

Republic of the Philippines
HOUSE OF REPRESENTATIVE
Quezon City

Second Regular Session
15th Congress

House Bill No. 5933



Introduced by REP. EMIL L. ONG

EXPLANATORY NOTE

This bill seeks to strengthen workers' rights to peaceful concerted activities, amending for this purpose Articles 263, 264 and 272 of Presidential Decree No. 442, otherwise known as the Labor Code of the Philippines, as amended.

It is the policy of the State to encourage free trade unionism and free collective bargaining. Such that when a condition exists after determination through tripartite consultation that those providing essential services which, if interrupted, would endanger the life, personal safety or health of whole or part of the population, 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. This bill limits the power of the Secretary to assume jurisdiction only upon a request from both parties involved in the dispute after the mandatory conciliation.

The bill likewise does not preclude the President of the Philippines from determining industries which are providing essential services and from intervening at any time and to assume jurisdiction over any labor dispute in order to settle or terminate the same during acute national emergency where all normal functioning of society has ceased.

Moreover, the bill also outlines the prohibited activities under the Labor Code with emphasis on the observance of due process clause under the Constitution thus safeguarding the workers' rights against possible termination from employment.

The passage of this Bill into law will certainly put into practice the principles and policies enshrined in the Constitution thus paving the way for industrial peace and prosperity.

Hence, approval of this bill into law is earnestly sought.



EMIL L. ONG

Representative, 2nd District of Northern Samar

House Bill No. 5933

Sponsored by Rep. EMIL L. ONG

**AN ACT
STRENGTHENING WORKERS' RIGHTS TO PEACEFUL CONCERTED
ACTIVITIES, AMENDING FOR THIS PURPOSE ARTICLES 263, 264 AND 272 OF
PRESIDENTIAL DECREE NO. 442, OTHERWISE KNOWN AS THE LABOR CODE
OF THE PHILIPPINES, AS AMENDED**

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

1 **SECTION 1.** Article 263 of the Labor Code is hereby amended to read as
2 follows:

3 **"Article 263. Strikes, picketing and lockouts. –**

4 (a) It is the policy of the State to encourage free trade unionism and free
5 collecting bargaining.

6 (b) Workers shall have the right to engage in concerted activities for
7 purposes of collective bargaining or for their mutual benefit and
8 protection. The right of legitimate labor organizations to strike and
9 picket and of employers to lockout [, consistent with the national
10 interest,] shall continue to be recognized and respected. However, no
11 labor union may strike and no employer may declare a lockout on
12 grounds involving inter-union and intra-union disputes.

13 (c) In case of bargaining deadlocks, the duly certified or recognized
14 bargaining agent may file a notice of strike or the employer may file a
15 notice of lockout with the [Ministry] **DEPARTMENT OF LABOR AND**

1 **EMPLOYMENT** at least 30 days before the intended date thereof. In
2 cases of unfair labor practice, the period of notice shall be 15 days and
3 in the absence of a duly certified or recognized bargaining agent, the
4 notice of strike may be filed by any legitimate labor organization in
5 behalf of its members. However, in case of dismissal from employment
6 of union officers duly elected in accordance with the union constitution
7 and by-laws, which may constitute union busting where the existence
8 of the union is threatened, the 15-day cooling-off period shall not apply
9 and the union may take action immediately.

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

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

19 (f) A decision to declare a strike must be approved by a majority of the
20 total union membership in the bargaining unit concerned, obtained by
21 secret ballot in meetings or referenda called for that purpose. A
22 decision to declare a lockout must be approved by a majority of the
23 board of directors of the corporation or association or of the partners in
24 a partnership, obtained by secret ballot in a meeting called for that
25 purpose. The decision shall be valid for the duration of the dispute

1 based on substantially the same grounds considered when the strike or
2 lockout vote was taken. The [Ministry] **DEPARTMENT OF LABOR**
3 **AND EMPLOYMENT (DOLE)** may at its own initiative or upon the
4 request of any affected party, supervise the conduct of the secret
5 balloting. In every case, the union or the employer shall furnish the
6 [Ministry] **DOLE** the results of the voting at least seven days before
7 the intended strike or lockout, subject to the cooling-off period herein
8 provided.

- 9 (g) When [, in his opinion,] there exists a labor dispute causing or likely to
10 cause a strike or lockout in an industry [indispensable to the national
11 interest,] **DETERMINED THROUGH TRIPARTITE CONSULTATION**
12 **AS PROVIDING ESSENTIAL SERVICES WHICH, IF INTERRUPTED,**
13 **WOULD ENDANGER THE LIFE, PERSONAL SAFETY OR HEALTH**
14 **OF WHOLE OR PART OF THE POPULATION,** the Secretary of Labor
15 and Employment may assume jurisdiction over the dispute and decide
16 it or certify the same to the Commission for compulsory arbitration[.]:
17 **PROVIDED, THAT IN ACTUAL OR THREATENED STRIKE OR**
18 **LOCKOUT IN INDUSTRIES THAT ARE NOT PROVIDING**
19 **ESSENTIAL SERVICES, THE SECRETARY MAY ASSUME**
20 **JURISDICTION UPON A REQUEST FROM BOTH PARTIES**
21 **INVOLVED IN THE DISPUTE AFTER THE MANDATORY**
22 **CONCILIATION.** Such assumption or certification shall have the effect
23 of automatically enjoining the intended or impending strike or lockout
24 as specified in the assumption or certification order. If one has already
25 taken place at the time of assumption or certification, all striking or

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

8 In **SERVICES WHICH ARE NOT ESSENTIAL BUT WHERE**
9 **THE SCOPE AND DURATION OF A STRIKE OR LOCKOUT MIGHT**
10 **BE SUCH AS TO RESULT IN ENDANGERING THE LIFE,**
11 **PERSONAL SAFETY OR HEALTH OF THE WHOLE OR PART OF**
12 **THE POPULATION, OR IN PUBLIC SERVICES OF FUNDAMENTAL**
13 **IMPORTANCE, CERTAIN MINIMUM OPERATIONAL SERVICES, AS**
14 **DETERMINED THROUGH TRIPARTITE CONSULTATION OR**
15 **COLLECTIVE BARGAINING AGREEMENT, SHALL BE PROVIDED**
16 **BY THE STRIKING UNION OR LOCKING-OUT EMPLOYER AND**
17 **THE DISPUTE SHALL BE SUBMITTED FOR COMPULSORY OR**
18 **VOLUNTARY ARBITRATION AT THE OPTION OF THE PARTIES**
19 **THERE TO.** [line with the national concern for and the highest respect
20 accorded to the right of patients to life and health, strikes and lockouts
21 in hospitals, clinics, and similar medical institutions shall, to every
22 extent possible, be avoided, and all serious efforts, not only by labor
23 and management but government as well, be exhausted to
24 substantially minimize, if not prevent, their adverse effects on such life
25 and health, through the exercise, however, legitimate, by labor of its

1 right to strike and by management to lockout. In labor disputes
2 adversely affecting the continued operation of such hospitals, clinics or
3 medical institutions, it shall be the duty of the striking union or locking
4 out employer to provide and maintain an effective skeletal workforce of
5 medical and other health personnel, whose movement and services
6 shall be unhampered and unrestricted, as are necessary to insure the
7 proper and adequate protection of the life and health of its patients,
8 most especially emergency cases, for the duration of the strike or
9 lockout. In such cases, therefore, the Secretary of Labor and
10 Employment may immediately assume, within twenty four (24) hours
11 from knowledge of the occurrence of such a strike or lockout,
12 jurisdiction over the same or certify it to the Commission for
13 compulsory arbitration. For this purpose, the contending parties are
14 strictly enjoined to comply with such orders, prohibitions and/or
15 injunctions as are issued by the Secretary of Labor and Employment or
16 the Commission, under pain of immediate disciplinary action, including
17 dismissal or loss of employment status or payment by the locking out
18 employer of back wages, damages and other affirmative relief, even
19 criminal prosecution against either or both of them.]

20 The foregoing notwithstanding, the President of the Philippines
21 shall not be precluded from determining industries that [, in his opinion,
22 are indispensable to the national interest,] **ARE PROVIDING**
23 **ESSENTIAL SERVICES WHICH, IF INTERRUPTED, WOULD**
24 **ENDANGER THE LIFE, PERSONAL SAFETY OR HEALTH OF**
25 **WHOLE OR PART OF THE POPULATION,** and from intervening at

1 any time and assuming jurisdiction over any [such] labor dispute in
2 order to settle or terminate the same **DURING ACUTE NATIONAL**
3 **EMERGENCY WHERE ALL NORMAL FUNCTIONING OF SOCIETY**
4 **HAS CEASED.**

5 (h) Before or at any stage of the compulsory arbitration process, the
6 parties may opt to submit their dispute to voluntary arbitration.

7 (i) The Secretary of Labor and Employment, the Commission or the
8 voluntary arbitrator shall decide or resolve the dispute, within thirty (30)
9 [calendar] **WORKING** days from the date of assumption or jurisdiction
10 or the certification or submission of the dispute, as the case may be.
11 The decision of the President, the Secretary of Labor and Employment,
12 the Commission or the voluntary arbitrator shall be final and
13 **IMMEDIATELY** executory ten (10) calendar days after the receipt
14 thereof by the parties.

15 **Section 2.** Article 264 of the Labor Code is hereby amended to read as
16 follows:

17 **"Article 264. Prohibited Activities. –**

18 (a) No labor organization or employer shall declare a strike or lockout
19 without first having bargained collectively in accordance with Title VII of
20 this Book or without first having filed the notice required in the
21 preceding Article or without the necessary strike or lockout vote first
22 having been obtained and reported to the Department **OF LABOR**
23 **AND EMPLOYMENT.**

24 No strike or lockout shall be declared after assumption of
25 jurisdiction by the President or the Secretary or after certification or

1 submission of the dispute to compulsory or voluntary arbitration or
2 during the pendency of cases involving the same grounds for the strike
3 or lockout.

4 Any worker whose employment has been terminated as a
5 consequence of an [unlawful] **ILLEGAL** lockout shall be entitled to
6 reinstatement with full back wages. Any **WORKER OR** union officer
7 who knowingly participates [in an illegal strike and any worker or union
8 officer who knowingly participates] in the commission of [illegal]
9 **UNLAWFUL** acts during a strike may be declared to have lost his **OR**
10 **HER** employment status **AFTER DUE PROCESS**: Provided, That
11 mere participation of a worker **OR UNION OFFICER** in a [lawful] strike
12 **DECLARED ILLEGAL FOR FAILURE OF THE UNION TO COMPLY**
13 **WITH PROCEDURAL REQUIREMENTS UNDER PARAGRAPH (A)**
14 **OF THIS ARTICLE**, shall not [constitute sufficient] **BE A** ground for
15 termination of his **OR HER** employment, even if a replacement had
16 been hired by the employer during such [lawful] **ILLEGAL** strike.

17 (b) No person shall obstruct, impede, or interfere with, by force, violence,
18 coercion, threats or intimidation, any peaceful **CONCERTED ACTION**
19 **INCLUDING** picketing by employees during any labor controversy or in
20 the exercise of the right of self-organization or collective bargaining, or
21 shall aid or abet such obstruction or interference.

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

24 (d) No public official or employee, including officers and personnel of the
25 [New] Armed Forces of the Philippines or the [Integrated] **PHILIPPINE**

1 National Police, or armed persons, shall bring in, introduce or escort in
2 any manner, any individual who seeks to replace strikers in entering or
3 leaving the premises of a strike area, or work in place of the strikers.
4 The police force shall keep out of the picket lines unless actual
5 violence or other criminal acts occur therein: Provided, That nothing
6 herein shall be interpreted to prevent any public officer from taking any
7 measure necessary to maintain peace and order, protect life and
8 property, and/or enforce the law and legal order.

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

13 **Section 3.** Article 272 of the Labor Code is hereby amended to read as
14 follows:

15 "Article 272. Penalties.

- 16 (a) Any person, **ORGANIZATION, EMPLOYER OR CORPORATION**
17 **FOUND** violating **PARAGRAPH A** of Article 264 of this Code shall be
18 [punished by a] **FINED** [of] not less than [one thousand pesos
19 (P1,000.00)] **TEN THOUSAND PESOS (P10,000.00)** nor more than
20 [ten thousand pesos (P10,000.00)] **ONE HUNDRED THOUSAND**
21 **PESOS (P100,000.00)** [and/or imprisonment for not less than three
22 months nor more than three (3) years, or both such fine and
23 imprisonment,] at the discretion of the [court] **NATIONAL LABOR**
24 **RELATION COMMISSION.** [Prosecution under this provision shall

1 preclude prosecution for the same act under the Revised Penal Code,
2 and vice versa.]

3 NO CRIMINAL PROSECUTION UNDER ARTICLE 264 MAY
4 BE INSTITUTED WITHOUT A FINAL JUDGMENT THAT AN
5 ILLEGAL STRIKE OR LOCKOUT HAS BEEN COMMITTED.
6 DURING THE PENDENCY OF ADMINISTRATIVE PROCEEDING,
7 THE RUNNING OF THE PERIOD OF PRESCRIPTION OF THE
8 CRIMINAL OFFENSE SHALL BE CONSIDERED INTERRUPTED:
9 PROVIDED, HOWEVER, THAT THE FINAL JUDGMENT IN THE
10 ADMINISTRATIVE PROCEEDINGS SHALL NOT BE BINDING IN
11 THE CRIMINAL CASE NOR BE CONSIDERED AS EVIDENCE OF
12 GUILT.

- 13 (b) Upon the recommendation of the Secretary of Labor and Employment
14 and the Secretary of National Defense, foreigners who violate the
15 provisions of this Title shall be subject to immediate and summary
16 deportation by the [Commission on] **BUREAU OF** Immigration and
17 [Deportation] shall be permanently barred from reentering the country
18 without the special permission of the President of the Philippines."

19 **Section 4.** Renumbering of Articles. – Articles 263, 264, 272, and all Articles
20 or provisions mentioned therein, shall be renumbered in accordance with the
21 renumbering of the Labor Code set forth in Republic Act No. 10151.

22 **Section 5.** Implementing Rules and Regulations. – The Secretary of Labor
23 and Employment shall promulgate the necessary rules and regulations to implement
24 the provisions of this Act.

1 **Section 6. Separability Clause.** If any part or provision of this Act is declared
2 unconstitutional or invalid, the remainder of this Act or the provisions not otherwise
3 affected shall remain valid and subsisting.

4 **Section 7. Repealing Clause.** – All laws, presidential decrees, proclamations,
5 executive orders, issuances, rules and regulations, or any part thereof, inconsistent
6 with the provisions of this Act are hereby repealed, amended or modified
7 accordingly.

8 **Section 8. Effectivity.** This Act shall take effect fifteen (15) days after its
9 complete publication in the official gazette or in at least two (2) newspapers of
10 national circulation.

11 **APPROVED,**