



HOUSE OF REPRESENTATIVES

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BY REPRESENTATIVES MENDOZA (R.), NOGRALES, AGLIPAY-VILLAR,
FLORES, RAMOS, GUANLAO, SEÑERES AND PAQUIZ, PER COMMITTEE
REPORT NO. 1011

AN ACT RATIONALIZING GOVERNMENT INTERVENTION IN
LABOR DISPUTES BY ADOPTING THE ESSENTIAL SERVICES
CRITERIA IN THE EXERCISE OF THE ASSUMPTION OF
JURISDICTION OR CERTIFICATION POWER OF THE
SECRETARY OF LABOR AND EMPLOYMENT, AND
DECriminalIZING VIOLATION THEREOF, AMENDING FOR
THIS PURPOSE ARTICLES 278, 279 AND 287 OF PRESIDENTIAL
DECREE NO. 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 further amended
2 to read as follows:

3 “ART. 278. *Strikes, picketing, and lockouts.* – (a) It is the
4 policy of the State to encourage free trade unionism and free
5 collective bargaining.

6 “(b) Workers shall have the right to engage in concerted
7 activities for purposes of collective bargaining or for their mutual
8 benefit and protection. The right of legitimate labor organizations

1 to strike and picket and of employers to lockout[, consistent with
2 the national interest,] shall continue to be recognized and
3 respected. However, no labor union may strike and no employer
4 may declare a lockout on grounds involving inter-union and
5 intra-union disputes.

6 “(c) In cases of bargaining deadlocks, the duly certified or
7 recognized bargaining agent may file a notice of strike or the
8 employer may file a notice of lockout with the [Ministry]
9 **DEPARTMENT OF LABOR AND EMPLOYMENT** at least **THIRTY**
10 **(30)** days before the intended date thereof. In cases of unfair labor
11 practice, the period of notice shall be **FIFTEEN (15)** days and in the
12 absence of a duly certified or recognized bargaining agent, the
13 notice of strike may be filed by any legitimate labor organization
14 in behalf of its members. However, in case of dismissal from
15 employment of union officers duly elected in accordance with the
16 union constitution and by-laws, which may constitute union
17 busting, where the existence of the union is threatened, the
18 **FIFTEEN (15)**-day cooling-off period shall not apply and the union
19 may take action immediately.

20 “(d) The notice must be in accordance with such
21 implementing rules and regulations as the [Minister] **SECRETARY**
22 of Labor and Employment may promulgate.

23 “(e) During the cooling-off period, it shall be the duty of
24 the [Ministry] **DEPARTMENT OF LABOR AND EMPLOYMENT** to
25 exert all efforts at mediation and conciliation to effect a voluntary
26 settlement. Should the dispute remain unsettled until the lapse of
27 the requisite number of days from the mandatory filing of the

1 notice, the labor union may strike or the employer may declare a
2 lockout.

3 “(f) A decision to declare a strike must be approved by a
4 majority of the total union membership in the bargaining unit
5 concerned, obtained by secret ballot in meetings or referenda
6 called for that purpose. A decision to declare a lockout must be
7 approved by a majority of the board of directors of the corporation
8 or association or of the partners in a partnership obtained by secret
9 ballot in a meeting called for that purpose. The decision shall be
10 valid for the duration of the dispute based on substantially the
11 same grounds considered when the strike or lockout vote
12 was taken. The [Ministry] **DEPARTMENT OF LABOR AND**
13 **EMPLOYMENT** may, at its own initiative or upon the request of
14 any affected party, supervise the conduct of the secret balloting. In
15 every case, the union or the employer shall furnish the [Ministry]
16 **DEPARTMENT OF LABOR AND EMPLOYMENT** the results of the
17 voting at least seven (7) days before the intended strike or lockout,
18 subject to the cooling-off period herein provided.

19 “(g) When[, in his opinion,] there exists a labor dispute
20 causing or likely to cause a strike or lockout in an industry
21 [indispensable to the national interest,] **ENGAGED IN ESSENTIAL**
22 **SERVICES**, the Secretary of Labor and Employment may assume
23 jurisdiction over the dispute [and decide it or certify the same to
24 the Commission for compulsory arbitration. Such assumption or
25 certification shall have the effect of automatically enjoining the
26 intended or impending strike or lockout as specified in the
27 assumption or certification order. If one has already taken place at
28 the time of assumption or certification, all striking or locked out

1 employees shall immediately return to work and the employer shall
2 immediately resume operations and readmit all workers under the
3 same terms and conditions prevailing before the strike or lockout.
4 The Secretary of Labor and Employment or the Commission may
5 seek the assistance of law enforcement agencies to ensure
6 compliance with this provision as well as with such orders as he
7 may issue to enforce the same.

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

1 and/or injunctions as are issued by the Secretary of Labor and
2 Employment or the Commission, under pain of immediate
3 disciplinary action, including dismissal or loss of employment
4 status or payment by the locking-out employer of backwages,
5 damages and other affirmative relief, even criminal prosecution
6 against either or both of them.

7 "The foregoing notwithstanding, the President of the
8 Philippines shall not be precluded from determining the industries
9 that, in his opinion, are indispensable to the national interest, and
10 from intervening at any time and assuming jurisdiction over any
11 such labor dispute in order to settle or terminate the same.]:
12 **PROVIDED, THAT ANY OF THE FOLLOWING CONDITIONS IS**
13 **PRESENT:**

14 **"(1) BOTH PARTIES HAVE REQUESTED THE SECRETARY OF**
15 **LABOR AND EMPLOYMENT TO ASSUME JURISDICTION OVER THE**
16 **LABOR DISPUTE; OR**

17 **"(2) UPON REQUEST OR PETITION BY EITHER PARTIES OR**
18 **MOTU PROPRIO ON THE PART OF THE SECRETARY OF LABOR AND**
19 **EMPLOYMENT, AFTER A CONFERENCE CALLED BY THE OFFICE**
20 **OF THE SECRETARY ON THE PROPRIETY OF ITS ISSUANCE HAS**
21 **BEEN CONDUCTED.**

22 **"IN SUCH CASE, THE SECRETARY OF LABOR AND**
23 **EMPLOYMENT MAY DECIDE OR CERTIFY THE LABOR DISPUTE TO**
24 **THE NATIONAL LABOR RELATIONS COMMISSION FOR**
25 **COMPULSORY ARBITRATION, OR TO A VOLUNTARY ARBITRATOR**
26 **OR PANEL OF VOLUNTARY ARBITRATORS.**

27 **"THE SAID ASSUMPTION SHALL HAVE THE EFFECT OF**
28 **AUTOMATICALLY ENJOINING AN IMPENDING STRIKE OR**
29 **LOCKOUT. IF A STRIKE OR LOCKOUT HAS ALREADY TAKEN**

1 PLACE AT THE TIME OF ASSUMPTION, ALL STRIKING OR LOCKED
2 OUT EMPLOYEES AND OTHER EMPLOYEES SUBJECT OF THE
3 NOTICE OF STRIKE OR LOCKOUT SHALL IMMEDIATELY RETURN
4 TO WORK AND THE EMPLOYER SHALL IMMEDIATELY RESUME
5 OPERATIONS AND READMIT ALL EMPLOYEES UNDER THE SAME
6 TERMS AND CONDITIONS PREVAILING BEFORE THE STRIKE OR
7 LOCKOUT.

8 "ESSENTIAL SERVICES REFER TO FUNCTIONS OR SERVICES
9 RENDERED BY AN ESTABLISHMENT WHICH, IF INTERRUPTED,
10 WOULD ENDANGER THE LIFE, PERSONAL SAFETY OR HEALTH OF
11 THE WHOLE OR PART OF THE POPULATION. FOR THIS PURPOSE,
12 THE SECRETARY OF LABOR AND EMPLOYMENT, BY
13 APPROPRIATE REGULATIONS, SHALL DETERMINE THE
14 INDUSTRIES ENGAGED IN ESSENTIAL SERVICES AFTER
15 CONSULTATIONS WITH THE NATIONAL TRIPARTITE INDUSTRIAL
16 PEACE COUNCIL.

17 "IN LABOR DISPUTES AFFECTING INDUSTRIES ENGAGED IN
18 ESSENTIAL SERVICES, IT SHALL BE THE DUTY OF THE UNION AND
19 EMPLOYER TO PROVIDE AND MAINTAIN THE OPERATION OR
20 DELIVERY OF SERVICES. IN CASE OF HOSPITALS, CLINICS OR
21 MEDICAL INSTITUTIONS, THE UNION AND EMPLOYER SHALL
22 PROVIDE AND MAINTAIN AN EFFECTIVE AND FUNCTIONAL
23 WORKFORCE WHOSE MOVEMENT AND SERVICES SHALL BE
24 UNHAMPERED AND UNRESTRICTED AS ARE NECESSARY TO
25 ENSURE THE PROPER AND ADEQUATE PROTECTION OF THE LIFE,
26 PERSONAL SAFETY AND HEALTH OF THEIR PATIENTS, MOST
27 ESPECIALLY EMERGENCY CASES, FOR THE DURATION OF THE
28 LABOR DISPUTE."

29 "(h) [Before or at any stage of the compulsory arbitration
30 process, the parties may opt to submit their dispute to voluntary

1 arbitration.] WITHIN FIVE (5) DAYS FROM THE ISSUANCE OF
2 THE ASSUMPTION OR CERTIFICATION ORDER, A PRELIMINARY
3 CONFERENCE OR HEARING SHALL IMMEDIATELY BE CONDUCTED
4 BY THE OFFICE OF THE SECRETARY OF LABOR AND
5 EMPLOYMENT, THE NATIONAL LABOR RELATIONS
6 COMMISSION, OR THE VOLUNTARY ARBITRATOR OR PANEL
7 OF VOLUNTARY ARBITRATORS, AS THE CASE MAY BE.

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

23 “(j) THE FOREGOING NOTWITHSTANDING, THE PRESIDENT
24 OF THE PHILIPPINES SHALL NOT BE PRECLUDED FROM
25 DETERMINING INDUSTRIES THAT ARE ENGAGED IN ESSENTIAL
26 SERVICES AND FROM INTERVENING AT ANY TIME AND ASSUMING
27 JURISDICTION OVER ANY LABOR DISPUTE IN ORDER TO SETTLE
28 OR TERMINATE THE SAME DURING SEVERE NATIONAL
29 EMERGENCIES.”

1 SEC. 2. Article 279 of the Labor Code is hereby further amended to
2 read as follows:

3 “ART. 279. *Prohibited activities.* – (a) No labor organization
4 or employer shall declare a strike or lockout without first having
5 bargained collectively in accordance with Title VII of this Book or
6 without first having filed the notice required in the preceding
7 Article or without the necessary strike or lockout vote first having
8 been obtained and reported to the [Ministry] **DEPARTMENT OF**
9 **LABOR AND EMPLOYMENT.**

10 “No strike or lockout shall be declared after assumption of
11 jurisdiction by the President or the [Minister] **SECRETARY** or after
12 certification or submission of the dispute to compulsory or
13 voluntary arbitration or during the pendency of cases involving the
14 same grounds for the strike or lockout.

15 “Any worker whose employment has been terminated as a
16 consequence of an [unlawful] **ILLEGAL** lockout shall be entitled to
17 reinstatement with full backwages. [Any union officer who
18 knowingly participates in an illegal strike and any worker or union
19 officer who knowingly participates in the commission of illegal
20 acts during a strike may be declared to have lost his employment
21 status: *Provided,* That m]Mere participation of a worker **OR**
22 **UNION OFFICER** in a [lawful] strike **DECLARED ILLEGAL FOR**
23 **FAILURE OF THE UNION TO COMPLY WITH PROCEDURAL**
24 **REQUIREMENTS UNDER PARAGRAPH (A) OF THIS ARTICLE** shall
25 not [constitute sufficient] **BE A** ground for termination of his
26 employment, even if a replacement had been hired by the employer
27 during such [lawful] **ILLEGAL** strike.

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

7 **“ANY WORKER OR UNION OFFICER WHO KNOWINGLY**
8 **PARTICIPATES IN THE COMMISSION OF UNLAWFUL ACTS DURING**
9 **A STRIKE MAY BE DECLARED TO HAVE LOST HIS EMPLOYMENT,**
10 **AFTER DUE PROCESS.**

11 “(c) No employer shall use or employ any strike-breaker, nor
12 shall any person be employed as a strike-breaker.

13 “(d) No public official or employee, including officers and
14 personnel of the [New] Armed Forces of the Philippines or the
15 [Integrated] Philippine National Police, or armed person, **PRIVATE**
16 **SECURITY GUARDS AND SIMILAR PERSONNEL IN THE PRIVATE**
17 **SECURITY AGENCY** shall [bring in,] introduce or escort in any
18 manner [any individual who seeks to replace strikers in entering or
19 leaving the premises of a strike area, or work in place of the
20 strikers] **REPLACEMENT WORKERS**. The police force shall keep
21 out of the picket lines unless actual violence or other criminal acts
22 occur therein[: *Provided*, That nothing herein shall be interpreted
23 to prevent any public officer from taking any measure necessary to
24 maintain peace and order, protect life and property, and/or enforce
25 the law and legal order].

26 **“HOWEVER, THE SECRETARY OF LABOR AND EMPLOYMENT**
27 **OR THE NATIONAL LABOR RELATIONS COMMISSION MAY SEEK**
28 **THE ASSISTANCE OF LAW ENFORCEMENT AGENCIES TO**

1 **MAINTAIN PEACE AND ORDER, PROTECT LIFE AND PROPERTY,**
2 **AND ENFORCE THE LAW AND LEGAL ORDER.**

3 “(e) No person engaged in picketing shall commit any act of
4 violence, coercion or intimidation or obstruct the free ingress to or
5 egress from the employer’s premises for lawful purposes, or
6 obstruct public thoroughfares.”

7 SEC. 3. Article 287 of the Labor Code is hereby further amended to
8 read as follows:

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

21 “(b) Upon the recommendation of the [Minister] **SECRETARY**
22 of Labor and Employment and the [Minister] **SECRETARY** of
23 National Defense, foreigners who violate the provisions of this
24 Title shall be subject to immediate and summary deportation by the
25 [Commission on] **BUREAU OF** Immigration [and Deportation] and

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

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

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

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

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

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

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

1 SEC. 7. This Act shall take effect fifteen (15) days after its complete
2 publication in the *Official Gazette* or in a newspaper of national circulation.

Approved,

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