

EIGHTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
First Regular Session



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Senate
Office of the Secretary

19 NOV -5 P3:45

SENATE

S. B. NO. 1147

RECEIVED BY: _____

Introduced by **SENATOR JOEL VILLANUEVA**

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

EXPLANATORY NOTE

Citizen soldiers or reservists play an integral role in defending the Philippines in times of war, armed conflicts and similar occurrences, and in providing assistance during natural disasters, among others.

For example, during the siege carried out by the Maute Group in Marawi City in 2017, two battalions from the military's Reserve Force were mobilized to help thwart terrorism in the area. Aside from these, citizen soldiers also serve in the front lines during times of natural disasters and calamities. According to Brigadier General Marcelo Javier Jr., the Ready Reserves component of the Armed Forces of the Philippines are often mobilized first in times of disaster.¹

Unfortunately, reservists often risk losing their civilian careers when they render military service. According to a study published in the Harvard Business Review, military reservists in the United States are 11% less likely to be called for a job interview. Accordingly, American employers find it challenging to hire or invest in military reservists due to the possibility that they might be called regularly, and will, thus, take long leaves from work to render military service.²

¹ 2015, March 30. On the front line: Volunteer troops in times of crisis. Yuson, Zak. Rappler. Retrieved from <https://www.rappler.com/move-ph/issues/disasters/88416-reserve-force-disasters-zero-casualty> (date last accessed: 2017, October 13).

² 2017, October 13. Research: Companies Are Less Likely to Hire Current Military Reservists. Figinski, Theodore F. Harvard Business Review. Retrieved from: <https://hbr.org/2017/10/research-companies-are-less-likely-to-hire-current-military-reservists>. (date last accessed: August 1, 2019).

In the Philippines, there is very little protection for reservists in terms of employment rights, such as payment of compensation and wages while in military service, prohibition against discrimination, rights of reservists upon returning to work,³ as well as payment of social security-related contributions while on military service.

Currently, Article 301 [286] of the Labor Code provides that the fulfillment by the employee of a military or civic duty shall not terminate employment, provided that he indicates his desire to resume work not later than one month from relief from military or civic duty. Meanwhile, item (f) of Presidential Decree No. 183 (Providing for the Annual Registration of Reservists of the Armed Forces of the Philippines; Granting Security of Tenure to Reservists Employed in Private Firms while Undergoing Refresher Training, Mobilization or Assembly Tests or Annual Active Duty Training in Fulfillment of their Military Obligations; and for Other Purposes) provides that an employee of a commercial, industrial or agricultural firm with an annual gross volume of not less than Php250,000 and with a personnel force of at least 20 employees, who is called to refresher training, active duty or mobilization or assembly test, shall not lose his position or suffer any loss of pay due to his absence in the fulfillment of his military obligation. This rule is substantially reiterated in Section 32 of Republic Act No. 7077, otherwise known as Citizen Armed Forces of the Philippines Reservist Act, which provides that employees who are called to active military training shall not be separated from his/her employment, and shall not be considered as having forfeited his seniority right. However, Republic Act No. 7077 provided for a higher monthly operating volume of not less than Php300,000.00.

This bill seeks to strengthen the employment protection rights of reservists to ensure that they will not be adversely affected by their affiliation with and service to the military as members of the Reserve Force of the Armed Forces of the Philippines (AFP).

First, it strictly prohibits discrimination in terms of employment, admission to any organization and referral to employment opportunities on account of one's membership, application for membership, performance of military service, application for military service or obligation with the Reserve Force of the AFP. Second, this bill also clarifies that military service shall not be considered a break in the service of an employee-reservist, and he/she shall be entitled to reintegration, without loss of seniority rights and diminution of pay upon his/her discharge from service or training. Third, this bill provides that reservists rendering military service are entitled to compensation commensurate to their rank and consistent with the compensation being received by their counterparts in the regular force, including the payment of premium contributions to the Government Service Insurance System (GSIS), Philippine Health Insurance Corporation (PhilHealth) and Philippine Home Development Corporation (PAGIBIG). They also have the option to voluntarily pay their contributions to the Social Security System during this time.

³ Transcripts of the Senate Hearing on the rights of reservists under the Committee on Labor and Human Development on December 18, 2017. At p. 32.

An employer, regardless of size or number of employees, who violates the provisions of this Act is liable for a fine ranging from Php50,000.00 to Php500,000.00, or imprisonment ranging from three months to two years, or both, at the discretion of the court.

Indeed, the Filipino people owe these brave men and women for the tremendous sacrifices they are willing to make for the country. Protecting their rights to just compensation and job security is the least we can do.

The immediate passage of this bill is earnestly sought.



SENATOR JOEL VILLANUEVA

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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**

1
2
3
4 **SECTION 1. Short Title.** – This Act shall be known as the “Reservist
5 Employment Rights Act.”

6
7 **SEC. 2. Declaration of Policy.** – It is hereby declared the policy of the State to:
8

9 a) Strengthen the Citizen Armed Forces or the Reserve Force of the Armed
10 Forces of the Philippines (AFP) and recognize its role in the mission
11 areas of the AFP and in national security;
12

13 b) Protect the rights of reservists, and prevent and prohibit discrimination
14 on the basis of rendering military service to the State;
15

16 c) Encourage service in the AFP Reserve Force by eliminating or
17 minimizing the disadvantages to civilian careers and employment which
18 can result from rendering military service to the State; and
19

20 d) Ensure the observance of all employers of the rights of reservists called
21 to perform military service to the State.

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

5
6 **SEC. 3. Coverage.** – The provisions of this Act shall apply to all employers,
7 whether private or public, including all government agencies and political
8 subdivisions as well as government-owned or -controlled corporations, non-
9 government organizations, and other entities.

10
11 **SEC. 4. Definition of Terms.** – As used in this Act, the following terms shall
12 mean:

13
14 a) **Active Duty Training** refers to the compulsory or voluntary trainings for
15 reserve units and/or individual reservists provided by the AFP to update
16 their working knowledge in current military organization, doctrines, and
17 tactics, techniques and procedures (TTPs) in order to maintain a
18 desirable state of readiness, enable them to satisfy the active service-in-
19 grade required for promotion to higher grades, and maintain a level of
20 proficiency and competency for those reservists designated as
21 instructors in ROTC and other reservists training programs;

22
23 b) **Auxiliary Service** refers to the voluntary performance of a service by a
24 reservist for the purpose of helping maintain local peace and order,
25 meeting local insurgency and terror threats for intelligence requirements,
26 assisting in rescue and relief operations during disasters and calamities,
27 health welfare activities and participating in local socioeconomic
28 development projects;

29
30 c) **Citizen Soldier or Reservist** refers to members of the Reserve Force of
31 the AFP, composed of the following:

32
33 1) Graduates of the Reserve Officers' Training Corps (ROTC) basic
34 and advance courses and who were issued orders as enlisted
35 reservists or reserve officers of the AFP;

36
37 2) Graduates of authorized basic military training instructions who, as
38 a result thereof, were issued orders as enlisted reservists or
39 reserve officers;

40
41 3) Ex-servicemen and retired officers of the AFP who have been
42 incorporated into the Reserve Force of the AFP; and

43 4) Reservist officers and enlisted reservists including those procured
44 under existing laws and included in the present AFP roster.

45

1 There shall be three (3) categories of citizen soldiers or AFP reservists
2 based on age: The First Category Reserve, the Second Category
3 Reserve, and the Third Category Reserve, as defined under Republic
4 Act No. 7077, otherwise known as the "Citizen Armed Force or Armed
5 Forces of the Philippines Reservist Act."
6

7 Based on the categorization above, the Reserve Force units shall further
8 be classified into the Ready Reserve, the Standby Reserve, and the
9 Retired Reserve based on their operational readiness for immediate
10 deployment/utilization, and as defined under Republic Act No. 7077.
11

12 d) **Employment** refers to the act of hiring and continued engagement and
13 the reinstatement or reintegration of an employee called to military
14 service to his/her former position, or if not practicable, to a substantially
15 equivalent position, without loss of seniority rights and diminution of pay;
16

17 e) **Military Service** refers to any service rendered by a citizen soldier or
18 reservist to the State upon orders of the AFP or call to active duty (CAD)
19 to meet active duty training (ADT) requirements, or for any purpose that
20 the AFP leadership may deem necessary in order to augment and
21 support the Regular Force operations in times of war, national
22 emergency or such other times as the national security requires;
23

24 f) **Mobilization** refers to the utilization of the Reserve Force of the AFP in
25 times of emergency to meet threats to national security;
26

27 g) **Reintegration** refers to the actual resumption of work of an employee
28 after his/her military service to his/her former position, or if not
29 practicable, to a substantially equivalent position, without loss of
30 seniority rights and diminution of pay;
31

32 h) **Reserve Force** refers to those composing of members of the reserve
33 components of the AFP.
34

35
36 **CHAPTER 2**
37 **NON-DISCRIMINATION OF RESERVISTS**
38

39 **SEC. 5. Anti-Reservists Discrimination. –**
40

41 a) It shall be unlawful for an employer, or those acting in the interest of the
42 employer to:
43

44 1) Discriminate against an individual in terms of hiring, promotion,
45 opportunity for training, or compensation, terms and conditions, or
46 privileges of employment on account of such individual's
47 membership, application for membership, performance of military

1 service or application for military service or obligation with the
2 Reserve Force of the AFP;
3

4 2) Print or publish, or cause to be printed or published, in any form of
5 media, including the internet, any notice of advertisement relating
6 to employment suggesting preferences, limitations, specifications,
7 and discrimination based on membership, application for
8 membership, performance of military service, application for
9 military service or obligation with the Reserve Force of the AFP;
10

11 3) Require the declaration of application for membership, or status of
12 membership in the Reserve Force of the AFP; or
13

14 4) Lay-off or impose early retirement on the basis of such employee's
15 or worker's membership, application for membership, performance
16 of military service, application for military service or obligation with
17 the Reserve Force of the AFP.
18

19 b) It shall be unlawful for a private recruitment agency to refuse to refer for
20 employment or otherwise discriminate against any individual because of
21 such person's membership, application for membership, performance of
22 military service, application for military service or obligation with the
23 Reserve Force of the AFP.
24

25 c) It shall be unlawful for any organization to cause or attempt to cause an
26 employer to discriminate against an individual in violation of this Act, and
27 to deny or exclude from its membership to any individual because of
28 such person's membership, application for membership, performance of
29 military service, application for military service or obligation with the
30 Reserve Force of the AFP;
31

32 d) It shall be unlawful for a publisher to print or publish any notice of
33 advertisement relating to employment suggesting preferences,
34 limitations, specifications, and discrimination based on a person's
35 membership, application for membership, performance of military
36 service, application for military service or obligation with the Reserve
37 Force of the AFP.
38

39 **CHAPTER 3**
40 **EMPLOYMENT RIGHTS**
41

42 **SEC. 6. Employment Rights of Citizen Soldiers/Reservists.** – Reservists
43 who are called to perform military service shall have the following rights:
44

45 a) Reservists are entitled to their original position, or if not practicable, to a
46 substantially equivalent position, without loss of seniority rights and
47 diminution of pay and benefits;

- 1 b) Military service shall not be considered a break in the employment for
2 retirement purposes or for granting benefits provided for under the Labor
3 Code and other special laws;
4
- 5 c) Reservists shall not be required to use or apply any earned or future
6 leave credits in connection with the performance of military service in the
7 Reserve Force; and
8
- 9 d) Reservists who suffer any temporary or permanent disability due to
10 military service shall not be denied reinstatement, if such reservist-
11 employee is willing and able to perform the essential functions of his/her
12 original employment, whether with or without reasonable
13 accommodations.
14

15 **SEC. 7. Hiring of Substitute Employee.** – Subject to the provisions of the
16 Labor Code of the Philippines, as amended, an employer may hire a
17 temporary employee during the period of the military service of the reservist
18 employee called to render military service.
19

20 **SEC. 8. Duty of an Employer to Reintegrate a Reservist and Conditions
21 for Reintegration.** – It shall be the duty of the employer to immediately
22 reintegrate a reservist returning from military service to his/her former
23 position, or if not practicable, to a substantially equivalent position, without
24 loss of seniority rights and diminution of benefits, immediately after he/she is
25 officially discharged from military service; *Provided*, That the following
26 conditions shall be complied with:
27

- 28 a) The reservist has rendered or performed military service as a member of
29 the Reserve Force of the AFP;
30
- 31 b) The employer has been given a written notice by the AFP or the
32 reservist at least fifteen (15) days prior to departing for military service
33 unless precluded by military necessity, or under all of the relevant
34 circumstances, the timely provision of notice is otherwise impossible or
35 unreasonable. The written notice shall, as far as practicable, indicate the
36 duration of military service and other relevant information; and
37
- 38 c) The reservist has notified the employer of his/her intent to return to work
39 in accordance with Section 9 hereof.
40

41 For this purpose, the AFP shall issue and provide the pertinent notices and
42 documents to reservists and their employers in a timely manner to facilitate
43 the reintegration of the reservists to their employment.
44

45 **SEC. 9. Period to Notify of Intent to Return.** – Reservists shall notify their
46 employers of their intent to return to work, subject to the following
47 circumstances and conditions:
48

1 a) In the case of reservists called to military service for a definite period and
2 such period is clearly indicated in the call for active duty training or such
3 other notice issued by the AFP, the employer shall be deemed notified of
4 the intent to return when furnished a copy of the pertinent notice from the
5 AFP prior to the absence of the reservist for military service;
6

7 b) In the case of reservists called to military service for an indefinite period,
8 and there is no clear indication of the period of service in the notice or call
9 issued by the AFP, the employer shall be deemed notified of the intent to
10 return when furnished a copy of the pertinent notice from the AFP
11 indicating the impending discharge of reservists at least fifteen (15) days
12 prior to the end of the military service; *Provided*, That the reservists shall
13 not be deemed ineligible when circumstances do not permit the timely
14 prior notification of absence due to military service and/or intent to return
15 of a reservist in compliance with this provision; *Provided further*, That
16 reservists who suffer from illness or injury incurred in, or aggravated
17 during, the performance of military service shall be allowed to indicate
18 their desire to return to their former position within a reasonable time as
19 prescribed by a military doctor; *Provided finally*, That the AFP shall ensure
20 that its policies and administrative processes, whenever practicable, allow
21 for at least fifteen (15) days prior notification to employers regarding the
22 absence of reservists for military service and their capacity and intent to
23 return to their employment.
24

25 **SEC. 10. Compensation for Non-Reintegration of Reservists.** – In the
26 event that the reintegration of the reservist is impossible due to authorized
27 causes, the reservist shall be entitled to separation pay in accordance with
28 law.
29

30 **SEC. 11. Compensation of Reservists for Military Service.** – For the
31 duration of their military service, reservists shall be entitled to the base pay
32 commensurate to their rank and consistent with their counterpart in the
33 regular force, including the payment of premium contributions to the
34 Government Service Insurance System (GSIS), Philippine Health Insurance
35 Corporation (PhilHealth) and Philippine Home Development Corporation
36 (PAGIBIG).
37

38 As far as practicable and except as provided herein, all pertinent social
39 security contributions of the reservists shall not reflect any gap in
40 contributions.
41

42 Reservists shall have the option to pay their Social Security System (SSS)
43 contributions as a voluntary paying SSS member to avoid any gap in their
44 contribution records and afford their full entitlement to SSS benefits in
45 accordance with existing guidelines. For this purpose, the AFP shall establish
46 the necessary administrative processes to assist reservists in the timely
47 remittance of pertinent social security contributions.
48

1 **SEC. 12. Multi-stakeholder Engagements and Advocacies.** – The AFP, in
2 coordination with the Department of National Defense (DND), Department of
3 Labor and Employment (DOLE) and other relevant agencies and
4 stakeholders, shall undertake an information and awareness campaign on the
5 employment rights of reservists.
6

7 **SEC. 13. Administrative Fines and Penalties.** – An employer who violates
8 the provisions of this Act shall be liable for a fine ranging from Fifty Thousand
9 Pesos (Php50,000.00) to Five Hundred Thousand Pesos (Php500,000.00), or
10 imprisonment ranging from three (3) months to two (2) years, or both, at the
11 discretion of the court. If the offense is committed by a corporation, trust, firm,
12 partnership or association or other entity, the penalty of imprisonment shall be
13 imposed upon the responsible officer or officers of such corporation, trust,
14 firm, partnership or association or entity.
15

16 **SEC. 14. Military Duty Leave.** – A reservist shall be entitled to an annual
17 military duty leave of seven (7) days with pay for the exclusive purpose of
18 undergoing military training or joining military activities. For this purpose, the
19 SSS and the GSIS shall promulgate the necessary rules for the availment of
20 this benefit.
21

22 23 **CHAPTER 4** 24 **FINAL PROVISIONS** 25

26 **SEC. 15. Appropriations.** – The amount necessary for the immediate and
27 effective implementation of this Act shall be charged against the funds of the
28 DND and the AFP. Thereafter, such sums as may be necessary for the
29 implementation of this Act shall be included in the annual General
30 Appropriations Act.
31

32 **SEC. 16. Implementing Rules and Regulations.** – Within sixty (60) days
33 from the effectivity of this Act, the AFP, DND, DOLE, CSC, and other
34 appropriate government agencies, in consultation with relevant stakeholders,
35 shall promulgate the rules and regulations for the effective implementation of
36 this Act.
37

38 **SEC. 17. Separability Clause.** – Should any provision herein be declared
39 unconstitutional or invalid, the same shall not affect the validity of the other
40 provisions of this Act.
41

42 **SEC. 18. Repealing Clause.** – Section 32 of Republic Act No.7077 and Items
43 (f) and (g) of Presidential Decree No.183 Series of 1973 (or “Providing For
44 The Annual Registration Of Reservists Of The Armed Forces Of The
45 Philippines; Granting Security Of Tenure To Reservists Employed In Private
46 Firms While Undergoing Refresher Training, Mobilization Or Assembly Tests
47 Or Annual Active Duty Training In Fulfillment Of Their Military Obligations;
48 And For Other Purposes”) are hereby repealed.
49

1 All other laws, decrees, orders, rules, and regulations or other issuances or
2 parts inconsistent with the provisions of this Act are hereby repealed or
3 modified accordingly.

4

5 **SEC. 19. Effectivity Clause.** – This Act shall take effect fifteen (15) days after
6 its publication in the Official Gazette or in two (2) newspapers of general
7 circulation.

8

9 **Approved,**