

THIRTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
Second Regular Session

6 JUN -7 P2:00

RECEIVED BY: 

SENATE

Senate Bill No. 2283

INTRODUCED BY SEN. MANNY VILLAR

EXPLANATORY NOTE

To guarantee the implementation of **Article 277 of the Labor Code**, as above amended, **Section 2 to 6, Rule XIV, Book V of the Rules Implementing the Labor Code**, provide thus:

“SEC. 2. *Notice of Dismissal.* - Any employer who seeks to dismiss a worker shall furnish him a written notice stating the particular acts or omission constituting the grounds for his dismissal. In cases of abandonment of work, the notice shall be served at the worker’s last known address.

SEC. 3. *Preventive Suspension.* - The employer may place the worker concerned under preventive suspension if his continued employment poses a serious and imminent threat to the life or property of the employer or of his co-workers.

SEC. 4. *Period of Suspension.* - No preventive suspension shall last longer than thirty (30) days. The employer shall thereafter reinstate the worker in his former or in a substantially equivalent position or the employer may extend the period of suspension provided that during the period of extension, he pays the wages and other benefits due to the worker. In such case, the worker shall not be bound to reimburse the amount paid to him during the extension if the employer decides, after completion of the hearing, to dismiss the worker.


SEC. 5. *Answer and Hearing.* - The worker may answer the allegations stated against him in the notice of dismissal within a reasonable period from receipt of such notice. The employer shall afford the worker ample opportunity to be heard and to defend himself with the assistance of his representative, if he so desires.

SEC. 6. *Decision to Dismiss.* - The employer shall immediately notify a worker in writing of a decision to dismiss him stating clearly the reason therefore.”

It must be distinctly pointed out that the implementing rules (**Section 3 and 4, supra**) governing the conditions under which preventive suspension may be imposed have become the legal anchor of the decisional rules on this issue (**Kwikway Engineering Works vs. NLRC, 195 SCRA 526 at 532; Tiu vs. NLRC, 215 SCRA 540 at 552**). In due time, employers who will be prejudiced by these rules will test their constitutionality or legality for lacking any statutory basis (**See, Lloria Motors, Inc. vs. Drilon, 179 SCRA 175 at 182-187; Esco Hale Shoe Company, Inc. vs. NLRC, 193 SCA 678 at 680-681; American Wire & Cable Workers Union (TUPAS) vs. NLRC, 130 SCRA 219; Philippine Apparel Worker's Union vs. NLRC, 106 SCRA 444 at 463-465**).

To pre-empt the occurrence of the scenario alluded to, this Bill seeks to institutionalize into law the above implementing rules on preventive suspension (**supra**).

Passage of this Bill is earnestly recommended.




MANNY VILLAR

THIRTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
Second Regular Session

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SENATE

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Senate Bill No. 2283

INTRODUCED BY SEN. MANNY VILLAR

AN ACT
PRESCRIBING THE GROUNDS AND PERIOD OF PREVENTIVE
SUSPENSION IN DISMISSAL CASES AMENDED FOR THIS PURPOSE
ARTICLE 277 (b) OF P.D. 442, AS AMENDED, OTHERWISE KNOWN AS THE
"LABOR CODE OF THE PHILIPPINES"

^{it}
Be_A enacted by the Senate and the House of Representatives of the
Philippines in Congress assembled:

SECTION 1. *Declaration of Policy.* - It is hereby declared the policy of the State to afford full protection to labor. Towards this end, the State shall enhance workers' entitlement to security of tenure by regulating the conditions under which preventive suspension may be imposed.

SECTION 2. Paragraph (b), Article 277 of Presidential Decree No. 442, as amended, otherwise known as the "Labor Code of the Philippines" is hereby further amended to read as follows:

"ARTICLE 277. Miscellaneous Provisions.-

(a) All unions are authorized to collect reasonable membership fees, union dues, assessments and fines and other contributions for labor education and research, mutual death and hospitalization benefits, welfare fund, strike fund and credit and cooperative undertakings.

(b) Subject to the constitutional right of workers to security of tenure and their right to be protected against dismissal except for a just and authorized cause and without prejudice to the requirement of notice under Article 283 of this Code, the employer shall furnish the worker whose employment is sought to be terminated a written notice containing a statement of the causes for termination and shall afford the latter ample opportunity to be heard and to defend himself with the assistance of his representative if he so desires in

accordance with company rules and regulations promulgated pursuant to guidelines set by the Department of Labor and Employment. Any decision taken by the employer shall be without prejudice to the right of the worker to contest the validity or legality of his dismissal by filing a complaint with the regional branch of the National Labor Relations Commission. The burden of proving that the termination was for a valid or authorized cause shall rest on the employer. The Secretary of the Department of Labor and Employment may suspend the effects of the termination pending resolution of the dispute in the event of a *prima facie* finding by the appropriate official of the Department of Labor and Employment before whom such dispute is pending that the termination may cause a serious labor dispute or is in implementation of a mass lay-off.

THE EMPLOYER WHO SEEKS TO DISMISS HIS WORKER MAY PLACE THE WORKER CONCERNED UNDER PREVENTIVE SUSPENSION IF HIS CONTINUED PRESENCE IN THE WORKPLACE POSES SERIOUS AND IMMINENT DANGER TO THE LIFE OR PROPERTY OF HIS EMPLOYER OR THE PHYSICAL SAFETY OF HIS CO-WORKERS. NO PREVENTIVE SUSPENSION SHALL LAST LONGER THAN THIRTY (30) DAYS. THE EMPLOYER SHALL IMMEDIATELY THEREAFTER READMIT THE WORKER TO HIS POSITION STATUS QUO ANTE OR THE EMPLOYER MAY EXTEND THE PERIOD OF SUSPENSION WHICH SHALL IN NO CASE BE LONGER THAN THIRTY (30) DAYS PROVIDED THAT DURING THE PERIOD OF SUSPENSION, HE PAYS THE WAGES AND OTHER BENEFITS DUE TO THE WORKER. IN SUCH CASE, THE WORKER SHALL NOT BE BOUND TO REIMBURSE THE AMOUNT PAID TO HIM DURING THE EXTENSION IF THE EMPLOYER DECIDES, AFTER COMPLETION OF THE HEARING, TO DISMISS THE WORKER.

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SECTION 3. *Rule Making.* - The Secretary of Labor and Employment shall, within thirty (30) days from the effectivity of this Act, promulgate such rules and regulations necessary to effectively implement its provisions.

SECTION 4. *Repealing Clause.* - All laws, orders, issuance, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed, modified, superseded or amended accordingly.

SECTION 3. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in at least two (2) national newspapers of general circulation, whichever comes earlier.

Approved,