause a strike or lockout in an industry [~~indispensable to the~~
3 ~~national interest,~~] **ENGAGED IN ESSENTIAL SERVICES**, the
4 Secretary of Labor and Employment may assume jurisdiction over the
5 dispute [~~and decide it or certify the same to the Commission for~~
6 ~~compulsory arbitration~~] **PROVIDED THAT ANY OF THE FOLLOWING**
7 **CONDITIONS IS PRESENT:**

- 8 **1. BOTH PARTIES HAVE REQUESTED THE SECRETARY OF LABOR**
9 **AND EMPLOYMENT TO ASSUME JURISDICTION OVER THE**
10 **LABOR DISPUTE; OR**
11 **2. UPON REQUEST OR PETITION BY EITHER PARTIES OR *MOTU***
12 ***PROPRIO* ON THE PART OF THE SECRETARY OF LABOR AND**
13 **EMPLOYMENT AFTER A CONFERENCE CALLED BY THE OFFICE**
14 **OF THE SECRETARY ON THE PROPRIETY OF ITS ISSUANCE HAS**
15 **BEEN CONDUCTED.**

16 **IN SUCH A CASE, THE SECRETARY OF LABOR AND**
17 **EMPLOYMENT MAY DECIDE OR CERTIFY THE LABOR DISPUTE**
18 **TO THE NATIONAL LABOR RELATIONS COMMISSION FOR**
19 **COMPULSORY ARBITRATION OR TO A VOLUNTARY**
20 **ARBITRATOR OR PANEL OF VOLUNTARY ARBITRATORS.**

21 [Such] **SAID assumption OF JURISDICTION** [or certification]
22 shall have the effect of automatically enjoining [the intended or] **AN**
23 impending strike or lockout [~~as specified in the assumption or~~
24 ~~certification order~~]. If [one] **A STRIKE OR LOCKOUT** has already taken
25 place at the time of assumption [~~or certification~~], all striking or locked
26 out employees **AND OTHER EMPLOYEES SUBJECT OF THE NOTICE**
27 **OF STRIKE OR LOCKOUT** shall immediately return to work and the
28 employer shall immediately resume operations and readmit all [~~workers~~]
29 **EMPLOYEES** under the same terms and conditions prevailing before
30 the strike or lockout. [~~The Secretary of Labor and Employment or the~~
31 ~~Commission may seek the assistance of law enforcement agencies to~~

1 ensure compliance with this provision as well as with such orders as he
2 may issue to enforce the same.

3 ~~"In line with the national concern for and the highest respect~~
4 ~~accorded to the right of patients to life and health, strikes and lockouts~~
5 ~~in hospitals, clinics and similar medical institutions shall, to every extent~~
6 ~~possible, be avoided, and all serious efforts, not only by labor and~~
7 ~~management but government as well, be exhausted to substantially~~
8 ~~minimize, if not prevent, their adverse effects on such life and health,~~
9 ~~through the exercise, however legitimate, by labor of its right to strike~~
10 ~~and by management to lockout. In labor disputes affecting the~~
11 ~~continued operation of such hospitals, clinics or medical institutions, it~~
12 ~~shall be the duty of the striking union or locking-out employer to provide~~
13 ~~and maintain an effective skeletal workforce of medical and other health~~
14 ~~personnel, whose movement and services shall be unhampered and~~
15 ~~unrestricted, as are necessary to insure the proper and adequate~~
16 ~~protection of the life and health of its patients, most especially~~
17 ~~emergency cases, for the duration of the strike or lockout. In such cases,~~
18 ~~therefore, the Secretary of Labor and Employment may immediately~~
19 ~~assume, within twenty four (24) hours from knowledge of the~~
20 ~~occurrence of such a strike or lockout, jurisdiction over the same or~~
21 ~~certify it to the Commission for compulsory arbitration. For this purpose,~~
22 ~~the contending parties are strictly enjoined to comply with such orders,~~
23 ~~prohibitions and/or injunctions as are issued by the Secretary of Labor~~
24 ~~and Employment or the Commission, under pain of immediate~~
25 ~~disciplinary action, including dismissal or loss of employment status or~~
26 ~~payment by the locking-out employer of backwages, damages and other~~
27 ~~affirmative relief, even criminal prosecution against either or both of~~
28 ~~them.]~~

29 **ESSENTIAL SERVICES REFER TO FUNCTIONS OR**
30 **SERVICES RENDERED BY AN ESTABLISHMENT WHICH, IF**
31 **INTERRUPTED, WOULD ENDANGER THE LIFE, PERSONAL**
32 **SAFETY OR HEALTH OF THE WHOLE OR PART OF THE**

1 POPULATION. FOR THIS PURPOSE, THE SECRETARY OF LABOR
2 AND EMPLOYMENT, BY APPROPRIATE REGULATIONS, SHALL
3 DETERMINE THE INDUSTRIES ENGAGED IN ESSENTIAL
4 SERVICES AFTER CONSULTATIONS WITH THE NATIONAL
5 TRIPARTITE INDUSTRIAL PEACE COUNCIL.

6 IN LABOR DISPUTES AFFECTING INDUSTRIES ENGAGED
7 IN ESSENTIAL SERVICES, IT SHALL BE THE DUTY OF THE
8 UNION AND EMPLOYER TO PROVIDE AND MAINTAIN THE
9 OPERATION OR DELIVERY OF SERVICES. IN CASE OF
10 HOSPITALS, CLINICS OR MEDICAL INSTITUTIONS, THE UNION
11 AND EMPLOYER SHALL PROVIDE AND MAINTAIN AN
12 EFFECTIVE AND FUNCTIONAL WORKFORCE WHOSE
13 MOVEMENT AND SERVICES SHALL BE UNHAMPERED AND
14 UNRESTRICTED AS ARE NECESSARY TO ENSURE THE PROPER
15 AND ADEQUATE PROTECTION OF THE LIFE, PERSONAL SAFETY,
16 AND HEALTH OF THEIR PATIENT, MOST ESPECIALLY IN
17 EMERGENCY CASES, FOR THE DURATION OF THE LABOR
18 DISPUTE.

19 "The foregoing notwithstanding, the President of the Philippines
20 shall not be precluded from determining the industries that [~~in his~~
21 ~~opinion, are indispensable to the national interest~~] **ARE ENGAGED IN**
22 **ESSENTIAL SERVICES** and from intervening at any time and
23 assuming jurisdiction over any such labor dispute in order to settle or
24 terminate the same **DURING SEVERE NATIONAL EMERGENCIES.**

25 (h) [~~Before or at any stage of the compulsory arbitration process,~~
26 ~~the parties may opt to submit their dispute to voluntary arbitration]~~
27 **WITHIN FIVE (5) DAYS FROM THE ISSUANCE OF THE**
28 **ASSUMPTION OF JURISDICTION OR CERTIFICATION ORDER, A**
29 **PRELIMINARY CONFERENCE OR HEARING SHALL**
30 **IMMEDIATELY BE CONDUCTED BY THE OFFICE OF THE**
31 **SECRETARY OF LABOR AND EMPLOYMENT, THE NATIONAL**
32 **LABOR RELATIONS COMMISSION OR THE VOLUNTARY**

1 **ARBITRATOR OR PANEL OF VOUNTARY ARBITRATORS, AS THE**
2 **CASE MAY BE.**

3 (i) ~~[The Secretary of Labor and Employment, the Commission or~~
4 ~~the voluntary arbitrator or panel of voluntary arbitrators shall decide or~~
5 ~~resolve the dispute within thirty (30) calendar days from the date of the~~
6 ~~assumption of jurisdiction or the certification or submission of the~~
7 ~~dispute, as the case may be. The decision of the President, the Secretary~~
8 ~~of Labor and Employment, the Commission or the voluntary arbitrator~~
9 ~~or panel of voluntary arbitrators shall be final and executory ten (10)~~
10 ~~calendar days after receipt thereof by the parties.]~~ **IN CASE OF**
11 **ACTUAL OR IMPENDING STRIKE OR LOCKOUT IN INDUSTRIES**
12 **THAT ARE NOT ENGAGED IN ESSENTIAL SERVICES, THE**
13 **SECRETARY OF LABOR AND EMPLOYMENT MAY ASSUME**
14 **JURISDICTION UPON JOINT REQUEST OF BOTH PARTIES IN**
15 **THE LABOR DISPUTE AFTER THE MANDATORY CONCILIATION.**
16 **EITHER OR BOTH PARTIES MAY ALSO OPT TO SUBMIT TO**
17 **COMPULSORY OR VOLUNTARY ARBITRATION.**

18 Sec. 2. Article 279 of the Labor Code is hereby amended to read as follows:

19 "ART. 279. *Prohibited activities.* – (a) No labor organization or
20 employer shall declare a strike or lockout without first having bargained
21 collectively in accordance with Title VII of this Book or without first
22 having filed the notice required in the preceding Article or without the
23 necessary strike or lockout vote first having been obtained and reported
24 to the [Ministry] **DEPARTMENT OF LABOR AND EMPLOYMENT.**

25 "No strike or lockout shall be declared after assumption of
26 jurisdiction by the President or the [Minister] **SECRETARY** or after
27 certification or submission of the dispute to the compulsory or voluntary
28 arbitration or during the pendency of cases involving the same grounds
29 for the strike or lockout.

30 "Any worker whose employment has been terminated as a
31 consequence of an [unlawful] **ILLEGAL** lockout shall be entitled to
32 reinstatement with full back wages. ~~[Any union officer who knowingly~~

1 ~~participates in an illegal strike and any worker or union officer who~~
2 ~~knowingly participates in the commission of illegal acts during strike~~
3 ~~may be declared to have lost his employment status: *Provided, That m*~~
4 **Mere participation of a worker OR UNION OFFICER in a [lawful] strike**
5 **DECLARED ILLEGAL FOR FAILURE OF THE UNION TO COMPLY**
6 **WITH PROCEDURAL REQUIREMENTS UNDER PARAGRAPH (A)**
7 **OF THIS ARTICLE** shall not ~~[constitute sufficient]~~ **BE A** ground for
8 termination of his employment, even if a replacement had been hired
9 by the employer during such ~~[lawful]~~ **ILLEGAL** strike.

10 “(b) No person shall obstruct, impede [.] or interfere with by
11 force, violence, coercion, threats or intimidation any peaceful
12 **CONCERTED ACTION INCLUDING** picketing by employees during
13 any labor controversy or in the exercise of the right [of] **TO** self-
14 organization or collective bargaining[.] or shall aid or abet such
15 obstruction or interference.

16 **“ANY WORKER OR UNION OFFICER WHO KNOWINGLY**
17 **PARTICIPATES IN THE COMMISSION OF UNLAWFUL ACTS**
18 **DURING A STRIKE MAY, AFTER DUE PROCESS, BE DECLARED**
19 **TO HAVE LOST ONE’S EMPLOYMENT.**

20 “(c) No employer shall use or employ any strike-breaker [.] nor
21 shall any person be employed as a strike-breaker.

22 “(d) No public official or employee, including officers and
23 personnel of the [New] Armed Forces of the Philippines or the
24 [Integrated] **PHILIPPINE** National Police [.] or armed person,
25 **PRIVATE SECURITY GUARDS AND SIMILAR PERSONNEL IN THE**
26 **PRIVATE SECURITY AGENCY** shall ~~[bring in]~~ introduce or escort in
27 any manner ~~[any individual who seeks to replace strikers in entering or~~
28 ~~leaving the premises of a strike area, or work in place of the strikers]~~
29 **REPLACEMENT WORKERS.** The police force shall keep out of the
30 picket lines unless actual violence or other criminal acts occur therein[.
31 ~~*Provided, That nothing herein shall be interpreted to prevent any public*~~

1 officer from taking any measure necessary to maintain peace and order,
2 protect life and property, and/or enforce the law and legal order].

3 **"HOWEVER, THE SECRETARY OF LABOR AND**
4 **EMPLOYMENT OR THE NATIONAL LABOR RELATIONS**
5 **COMMISSION MAY SEEK THE ASSISTANCE OF LAW**
6 **ENFORCEMENT AGENCIES TO MAINTAIN PEACE AND ORDER,**
7 **PROTECT LIFE AND PROPERTY, AND ENFORCE THE LAW AND**
8 **LEGAL ORDER.**

9 "(e) No person engaged in picketing shall commit any act of
10 violence, coercion or intimidation or obstruct the free ingress to or
11 egress from the employer's premises for lawful purposes[.] or obstruct
12 public thoroughfares."

13 Sec. 3. Article 287 of the Labor Code is hereby further amended to read as
14 follows:

15 "Article 287. [*Penalties*] **FINES.** – (a) Any person, **EMPLOYER,**
16 **ORGANIZATION OR CORPORATION FOUND** violating any of the
17 provisions of Article 279 of this Code shall be [~~punished by a~~] fineD [~~of~~]
18 not less than [~~one thousand pesos P1,000.00~~] **TEN THOUSAND**
19 **PESOS (P10,000.00)** nor more than [~~ten thousand pesos~~
20 (~~P10,000.00~~) and or imprisonment for not less than three (3) months
21 **nor more than three (3) years, or both such fine and imprisonment,]**
22 **ONE HUNDRED THOUSAND PESOS (P100,000.00)** at the
23 discretion of the [~~court~~] **NATIONAL LABOR RELATIONS**
24 **COMMISSION.** [~~Prosecution under this provision shall preclude~~
25 ~~prosecution for the same act under the Revised Penal Code, and vise~~
26 ~~versa.~~]

27 "(b) Upon the recommendation of the [~~Minister~~] **SECRETARY** of
28 Labor and Employment and the [~~Minister~~] **SECRETARY** of National
29 Defense, foreigners who violate the provisions of this Title shall be
30 subject to immediate and summary deportation by the [~~Commission on~~]
31 **BUREAU OF** immigration [~~and Deportation~~] and shall be permanently

1 barred from reentering the country without the special permission of the
2 President of the Philippines.

3 **"(C) THE REGULAR COURTS SHALL HAVE JURISDICTION**
4 **OVER ANY CRIMINAL ACTION ARISING FROM VIOLATION OF**
5 **ANY OF THE PROVISIONS OF ARTICLE 279 OF THIS CODE BUT**
6 **SUBJECT TO THE REQUIRED CLEARANCE FROM THE**
7 **DEPARTMENT OF LABOR AND EMPLOYMENT ON CASES**
8 **ARISING OUT OF OR RELATED TO A LABOR DISPUTE.**

9 **"NO CRIMINAL PROSECUTION UNDER ARTICLE 279 OF**
10 **THIS CODE MAY BE INSTITUTED WITHOUT A FINAL**
11 **JUDGEMENT THAT AN ILLEGAL STRIKE OR LOCKOUT HAS BEEN**
12 **COMMITTED. THE PRESCRIPTION PERIOD OF THE CRIMINAL**
13 **OFFENSE SHALL BE CONSIDERED INTERRUPTED DURING THE**
14 **PENDENCY OF ADMINISTRATIVE PROCEEDINGS: *PROVIDED,***
15 ***HOWEVER,* THAT THE FINAL JUDGEMENT IN THE SAID**
16 **PROCEEDINGS SHALL NOT BE BINDING IN THE CRIMINAL CAS**
17 **NOR SERVE AS AN EVIDENCE OF GUILT.**

18 **"(D) COMPLAINTS ON ACTS OR OMISSIONS OF THE PNP**
19 **OR THE AFP PERSONNEL OR PUBLIC PROSECUTORS IN**
20 **VIOLATION OF ARTICLE 279 OF THIS CODE SHALL BE FILED**
21 **WITH THEIR RESPECTIVE AGENCIES WITHOUT PREJUDICE TO**
22 **THE FILING OF THE APPROPRIATE CASES BEFORE THE**
23 **OMBUDSMAN."**

24 Sec. 4. The Secretary of Labor and Employment shall promulgate the necessary
25 rules and regulations to implement the provisions of this Act.

26 Sec. 5. If any part or provision of this Act is declared unconstitutional or invalid,
27 the remainder of this Act or the provisions not otherwise affected shall remain valid
28 and subsisting.

29 Sec. 6. All laws, presidential decrees, proclamations, executive orders,
30 issuances, rules and regulations, or any part thereof inconsistent with the provisions
31 of this Act are hereby repealed, amended or modified accordingly.

1 Sec. 7. This Act shall take effect fifteen (15) days after its publication in the
2 *Official Gazette* or in a newspaper or general circulation.
3
4 Approved,