

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

House Bill No. 2545



Introduced by TUCP Party-List Representative
HON. RAYMOND DEMOCRITO C. MENDOZA

EXPLANATORY NOTE

The Philippine Constitution guarantees "the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law". However, the Labor Code restricts this provision by the DOLE Secretary's power to assume jurisdiction over a labor dispute in an "industry indispensable to national interest".

This proposed amendment will restrict intervention only to essential services, and hopefully discontinue indiscriminate assumption of cases. The exclusive grant upon the President of the Philippines of the authority to handle "national interest labor disputes" ("essential services" as hereby proposed) adds a peculiar dimension to its exclusivity. It is expected that the high political accountability that goes with every assumption or certification will result to a more judicious exercise of this awesome power.

The proposed amendment will bring Philippine law into compliance with ILO Convention Nos. 87 and 98 on Freedom of Association and the Right to Collective Bargaining in relation to the right to strike, which the Philippines is obliged to observe as a member State of the International Labor Organization (ILO).

The change of the operative phrase from "indispensable to national interest" to "performing essential services" is designed to strictly limit the applicability of the authority discussed the barest minimum for two (2) obvious reasons: Firstly, the authority under discussion is very persuasive in its effects and sweeping in its operation. The injunction inherent in, or issued under, this authority enjoins the strike itself while injunction in ordinary cases must be based on the strict requirements of Article 218 (e) of the Labor Code. The purpose for such an injunction is not to enjoin the strike itself but only unlawful activities. Secondly, it is in consonance with the Constitutional mandate to reduce to the barest minimum State interference in the form of compulsory arbitration as to even prohibit the issuance of injunctions in labor cases.

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


REP. RAYMOND DEMOCRITO C. MENDOZA
Representative, TUCP Party-List

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AN ACT

LIMITING THE POWER TO ASSUME JURISDICTION OVER LABOR DISPUTES INVOLVING ESSENTIAL SERVICES BY THE PRESIDENT OF THE PHILIPPINES, AMENDING FOR THIS PURPOSE ARTICLE 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. Short Title. – This Act shall be known as the “Assumption of Jurisdiction Act of 2010”.

Section 2. Essential Services. - Article 263 (g) of the Labor Code is hereby amended to read as follows:

“ARTICLE 263. 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**]**PERFORMING ESSENTIAL SERVICES**, the [Secretary of Labor and Employment]**PRESIDENT OF THE PHILIPPINES** 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 AFTER SUCH ASSUMPTION. [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] **THEREIN**. 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. **PROVIDED, HOWEVER, THAT WHERE THERE IS NO DECISION BY THE PRESIDENT WITHIN THE SAID FIFTEEN-DAY PERIOD, THE PARTIES MAY THEN EXERCISE THEIR RESPECTIVE RIGHTS UNDER THIS CODE.**

“The [Secretary of Labor and Employment or the Commission]**PRESIDENT** 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.

“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]PRESIDENT OF THE PHILIPPINES** 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] PRESIDENT**, 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.

"The foregoing notwithstanding, the President of the Philippines shall not be precluded from **[determining the industries that, in his opinion, are indispensable to the national interest, and from]** intervening at any time and assuming jurisdiction over any such labor dispute **INVOLVING ESSENTIAL SERVICES PROVIDING POWER, TERTIARY-CARE HOSPITAL AND WATER, THE INTERRUPTION OF SUCH SERVICES COULD ENDANGER THE LIFE, SAFETY OR HEALTH OF THE GENERAL PUBLIC**, in order to settle or terminate the same.**THE DECISION OF THE PRESIDENT SHALL BE FINAL AND EXECUTORY."**

Section 3.Separability Provisions.-- If any part of this Act is held invalid or declared unconstitutional, the same shall not affect the validity and effectivity of the other parts thereof.

Section 4.Repealing Clause. -- All laws, decrees, executive orders, rules and regulations or parts thereof, which are inconsistent with this Act, are hereby repealed, amended or modified accordingly.

Section 5.Effectivity. -- This Act shall take effect fifteen (15) days after its publication in at least two newspapers of general circulation.

Approved,