

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 7421



Introduced by **HON. LUIS RAYMUND "LRAY" F. VILLAFUERTE, JR.**

EXPLANATORY NOTE

The Marawi siege in 2017 was one of the biggest security crisis the Armed Forces of the Philippines (AFP) has experienced. It claimed over 1,000 lives, civilian and armed forces, and forced thousands to flee. Around two battalions from the Reserve Force then were mobilized alongside the regular soldiers of the AFP to help fight against terrorists in a war that drew out for months. Crisis such as this gives no guarantee as to when it will end. As such, the uncertainty of the duration of a crisis situation creates a problem on the part of the reservists with respect to reintegrating back to their old jobs, which the present law currently fails to cover.

This bill seeks to strengthen the employment rights of Citizen Armed Forces or the Reserve Force of the AFP to give recognition to its role in mission areas and in national security. It aims to ensure the security of tenure of reservists and entitle them to their original position or substantially equivalent position, without loss of seniority rights and diminution of pay. It also intends to institute programs that will protect current and prospective reservists from discrimination in terms of job hiring, reinstatement, promotion, or any benefit of employment on the basis of rendering military service for our country.

With this bill, the government can strengthen its advocacy on reservist employment rights and ensure that the men who have heeded the call to service are given the what they deserve.

The approval of this bill is earnestly sought.


LUIS RAYMUND "LRAY" F. VILLAFUERTE, JR.

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AN ACT
STRENGTHENING THE EMPLOYMENT RIGHTS OF MEMBERS OF THE CITIZEN
ARMED FORCES OR THE RESERVE FORCE OF THE ARMED FORCES OF THE
PHILIPPINES AND FOR OTHER PURPOSES

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

CHAPTER 1
GENERAL PROVISIONS

SECTION 1. *Short Title.* – This Act shall be known as the "Reservist Employment Rights Act".

SECTION 2. *Declaration of Policy.* – It is hereby declared the policy of the State to:

- (a) Strengthen the Citizen Armed Forces or the Reserve Force of the Armed Forces of the Philippines (AFP) and recognize its role in the mission areas of the AFP and in national security;
- (b) Protect the rights of reservists, and prevent and prohibit discrimination on the basis of rendering military service to the State;
- (c) Encourage service in the Reserve Force of the AFP by eliminating or minimizing the disadvantages to civilian careers and employment which can result from rendering military service to the State; and

(d) Ensure the observance of all employers of the rights of reservists called to perform military service to the State.

The prime duty of the State is to serve and protect the people. For this reason, the State may call upon the people to defend the State, and in fulfillment thereof, may require its citizens to render military or civil service under conditions provided by law.

SECTION 3. Coverage. – The provisions of this Act shall apply to all employers, whether private or public, including all government agencies and political subdivisions as well as government-owned and/or -controlled corporations and their subsidiaries, nongovernment organizations, and other socioeconomic entities.

SECTION 4. Definition of Terms. – As used in this Act, the following terms shall mean:

- (a) *Active Duty Training* – the compulsory or voluntary trainings for reserve units and/or individual reservists provided by the AFP to update their working knowledge in the current military organization, doctrines, tactics, techniques and procedures or TTPs, in order to maintain a desirable state of readiness, enable them to satisfy the active service-in-grade required for promotion to higher grades, and maintain a level of proficiency and competency for those reservists designated as instructors in Reserve Officers' Training Corps (ROTC) and other reservists training programs;
- (b) *Auxiliary Service* – the voluntary performance of a service by a reservist for the purpose of helping maintain local peace and order, meeting local insurgency and terror threats for intelligence requirements, assisting in rescue and relief operations during disasters and calamities, health welfare activities and participating in local socioeconomic development projects;
- (c) *Citizen Soldier or Reservist* – members of the Reserve Force of the AFP composed of the following:
 - (1) Graduates of the ROTC basic and advance courses and who were issued orders as enlisted reservists or reserve officers of the AFP;

- (2) Graduates of authorized basic military training instructions who, as a result thereof, were issued orders as enlisted reservists or reserve officers;
- (3) Ex-servicemen and retired officers of the AFP who have been incorporated into the Reserve Force of the AFP; and
- (4) Reservist officers and enlisted reservists including those procured under existing laws and included in the present AFP roster.

There shall be three (3) categories of citizen soldiers or AFP reservists: the First Category Reserve, the Second Category Reserve, and the Third Category Reserve based on age.

- (1) First Category Reserve – The First Category Reserve shall be composed of able-bodied reservist whose ages are between eighteen (18) years and thirty-five (35) years, inclusive.
- (2) Second Category Reserve – The Second Category Reserve shall be composed of able-bodied reservist whose ages are between thirty-six (36) years and fifty-one (51) years, inclusive.
- (3) Third Category Reserve – The Third Category Reserve shall be composed of able-bodied reservist who are above fifty-one years (51) of age.

Based on the categorization above, the Reserve Force units shall further be classified into the Ready Reserve, the Standby Reserve, and the Retired Reserve based on their operational readiness for immediate deployment/ utilization;

- (d) *Employment* – the act of hiring, and continued engagement including the reintegration of an employee called to military service to his or her former position, or if not practicable to a substantially equivalent position, without loss of seniority rights and diminution of pay;
- (e) *Military Service* – any service rendered by a citizen soldier or reservist to the State upon orders of the AFP or call to active duty (CAD) to meet active duty training (ADT) requirements, or for any purpose that the AFP leadership may deem necessary in order to augment and support the Regular Force

operations in times of war, national emergency or such other times as the national security requires;

- (f) *Mobilization* – the utilization of the Reserve Force of the AFP in times of emergency to meet threats to national security;
- (g) *Reintegration* – the actual resumption of work of an employee after his or her military service to his or her former position, or if not practicable to a substantially equivalent position, without loss of seniority rights and diminution of pay;
- (h) *Reserve Force* – those composing of members of the reserve components of the AFP;
- (i) *Ready Reserve* – citizen soldiers or reservists belonging mostly to the First Category reserve, who shall be organized, trained and maintained as mobilizable ready reserve subject to being called at any time to augment the regular armed force of the AFP not only in times of war or national emergency but also to meet local emergencies arising from calamities, disasters and threats to peace, order, security and stability in any locality, including the need to provide assistance in relief and rescue work and other civil assistance activities;

Furthermore, members of the AFP Affiliated Reserve units of various government and private utilities and services considered essential for the preservation of economic stability of the country or particular locality, such as power and electricity, water supply, transportation and communications, among others, regardless of their categorization shall be classified as Ready Reserve;

All citizen soldiers belonging to the First Category Reserve, except those exempted under Republic Act No. 7077, otherwise known as the "Citizen Armed Forces of the Philippines Reservist Act", and other pertinent policies, shall be required to serve with the Ready Reserve units and will have assignments and promotions in

accordance with existing policies of the AFP until transferred to the Standby Reserve by virtue of their age;

- (j) *Standby Reserve* – citizen soldiers or reservists belonging mostly to the Second Category Reserve and the Third Category Reserve. The members of the Standby Reserve shall be organized and assigned to specific reserve units and shall be maintained through annual assembly test to update their records and present addresses, among others. The Standby Reserve may be mobilized or ordered to active duty only in times of national emergency or war. The ranks of the members of the Standby Reserve may be upgraded if they voluntarily participate in training or serve with the Ready Reserve units in their areas or if their Standby Reserve unit undergo retraining. They will however be encouraged to upgrade their military knowledge and skills by taking up non-resident or resident courses which shall be set up for the purpose; and
- (k) *Retired Reserve* – citizen soldiers who have qualified for retirement through length of service, old age or disability. For this purpose, sixty-five (65) years shall be considered as the retirement age. However, if qualified and fit for duty, a member of the Retired Reserve may be ordered to active duty in times of local or national emergencies if he/she volunteers for active duty and when the Secretary of National Defense determines that there are not enough qualified citizen soldiers with his/her special skills and qualifications in the Ready Reserve or Standby Reserve in his/her particular area of residence.

CHAPTER 2

NON-DISCRIMINATION OF RESERVISTS

SECTION 5. *Anti-Reservists Discrimination.* –

- (a) It shall be unlawful for an employer, or those acting in the interest of the employer, whether private or public, including all government agencies and political subdivisions, as well as government-owned and/or -controlled

corporations and their subsidiaries, nongovernment organizations, and other socioeconomic entities to:

- (1) Discriminate against an individual in terms of compensation, terms and conditions, or privileges of employment on account of such individual's membership, application for membership, performance of military service, application for military service or obligation with the Reserve Force of the AFP;
- (2) Print or publish, or cause to be printed or published, in any form of media, including the internet, any notice of advertisement relating to employment suggesting preferences, limitations, specifications, and discrimination based on membership, application for membership, performance of military service, application for military service or obligation with the Reserve Force of the AFP;
- (3) Require the declaration of application for membership, or status of membership in the Reserve Force of the AFP;
- (4) Decline employment on the basis of membership in the Reserve Force of the AFP;
- (5) Deny any employee's or worker's promotion or opportunity for training on the basis of membership, application for membership, performance of military service, application for military service or obligation with the Reserve Force of the AFP;
- (6) Lay off an employee or worker because of membership, application for membership, performance of military service, application for military service or obligation with the Reserve Force of the AFP; or
- (7) Impose early retirement on the basis of such employee's or worker's membership, application for membership, performance of military service, application for military service or obligation with the Reserve Force of the AFP.

(b) It shall be unlawful for a labor contractor or subcontractor, if any, to refuse to refer for employment or otherwise discriminate against any individual because of such person's membership, application for membership, performance of military service, application for military service or obligation with the Reserve Force of the AFP;

(c) It shall be unlawful for any organization to:

- (1) Deny membership to any individual because of such person's membership, application for membership, performance of military service, application for military service or obligation with the Reserve Force of the AFP;
- (2) Exclude from its membership any individual because of such person's membership, application for membership, performance of military service, application for military service or obligation with the Reserve Force of the AFP; or
- (3) Cause or attempt to cause an employer to discriminate against an individual in violation of this Act.
- (d) It shall be unlawful for a publisher to print or publish any notice of advertisement relating to employment suggesting preferences, limitations, specifications, and discrimination based on a person's membership, application for membership, performance of military service, application for military service or obligation with the Reserve Force of the AFP.

CHAPTER 3

EMPLOYMENT RIGHTS

SECTION 6. *Employment Rights of Citizen Soldiers/Reservist.* – The following are the rights of reservists who perform military service in the Reserve Force of the AFP:

- (a) Reservists who perform military service are entitled to their original position, or when not practicable to a substantially equivalent position, without loss of seniority rights and diminution of their pay;
- (b) Military service shall not be considered a break in the employment for retirement purposes or for granting benefits provided for under the Labor Code and other special laws;
- (c) Reservists cannot be required to use earned or entitled vacation or service incentive leaves for leave of absence in connection with the performance of military service in the Reserve Force; and
- (d) Reservists who suffer any temporary or permanent disability due to military service shall not be denied reintegration if such employee can still perform the essential functions of their original employment, whether with or without reasonable accommodations.

SECTION 7. *Hiring of Substitute Employee.* – An employer whose reservist employee is called to military service may hire another employee as substitute during the period of the military service of the reservist employee.

The employment of the substitute employee shall be deemed terminated upon the reintegration of the reservist employee. The employer, or those acting in the interest of the employer may, however, consider the substitute employee for another position, if practicable.

SECTION 8. *Reintegration Duty of an Employer.* – It shall be the duty of the employer, or those acting in the interest of the employer, to reintegrate reservists returning from military service to their former position, or when not practicable to a substantially equivalent position, without loss of seniority rights and diminution of their pay.

SECTION 9. *Conditions for Reintegration of Reservists.* – Reservists shall be entitled to reintegration as provided in Section 8 of this Act, subject to the following conditions:

- (a) The reservist has rendered or performed military service as a member of the Reserve Force of the AFP;
- (b) The employer, or those acting in the interest of the employer, has been given a written notice by the AFP or the reservist, which if practicable shall indicate the duration of military service, at least thirty (30) days prior to departing for military service unless precluded by military necessity, or under all of the relevant circumstances, the timely provision of notice is otherwise impossible or unreasonable;
- (c) The employer, or those acting in the interest of the employer, shall immediately reintegrate the reservist after he or she is officially discharged from military service in accordance with the notice issued by the AFP; and
- (d) The employer, or those acting in the interest of the employer, shall provide its reservist employee the prevailing salary or wage at the time of reintegration of the reservist.

The AFP shall issue and provide the pertinent notices and documents to reservists and their employers, and those acting in the interest of the employers, in a timely manner to facilitate the reintegration of the reservists to their employment.

SECTION 10. *Period to Notify of Intent to Return.* – Reservists are hereby required to notify their employers, or those acting in the interest of the employer, of their intent to return to work subject to the following circumstances and conditions:

- (a) In the case of reservists called to military service for a definite period when indicated in the call for active duty training or such other notice issued by the AFP, the employer, or those acting in the interest of the employer, shall be deemed notified of the intent to return when furnished a copy of the pertinent notice from the AFP prior to the absence of the reservist for military service;
- (b) In the case of reservists called to military service for an indefinite period when not indicated in the call for active duty training or such other notices issued by the AFP, the employer, or those acting in the interest of the employer, shall be deemed notified of the intent to return when furnished a copy of the pertinent notice from the AFP indicating the impending discharge of reservists at least fifteen (15) days prior to the end of the military service: Provided, That the reservists shall not be deemed ineligible when circumstances do not permit the timely prior notification of absence due to military service and/or intent to return of a reservist in compliance with this provision in accordance with Sections 9(b) and 9(d) of this Act: Provided, further, That reservists who suffer from illness or injury incurred in, or aggravated during, the performance of military service shall be allowed to indicate their desire to return to their former position within a reasonable time as prescribed by a military doctor: Provided, finally, That the AFP shall ensure that its policies and administrative processes, whenever practicable, allow for at least fifteen (15) days prior notification of employers, or those acting in their interest, of the absence of reservists for military service and their capacity and intent to return to their employment.

SECTION 11. *Compensation for Non-Reintegration of Reservists.* – In cases of authorized causes or circumstances, subject to the determination and approval of Department of Labor and Employment (DOLE), where reintegration is impossible or unreasonable, the reservist shall be entitled to at least three (3) months' worth of his or her basic salary or to a separation pay equivalent to his or her one-month basic salary per year of service, whichever is higher.

SECTION 12. *Compensation of Reservists for Military Service.* – In order to enhance the general welfare, commitment to service and professionalism of the members of the Reserve Force of the AFP, the reservist rendering military service shall be entitled to the base pay commensurate to their rank consistent with their counterpart in the regular force.

The mother agency of the reservist shall promptly pay and remit the reservist employees' premium contributions, based on his or her salary, during their absence due to military service, whether to the Government Service Insurance System (GSIS), the Pagtutulungan sa Kinabukasan: Ikaw, Bangko, Industriya, at Gobyerno (PAG-IBIG), Philippine Health Insurance Corporation (PhilHealth), and all pertinent contributions related to his or her employment, and shall not reflect any gap in contributions in the records.

Reservists shall have the option to pay their Social Security System (SSS) contributions as a voluntary paying SSS member to avoid any gap in their contribution records and afford their full entitlement to SSS benefits in accordance with existing guidelines.

The AFP shall establish the necessary administrative process to assist reservists in the timely remittance of pertinent contributions, whether mandatory or voluntary.

SECTION 13. *Multi-stakeholder Engagements and Advocacies.* – The Department of National Defense (DND) and AFP shall strengthen coordination and cooperation among stakeholders through a sustained and comprehensive advocacy campaign for the purpose of ensuring that the employment rights of reservists are understood and protected by all concerned.

For this purpose, the Department of Budget and Management (DBM), in consultation with the DND and the AFP, shall create the necessary plantilla or non-tenured positions. The necessary funds for the implementation of this provision shall be included in the budget of the DND and AFP in the annual General Appropriations Act.

SECTION 14. *Tax Benefits and Incentives.* – The Department of Finance (DOF), in coordination with the DND, AFP, and other appropriate government agencies, shall develop the appropriate rules and regulations on the provision of tax benefits and incentives based on justified costs and expenses by employers associated with organizational adjustments borne out of the absence of reservists in an organization in compliance with this Act, Republic Act No. 7077, and other appropriate laws, rules, and regulations.

SECTION 15. *Administrative Fines and Penalties.* – Violation of any of the provision of this Act shall be punished with a fine of not less than Fifty thousand pesos (P50,000.00) but not more than One million pesos (P1,000,000.00), or imprisonment of not less than three (3) months but not more than two (2) years, or both, at the discretion of the court. If the offense is committed by a corporation, trust, firm, partnership or association or other entity, the penalty shall be imposed upon the responsible officer or officers of such corporation, trust, firm, partnership or association or entity.

SECTION 16. *Military Duty Leave.* – Every reservist shall be entitled to a leave of seven (7) days with pay per year for the purposes of military training or military activities. This shall be on top of applicable leaves entitled to a reservist from his or her employer.

CHAPTER 4

FINAL PROVISIONS

SECTION 17. *Appropriations.* – The amount necessary for the immediate and effective implementation of this Act shall be charged against any available funds of

the DND and the AFP. Thereafter, such sums as may be necessary for the implementation of this Act shall be included in the annual appropriations of the AFP.

SECTION 18. *Implementing Rules and Regulations.* – Within sixty (60) days from the effectivity of this Act, the DOLE in coordination with the DND, the AFP, the Civil Service Commission (CSC) and appropriate government agencies shall promulgate the rules and regulations for the effective implementation of this Act.

SECTION 19. *Separability Clause.* – Should any provision herein be declared unconstitutional, the same shall not affect the validity of the other provisions of this Act.

SECTION 20. *Repealing Clause.* – All laws, decrees, orders, rules, and regulations or other issuances or parts inconsistent with the provisions of this Act are hereby repealed, amended, or modified accordingly.

SECTION 21. *Effectivity Clause.* – This Act shall take effect in fifteen (15) days after publication in the Official Gazette or in one (1) newspaper of general circulation in the Philippines.

Approved,