

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH CONGRESS
First Regular Session

House Bill No. 90



Introduced by TUCP Partylist Representative
HON. RAYMOND DEMOCRITO C. MENDOZA

EXPLANATORY NOTE

The TUCP Party-list refiles this Bill, rationalizing government interventions in labor disputes, particularly by providing a clear framework for the exercise of the Secretary of Labor and Employment's assumption of jurisdiction power. The Bill is part of the TUCP's legislative initiatives since the 14th Congress to deliver on the long-pending commitment of the country to address the gaps, in law and practice, in our compliance with ratified international conventions. The International Labour Organization (ILO) Committee on the Application of Standards (CAS) and the Committee of Experts on the Application of Conventions and Recommendations (CEACR) has repeatedly observed no significant progress has thus been achieved in this regard and the country has just been referring to pending legislative amendments for numerous years.

There is manifest urgency in enacting this Bill into law in the 20th Congress. First, this Bill, along with the other measures filed by TUCP Party-list in response to the ILO Committee of Experts observations and direct requests on the country's observance of Convention Nos. 87 and 98, or the freedom of association and collective bargaining conventions, would constitute substantial compliance in removing the country from the list of the world's 10 worst countries for workers, as ranked by the International Trade Union Confederation (ITUC) Global Rights Index. The country has been on the list for nine consecutive years, starting in 2017. Additionally, the enactment of these bills into law would help remove the Philippines from the list of countries regularly subjected to evaluation of substantial progress by the ILO Committee on the Application of Standards (CAS) and the Committee of Experts. Secondly, trade union rights violations or non-compliance with international labour standards are matters that affect our country's effort to be part of the UN Security Council and directly support our whole-of-society efforts to position the Philippines as a competitive global investment hub where tariff-free access, foreign direct investments, and free trade agreements are increasingly tied to the protection of fundamental labor rights and international labor standards. Thirdly, correcting the decades-long curtailment of workers' right to strike and bargain collectively would be a legacy of the 20th Congress and the administration of President Ferdinand "Bongbong" Marcos, Jr., and fourth, removing the obstacle to collective bargaining could deliver on an enterprise-based negotiated wage increase making legislated minimum wage genuinely a mere safety net for new entrants to the labor force.

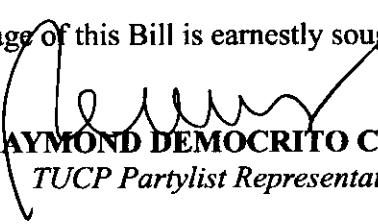
The Secretary of Labor and Employment's assumptive power over labor disputes has been noted by the ILO Committee of Experts as overbroad under the "national interest criteria," and urges for legislative measures that ensure that Government intervention leading to compulsory arbitration is limited to essential services in the strict sense of the term and any restrictions on the right to strike in essential services should be accompanied by fair, impartial, and expedited procedures for resolving labor disputes as a compensatory guarantee.

In practice, the TUCP has observed labor disputes in factories producing snacks, condiments, hot dog products, fish sauce, and women's undergarments, among others, which have been declared an industry indispensable to the national interest, effectively restricting workers' rights to strike and negotiate for better terms and conditions of employment. Moreover, in a long line of cases, the resolution assumed labor disputes took years to attain finality, rendering any favorable decision pyrrhic, as union members were already dead or separated, and the union had disbanded.

Thus, the Bill aims to address the emasculating effect of Article 278[263] (g) of the Philippine Labor Code on the constitutional rights of workers to self-organization, collective bargaining, negotiations, and peaceful concerted activities, including the right to strike in accordance with the law and align the provision with the principles embodied in ILO Convention Nos. 87 and 08. Article 278[263](g) of the Philippine Labor Code accords to the Secretary of Labor and Employment an overbroad power to restrict the right to strike through the assumption of jurisdiction over a labor dispute based on his/her opinion is an "industry indispensable to the national interest" and without requisite compensatory guarantee of fair, impartial and speedy conciliation or compulsory arbitration resolution process, the award of which is binding on both parties.

Accordingly, the Bill proposes (a) to ensure that Government intervention through the Secretary of Labor and Employment is confined to labor disputes in industries engaged in essential services in the strict sense of the term, and any restrictions on the right to strike in essential services is accompanied by a fair, impartial, and speedy conciliation or compulsory arbitration resolution process within fifteen (15) days as a compensatory guarantee, (b) removes the certification of the assumed labor dispute to the National Labor Relations Commission (NLRC), (c) recognizes the exercise by the parties of their rights in the event that the Secretary of Labor and Employment failed to resolve the labor dispute within the prescribed fifteen (15) day period, (d) provision of minimum service requirement, and (e) the President of the Philippines is not precluded from issuing the list of industries engaged in essential services after consultation with the National Tripartite Industrial Peace Council (NTIPC) and from intervening in such labor dispute to expedite settlement or terminate the same on grounds of declared public health or acute national emergency.

In view of the foregoing, the passage of this Bill is earnestly sought.


HON. RAYMOND DEMOCRITO C. MENDOZA
TUCP Partylist Representative

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AN ACT

**RATIONALIZING GOVERNMENT INTERVENTIONS IN LABOR
DISPUTES BY ADOPTING THE ESSENTIAL SERVICES CRITERIA IN THE
EXERCISE OF THE ASSUMPTION OF JURISDICTION OF THE
SECRETARY OF LABOR AND EMPLOYMENT, AMENDING FOR THE
PURPOSE ARTICLE 278 [263] (G) OF PRESIDENTIAL DECREE NO. 442,
AS AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE
PHILIPPINES**

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

SECTION 1. Article 278 [263](g) of Presidential Decree 442, as amended, otherwise known as The Labor Code of the Philippines, is hereby amended to read as follows:

"Art. 278. *Strikes, picketing and lockouts.* - Xxx xxx

(g) When [~~, in his opinion,~~] there exists a labor dispute causing or likely to cause a strike or lockout in an industry [~~indispensable to the national interest~~] ENGAGED IN ESSENTIAL SERVICES, the Secretary of Labor and Employment may assume jurisdiction over the dispute and decide [~~it or certify the same to the Commission for compulsory arbitration~~] THE SAME WITHIN FIFTEEN (15) DAYS FROM DATE OF THE ASSUMPTION ORDER. [~~Such~~] THE assumption [or certification] ORDER shall have the effect of automatically enjoining the intended or impending strike or lockout [~~as specified in the assumption or certification order~~]. If [~~one~~] A STRIKE OR LOCKOUT has already taken place at the time of assumption [~~or certification~~], all striking or locked out employees shall immediately return to work and the employer shall immediately resume operations and readmit all workers under the same terms and conditions prevailing before the strike or lockout [:] : [~~The Secretary of Labor and Employment or the Commission may seek the assistance of law~~

~~enforcement agencies to ensure compliance with this provision as well as with such orders as he may issue to enforce the same.] PROVIDED, HOWEVER, THAT WHERE THERE IS NO DECISION BY THE SECRETARY OF LABOR AND EMPLOYMENT WITHIN THE SAID FIFTEEN-DAY PERIOD, THE PARTIES MAY EXERCISE THEIR RESPECTIVE RIGHTS UNDER THIS CODE.~~

ESSENTIAL SERVICES REFER TO FUNCTIONS OR SERVICES RENDERED BY AN ESTABLISHMENT, WHICH IF INTERRUPTED, WOULD ENDANGER THE LIFE, PERSONAL SAFETY OR HEALTH OF WHOLE OR PART OF THE POPULATION. FOR THIS PURPOSE, THE SECRETARY OF LABOR AND EMPLOYMENT, BY APPROPRIATE REGULATIONS, SHALL DETERMINE THE INDUSTRIES ENGAGED IN ESSENTIAL SERVICES IN CONSULTATION WITH THE NATIONAL TRIPARTITE INDUSTRIAL PEACE COUNCIL (NTIPC).

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

IN LABOR DISPUTES AFFECTING INDUSTRIES ENGAGED IN ESSENTIAL SERVICES, IT SHALL BE THE DUTY OF THE UNION AND EMPLOYER TO PROVIDE AND MAINTAIN THE OPERATION OR DELIVERY OF SERVICES. IN CASE OF HOSPITALS, CLINICS OR

MEDICAL INSTITUTIONS, THE UNION AND EMPLOYER SHALL PROVIDE AND MAINTAIN AN EFFECTIVE AND FUNCTIONAL WORKFORCE, WHOSE MOVEMENT AND SERVICES SHALL BE UNHAMPERED AND UNRESTRICTED, AS ARE NECESSARY TO ENSURE THE PROPER AND ADEQUATE PROTECTION OF THE LIFE, PERSONAL SAFETY AND HEALTH OF THEIR PATIENTS, ESPECIALLY IN EMERGENCY CASES, FOR THE DURATION OF THE LABOR DISPUTE.

The foregoing notwithstanding, the President of the Philippines shall not be precluded from ~~[determining the]~~ ISSUING A LIST OF industries ENGAGED IN ESSENTIAL SERVICES ~~[that, in his opinion,]~~ AFTER CONSULTATION WITH THE NTIPC, ~~[are indispensable to the national interest,]~~ and from intervening at any time and assuming jurisdiction over any such labor dispute in order to EXPEDITE settleMENt or terminate the same ON GROUNDS OF DECLARED PUBLIC HEALTH OR ACUTE NATIONAL EMERGENCY."

SEC. 2. If any provision or part of this Act is declared unconstitutional or invalid, the remaining parts or provisions not affected shall remain in full force and effect.

SEC. 3. All laws, executive orders, rules and regulations or parts thereof which are inconsistent with this Act, are hereby amended or repealed accordingly.

SEC. 4. This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,