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HOUSE OF REPRESENTATIVES
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NINETEENTH CONGRESS
First Regular Session

House Bill No. 5663

Introduced by CIBAC Party-List Representative
HON. EDUARDO “BRO. EDDIE” C. VILLANUEVA

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

EXPLANATORY NOTE

Citizen soldiers or reservists play an integral role in defending the Philippines in times of war, armed conflicts and similar occurrences, and in providing assistance during natural disasters, among others.

For example, during the siege carried out by the Maute Group in Marawi City in 2017, two battalions from the military’s Reserve Force were mobilized to help thwart terrorism in the area. Aside from these, citizen soldiers also serve in the front lines during times of natural disasters and calamities. According to Brigadier General Marcelo Javier Jr., the Ready Reserves component of the Armed Forces of the Philippines are often mobilized first in times of disaster.¹

Unfortunately, reservists often risk losing their civilian careers when they render military service. According to a study published in the Harvard Business Review, military reservists in the United States are 11% less likely to be called for a job interview. Accordingly, American employers

¹ Zak Yuson, Rappler, On the front line: Volunteer troops in times of crisis. March 30, 2015, accessible at <https://www.rappler.com/move-ph/issues/disasters/88416-reserve-force-disasters-zero-casualty> (last accessed: August 1, 2019).

find it challenging to hire or invest in military reservists due to the possibility that they might be called regularly, and will, thus, take long leaves from work to render military service.²

In the Philippines, there is very little protection for reservists in terms of employment rights, such as payment of compensation and wages while in military service, prohibition against discrimination, rights of reservists upon returning to work,³ as well as payment of social security-related contributions while on military service.

Currently, Article 301 [286] of the Labor Code provides that the fulfillment by the employee of a military or civic duty shall not terminate employment, provided that he/she indicates his/her desire to resume work not later than one month from relief from military or civic duty. Meanwhile, item (f) of Presidential Decree No. 183 (Providing for the Annual Registration of Reservists of the Armed Forces of the Philippines; Granting Security of Tenure to Reservists Employed in Private Firms while Undergoing Refresher Training, Mobilization or Assembly Tests or Annual Active Duty Training in Fulfillment of their Military Obligations; and for Other Purposes) provides that an employee of a commercial, industrial or agricultural firm with an annual gross volume of not less than Php250,000 and with a personnel force of at least 20 employees, who is called to refresher training, active duty or mobilization or assembly test, shall not lose his position or suffer any loss of pay due to his absence in the fulfillment of his military obligation. This rule is substantially reiterated in Section 32 of Republic Act No. 7077, otherwise known as Citizen Armed Forces of the Philippines Reservist Act, which provides that employees who are called to active military training shall not be separated from his/her employment, and shall not be considered as having forfeited his/her seniority right. However, Republic Act No. 7077 provided for a higher monthly operating volume of not less than Php300,000.00.

This bill seeks to strengthen the employment protection rights of reservists to ensure that they will not be adversely affected by their affiliation with and service to the military as members of the Reserve Force of the Armed Forces of the Philippines (AFP).

First, it strictly prohibits discrimination in terms of employment, admission to any organization and referral to employment opportunities

² Figinski, Theodore F. Harvard Business Review, Research: Companies Are Less Likely to Hire Current Military Reservists, October 13, 2017, accessible at <https://hbr.org/2017/10/research-companies-are-less-likely-to-hire-current-military-reservists> (last accessed August 1, 2019).

³ Transcripts of the Senate Hearing on the rights of reservists under the Committee on Labor and Human Development on December 18, 2017. At p. 32.

on account of one's membership, application for membership, performance of military service, application for military service or obligation with the Reserve Force of the AFP. Second, this bill also clarifies that military service shall not be considered a break in the service of an employee-reservist, and he/she shall be entitled to reintegration, without loss of seniority rights and diminution of pay upon his/her discharge from service or training. Third, this bill provides that reservists rendering military service are entitled to compensation commensurate to their rank and consistent with the compensation being received by their counterparts in the regular force, including the payment of premium contributions to the Government Service Insurance System (GSIS), Philippine Health Insurance Corporation (PhilHealth) and Philippine Home Development Corporation (PAG-IBIG). They also have the option to voluntarily pay their contributions to the Social Security System during this time.

An employer, regardless of size or number of employees, who violates the provisions of this Act is liable for a fine ranging from Php50,000.00 to Php500,000.00, or imprisonment ranging from three months to two years, or both, at the discretion of the court.

Indeed, the Filipino people owe these brave men and women for the tremendous sacrifices they are willing to make for the country. Protecting their rights to just compensation and job security is the least we can do.

The immediate passage of this bill is earnestly sought.



HON. EDUARDO "BRO. EDDIE" C. VILLANUEVA

- 1 d) Ensure the observance of all employers of the rights of reservists
2 called to perform military service to the State.
3

4 The prime duty of the State is to serve and protect the people. For
5 this reason, the State may call upon the people to defend the State, and
6 in fulfillment thereof, may require its citizens to render military or civil
7 service under conditions provided by law.
8

9 **SEC. 3. Coverage.** – The provisions of this Act shall apply to all
10 employers, whether private or public, including all government agencies
11 and political subdivisions as well as government-owned or -controlled
12 corporations, non-government organizations, and other entities.
13

14 **SEC. 4. Definition of Terms.** – As used in this Act, the following
15 terms shall mean:
16

- 17 a) **Active Duty Training** refers to the compulsory or voluntary trainings
18 for reserve units and/or individual reservists provided by the AFP to
19 update their working knowledge in current military organization,
20 doctrines, and tactics, techniques and procedures (TTPs) in order to
21 maintain a desirable state of readiness, enable them to satisfy the
22 active service-in-grade required for promotion to higher grades, and
23 maintain a level of proficiency and competency for those reservists
24 designated as instructors in Reserved Officers' Training Corp
25 (ROTC) and other reservist training programs;
26
- 27 b) **Auxiliary Service** refers to the voluntary performance of a service by
28 a reservist for the purpose of helping maintain local peace and order,
29 meeting local insurgency and terror threats for intelligence
30 requirements, assisting in rescue and relief operations during
31 disasters and calamities, health welfare activities and participating in
32 local socioeconomic development projects;
33
- 34 c) **Citizen Soldier or Reservist** refers to members of the Reserve
35 Force of the AFP, composed of the following:
36
- 37 1) Graduates of the ROTC basic and advance courses and who
38 were issued orders as enlisted reservists or reserve officers of
39 the AFP;
40
 - 41 2) Graduates of authorized basic military training instructions who,
42 as a result thereof, were issued orders as enlisted reservists or
43 reserve officers;

- 1
2 3) Ex-servicemen and retired officers of the AFP who have been
3 incorporated into the Reserve Force of the AFP; and
4
5 4) Reservist officers and enlisted reservists including those
6 procured under existing laws and included in the present AFP
7 roster.
8

9 There shall be three (3) categories of citizen soldiers or AFP
10 reservists based on age: the First Category Reserve, the Second
11 Category Reserve, and the Third Category Reserve, as defined
12 under Republic Act No. 7077, otherwise known as the "Citizen Armed
13 Force or Armed Forces of the Philippines Reservist Act."
14

15 Based on the categorization above, the Reserve Force units shall
16 further be classified into the Ready Reserve, the Standby Reserve,
17 and the Retired Reserve based on their operational readiness for
18 immediate deployment/utilization, and as defined under Republic Act
19 No. 7077.
20

- 21 d) **Employment** refers to the act of hiring and continued engagement
22 and the reinstatement or reintegration of an employee called to
23 military service to his/her former position, or if not practicable, to a
24 substantially equivalent position, without loss of seniority rights and
25 diminution of pay;
26
27 e) **Military Service** refers to any service rendered by a citizen soldier or
28 reservist to the State upon orders of the AFP or call to active duty
29 (CAD) to meet active-duty training (ADT) requirements, or for any
30 purpose that the AFP leadership may deem necessary in order to
31 augment and support the Regular Force operations in times of war,
32 national emergency or such other times as the national security
33 requires;
34
35 f) **Mobilization** refers to the utilization of the Reserve Force of the AFP
36 in times of emergency to meet threats to national security;
37
38 g) **Reintegration** refers to the actual resumption of work of an employee
39 after his/her military service to his/her former position, or if not
40 practicable, to a substantially equivalent position, without loss of
41 seniority rights and diminution of pay; and
42

- 1 h) **Reserve Force** refers to those composing of members of the reserve
2 components of the AFP.
3

4 **CHAPTER 2**
5 **NON-DISCRIMINATION OF RESERVISTS**
6

7 **SEC. 5. *Anti-Reservists Discrimination.*** –
8

- 9 a) It shall be unlawful for an employer, or those acting in the interest of
10 the employer to:
11

12 1) Discriminate against an individual in terms of hiring, promotion,
13 opportunity for training, or compensation, terms and conditions,
14 or privileges of employment on account of such individual's
15 membership, application for membership, performance of
16 military service or application for military service or obligation
17 with the Reserve Force of the AFP;
18

19 2) Print or publish, or cause to be printed or published, in any form
20 of media, including the internet, any notice of advertisement
21 relating to employment suggesting preferences, limitations,
22 specifications, and discrimination based on membership,
23 application for membership, performance of military service,
24 application for military service or obligation with the Reserve
25 Force of the AFP;
26

27 3) Require the declaration of application for membership, or status
28 of membership in the Reserve Force of the AFP; or
29

30 4) Lay-off or impose early retirement on the basis of such
31 employee's or worker's membership, application for
32 membership, performance of military service, application for
33 military service or obligation with the Reserve Force of the AFP.
34

- 35 b) It shall be unlawful for a private recruitment agency to refuse to refer
36 for employment or otherwise discriminate against any individual
37 because of such person's membership, application for membership,
38 performance of military service, application for military service, or
39 obligation with the Reserve Force of the AFP.
40

- 41 c) It shall be unlawful for any organization to cause or attempt to cause
42 an employer to discriminate against an individual in violation of this
43 Act, and to deny or exclude from its membership to any individual

1 because of such person's membership, application for membership,
2 performance of military service, application for military service or
3 obligation with the Reserve Force of the AFP;
4

- 5 d) It shall be unlawful for a publisher to print or publish any notice of
6 advertisement relating to employment suggesting preferences,
7 limitations, specifications, and discrimination based on a person's
8 membership, application for membership, performance of military
9 service, application for military service or obligation with the Reserve
10 Force of the AFP.
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12

13 **CHAPTER 3** 14 **EMPLOYMENT RIGHTS** 15

16 **SEC. 6. *Employment Rights of Citizen Soldiers/Reservists.*** –
17 Reservists who are called to perform military service shall have the
18 following rights:
19

- 20 a) Reservists are entitled to their original position, or if not practicable,
21 to a substantially equivalent position, without loss of seniority rights
22 and diminution of pay and benefits;
23
24 b) Military service shall not be considered a break in the employment for
25 retirement purposes or for granting benefits provided for under the
26 Labor Code and other special laws;
27
28 c) Reservists shall not be required to use or apply any earned or future
29 leave credits in connection with the performance of military service in
30 the Reserve Force; and
31
32 d) Reservists who suffer any temporary or permanent disability due to
33 military service shall not be denied reinstatement, if such reservist-
34 employee is willing and able to perform the essential functions of
35 his/her original employment, whether with or without reasonable
36 accommodations.
37

38 **SEC. 7. *Hiring of Substitute Employee.*** – Subject to the provisions
39 of the Labor Code of the Philippines, as amended, an employer may hire
40 a temporary employee during the period of the military service of the
41 reservist employee called to render military service.
42

1 **SEC. 8. Duty of an Employer to Reintegrate a Reservist and**
2 **Conditions for Reintegration.** – It shall be the duty of the employer to
3 immediately reintegrate a reservist returning from military service to
4 his/her former position, or if not practicable, to a substantially equivalent
5 position, without loss of seniority rights and diminution of benefits,
6 immediately after he/she is officially discharged from military service;
7 *Provided*, That the following conditions shall be complied with:

- 8
- 9 a) The reservist has rendered or performed military service as a
10 member of the Reserve Force of the AFP;
 - 11
 - 12 b) The employer has been given a written notice by the AFP or the
13 reservist at least fifteen (15) days prior to departing for military service
14 unless precluded by military necessity, or under all of the relevant
15 circumstances, the timely provision of notice is otherwise impossible
16 or unreasonable. The written notice shall, as far as practicable,
17 indicate the duration of military service and other relevant
18 information; and
 - 19
 - 20 c) The reservist has notified the employer of his/her intent to return to
21 work in accordance with Section 9 hereof.
 - 22

23 For this purpose, the AFP shall issue and provide the pertinent notices
24 and documents to reservists and their employers in a timely manner to
25 facilitate the reintegration of the reservists to their employment.

26

27 **SEC. 9. Period to Notify of Intent to Return.** – Reservists shall notify
28 their employers of their intent to return to work, subject to the following
29 circumstances and conditions:

- 30
- 31 a) In the case of reservists called to military service for a definite period
32 and such period is clearly indicated in the call for active-duty training
33 or such other notice issued by the AFP, the employer shall be deemed
34 notified of the intent to return when furnished a copy of the pertinent
35 notice from the AFP prior to the absence of the reservist for military
36 service;
 - 37
 - 38 b) In the case of reservists called to military service for an indefinite
39 period, and there is no clear indication of the period of service in the
40 notice or call issued by the AFP, the employer shall be deemed notified
41 of the intent to return when furnished a copy of the pertinent notice
42 from the AFP indicating the impending discharge of reservists at least
43 fifteen (15) days prior to the end of the military service; *Provided*, That

1 the reservists shall not be deemed ineligible when circumstances do
2 not permit the timely prior notification of absence due to military service
3 and/or intent to return of a reservist in compliance with this provision;
4 *Provided further*, That reservists who suffer from illness or injury
5 incurred in, or aggravated during, the performance of military service
6 shall be allowed to indicate their desire to return to their former position
7 within a reasonable time as prescribed by a military doctor; *Provided*,
8 *finally*, That the AFP shall ensure that its policies and administrative
9 processes, whenever practicable, allow for at least fifteen (15) days
10 prior notification to employers regarding the absence of reservists for
11 military service and their capacity and intent to return to their
12 employment.

13
14 **SEC. 10. Compensation for Non-Reintegration of Reservists.** – In
15 the event that the reintegration of the reservist is impossible due to
16 authorized causes, the reservist shall be entitled to separation pay in
17 accordance with law.

18
19 **SEC. 11. Compensation of Reservists for Military Service.** – For
20 the duration of their military service, reservists shall be entitled to the base
21 pay commensurate to their rank and consistent with their counterpart in
22 the regular force, including the payment of premium contributions to the
23 Government Service Insurance System (GSIS), Philippine Health
24 Insurance Corporation (PhilHealth) and Philippine Home Development
25 Corporation (PAGIBIG).

26
27 As far as practicable and except as provided herein, all pertinent social
28 security contributions of the reservists shall not reflect any gap in
29 contributions.

30
31 Reservists shall have the option to pay their Social Security System
32 (SSS) contributions as a voluntary paying SSS member to avoid any gap
33 in their contribution records and afford their full entitlement to SSS benefits
34 in accordance with existing guidelines. For this purpose, the AFP shall
35 establish the necessary administrative processes to assist reservists in
36 the timely remittance of pertinent social security contributions.

37
38 **SEC. 12. Multi-stakeholder Engagements and Advocacies.** – The
39 AFP, in coordination with the Department of National Defense (DND),
40 Department of Labor and Employment (DOLE) and other relevant
41 agencies and stakeholders, shall undertake an information and
42 awareness campaign on the employment rights of reservists.

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All other laws, decrees, orders, rules, and regulations or other issuances or parts inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 19. Effectivity Clause. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,