

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Seventeenth Congress
First Regular Session



House Bill No. **5589**

Introduced by **REP. MANUEL ANTONIO F. ZUBIRI**

EXPLANATORY NOTE

Under Article 300 (formerly, Article. 286) of the Labor Code, an employer may temporarily suspend the employment of an employee or place him on floating status in case of a "bona fide suspension of the operation of a business or undertaking. As ruled by the Supreme Court in a long line of decided cases, the said employee is deemed constructively dismissed (illegally dismissed) if the period of suspension of employment exceeds 6 months. Article 300 of the Labor Code provides thus:

ART. 300 [286]. WHEN EMPLOYMENT NOT DEEMED TERMINATED. The bona fide suspension of the operation of a business or undertaking for a period not exceeding six (6) months, or the fulfillment by the employee of a military or civic duty shall not terminate employment. In all such cases, the employer shall reinstate the employee to his former position without loss of seniority of rights if he indicates his desire to resume his work not later than one (1) month from the resumption of operations of his employer or from his relief from the military or civic duty.

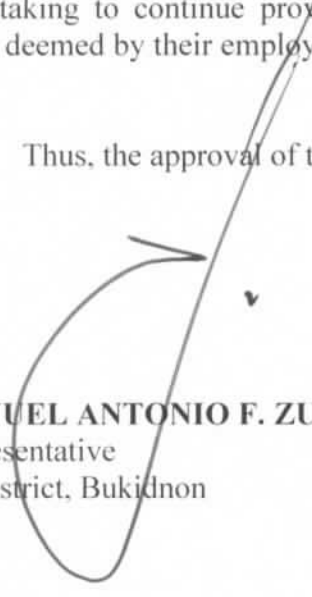
While the practice of temporarily suspending an employee's employment or placing him on floating status is prevalent in the security agency industry, the said practice is likewise done in other business endeavors where employees are assigned to perform a specific undertaking or serve a specific contract. In the event that the said undertaking or contract is temporarily suspended, an employer who anticipates the eventual restoration of the said undertaking or contract may then opt to temporarily suspend the employee's employment or place him on floating status rather than permanently terminate his services on grounds of redundancy.

By express mandate of Article 300 (286) of the Labor Code, the worker's employment is deemed to continue unless its suspension exceeds six (6) months. During the said period of work suspension, however, the affected worker oftentimes does not earn anything from his employer in light of the time-honored "No Work – No Pay" precept under Philippine labor laws. Under these circumstances, the worker is thus forced to dip into any savings he may have accumulated in order to sustain his family during the entire period of work suspension. If his savings prove insufficient to tide him and his family throughout the entire duration of the work suspension, he has no choice but to resign his employment without the benefit of separation pay and forfeit whatever rights of tenure that may have accrued in his favor.

In the same way that the law protects the interests of employers by relieving them of the burden of having to pay the salary of a worker whose employment is suspended through no fault or desire of the employer, the law must equally protect the interests of the worker by allowing them to continue earning income for their families despite the suspension of their employment and without being deemed to have abandoned or having foregone their employment.

It is thus the aim and purpose of this bill to correct an unintended injustice by allowing workers whose employment was suspended by reason of a bona fide suspension of business or undertaking to continue providing for their families without the unwelcome consequence of being deemed by their employers to have abandoned or forgone their original employment.

Thus, the approval of this bill is earnestly sought.



MANUEL ANTONIO F. ZUBIRI
Representative
3rd District, Bukidnon

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AN ACT
AMENDING SECTION 300 (FORMERLY ARTICLE 286) OF THE LABOR CODE OF
THE PHILIPPINES AND FOR OTHER PURPOSES

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

SECTION 1. Section 300 (formerly, Article 286) of Presidential Decree No. 442, as amended, otherwise known as the “Labor Code of the Philippines”, is hereby amended to read as follows:

ART. 300 [286]. WHEN EMPLOYMENT NOT DEEMED TERMINATED. The bona fide suspension of the operation of a business or undertaking for a period not exceeding six (6) months, or the fulfillment by the employee of a military or civic duty shall not terminate employment. During the period of suspension of operation of such business or undertaking, an employee whose employment is suspended or who is placed on floating status by his employer may take up temporary gainful employment with any other employer without being deemed to have abandoned or otherwise foregone his original employment. In all such cases, the employer shall reinstate the employee to his former position without loss of seniority of rights if he indicates his desire to resume his work not later than one (1) month from the resumption of operations of his employer or from his relief from the military or civic duty.

SECTION 2. Separability Clause. - If any provision of this Act is declared invalid or unconstitutional, other provisions hereof which are not affected thereby shall continue to be in full force and effect.

SECTION 3. Repealing Clause. - All provisions of law, orders, decrees, executive orders, including rules and regulations or parts thereof which are contrary to or inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION. 4. Effectivity Clause. - This Act shall take effect fifteen (15) days following its publication in the Official Gazette or at least two (2) national newspapers of general circulation.

Approved,