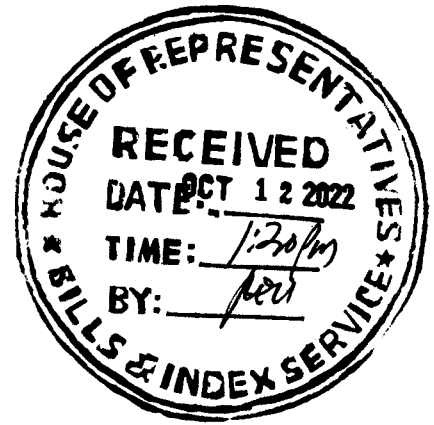


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
First Regular Session

House Bill No. 5536



Introduced by TUCP Party List
REP. 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".

The change of the operative phrase from "indispensable to national interest" to "providing essential services" is proposed to strictly limit the applicability of the authority discussed to the barest minimum for two (2) obvious reasons: Firstly, the authority under discussion is very persuasive in its effects and sweeping in its operation. Hence, the injunction inherent in, or issued under, this authority should only enjoin the strike or lockout for the purpose of affording the Secretary of Labor and Employment an opportunity to resolve or settle the labor dispute within fifteen (15) days but not to prohibit the Constitutionally guaranteed right to strike. Secondly, it is in consonance with the Constitutional mandate to reduce to the barest minimum State interference in the form of compulsory arbitration by mandating the preferential use of voluntary modes in settling disputes, including conciliation.

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).

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


RAYMOND DEMOCRITO C. MENDOZA
Representative
TUCP Party List

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
First Regular Session

House Bill No. 5536

Introduced by **TUCP Party-List**
REP. RAYMOND DEMOCRITO C. MENDOZA

AN ACT
RATIONALIZING THE EXERCISE OF THE ASSUMPTION OF
JURISDICTION AUTHORITY OF THE SECRETARY OF LABOR AND
EMPLOYMENT OVER LABOR DISPUTES BY ADOPTING FOR THE
PURPOSE THE ESSENTIAL SERVICES CRITERIA, AMENDING FOR THE
PURPOSE ARTICLE 278(G) [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”.

Section 2. Essential Services. - Article 278 (g), formerly 263 (g), of the Labor Code is hereby amended to read as follows:

“ARTICLE 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] **PROVIDING 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 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. [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 THEN 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 AFTER CONSULTATIONS 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 back wages, 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, MOST ESPECIALLY EMERGENCY CASES, FOR THE DURATION OF THE LABOR DISPUTE.

“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], **IN CONSULTATION WITH THE NTIPC, ISSUING A LIST OF INDUSTRIES THAT ARE ESSENTIAL TO THE NATIONAL INTEREST**, and from intervening at any time and assuming jurisdiction over any such labor dispute in order to settle or terminate the same. “

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,