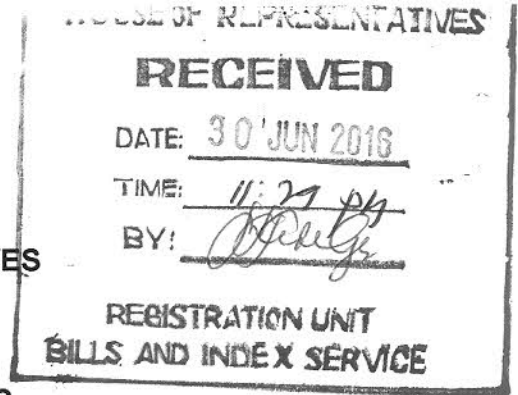


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



SEVENTEENTH CONGRESS
First Regular Session

H. B. No. 711

Introduced by **HONORABLE BELLAFLOR J. ANGARA-CASTILLO**

EXPLANATORY NOTE

The 1987 Philippine Constitution promotes the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes, including conciliation, and shall enforce their mutual compliance therewith to foster industrial peace. The Constitution also 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.

Articles 263, 264 and 272 of the Labor Code of the Philippines, as amended, having been crafted under the Martial Law era, have to be aligned with the mandates of the 1987 Constitution to foster industrial peace based on social justice.

Particularly, paragraph (g) of Article 263 empowers the Secretary of Labor and Employment to assume jurisdiction over a labor dispute causing or likely to cause a strike or lockout, that on his/her opinion, is an "industry indispensable to national interest." This provides the Secretary of Labor and Employment very wide latitude of discretion in the exercise of assumption power to include labor disputes in an undergarment factory, match manufacturing, hotdog, and fish sauce factory as industries indispensable to the national interest.

With such power, the State restrains the exercise of the right to strike or lockout with a directive to workers to return to work and the management to accept the striking workers under the same terms and conditions. Article 264 declares as a prohibited act non-compliance with the procedural requirement and defiance of a Return-to-Work Order. Too often, the exercise of assumption power has not resulted in a peaceful settlement of labor disputes. Instead, it has triggered dismissal of workers as a penalty imposed under Article 272, the happening of picket line violence and violation of trade union rights, and even filing of criminal cases or company closures. This is borne by the cases of trade union rights violations against the Philippine government before the International Labour Organization (ILO) and the US Trade Representatives.

Thus, this bill seeks to amend Article Numbers 263, 264 and 272 of the Labor Code, as amended, so as to rationalize government interventions in labor disputes by adopting the Essential Services Criteria in the exercise of the assumption or certification power of the Secretary of Labor and Employment, providing conditions in its exercise and to decriminalize violations thereof.

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


BELLAFLOR J. ANGARA-CASTILLO
Representative
Lone District, Province of Aurora

H. B. No. 711

Introduced by HONORABLE BELLAFLOR J. ANGARA-CASTILLO

AN ACT RATIONALIZING GOVERNMENT INTERVENTIONS IN LABOR DISPUTES BY ADOPTING THE ESSENTIAL SERVICES CRITERIA IN THE EXERCISE OF THE ASSUMPTION OR CERTIFICATION POWER OF THE SECRETARY OF LABOR AND EMPLOYMENT, AND DECRIMINALIZING VIOLATIONS THEREOF, AMENDING FOR THE PURPOSE ARTICLE NUMBERS 263, 264 AND 272 OF PRESIDENTIAL DECREE NO. 442, AS AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES, AS AMENDED, AND FOR OTHER PURPOSES

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

1 **Section 1.** Article 263 of Presidential Decree No. 442, otherwise known as the Labor Code
2 of the Philippines, as amended, is hereby amended to read as follows:

3
4 **"Article 263. Strikes, picketing and lockouts.**

- 5
6 a. It is the policy of the State to encourage free trade unionism and free collective
7 bargaining.
8
9 b. Workers shall have the right to engage in concerted activities for purposes of
10 collective bargaining or for their mutual benefit and protection. The right of
11 legitimate labor organizations to strike and picket and of employers to shall
12 continue to be recognized and respected. However, no labor union may strike
13 and no employer may declare a lockout on grounds involving inter-union and
14 intra-union disputes.
15
16 c. In case of bargaining deadlocks, the duly certified or recognized bargaining agent
17 may file a notice of strike or the employer may file a notice of lockout with the
18 Department of Labor and Employment at least 30 days before the intended date
19 thereof. In cases of unfair labor practice, the period of notice shall be 15 days
20 and in the absence of a duly certified or recognized bargaining agent, the notice
21 of strike may be filed by any legitimate labor organization in behalf of its
22 members. However, in case of dismissal from employment of union officers duly
23 elected in accordance with the union constitution and by-laws, which may
24 constitute union busting where the existence of the union is threatened, the 15
25 day cooling-off period shall not apply and the union may take action immediately.
26
27 d. The notice must be in accordance with such implementing rules and regulations
28 as the Secretary of Labor and Employment may promulgate.
29
30 e. During the cooling-off period, it shall be the duty of the Department of Labor and
31 Employment to exert all efforts at the mediation and conciliation to effect a
32 voluntary settlement. Should the dispute remain unsettled until the lapse of the
33 requisite number of days from the mandatory filing of notice, the labor union may
34 strike or the employer may declare a lockout.

1 f. A decision to declare a strike must be approved by a majority of the total union
2 membership in the bargaining unit concerned, obtained by secret ballot in
3 meetings or referenda called for that purpose. A decision to declare a lockout
4 must be approved by a majority of the board of directors of the corporation or
5 association or of the partners in a partnership obtained by secret ballot in a
6 meeting called for that purpose. The decision shall be valid for the duration of the
7 dispute based on substantially the same grounds considered when the strike or
8 lockout vote was taken. The Department of Labor and Employment may its own
9 initiative or upon the request of any affected party, supervise the conduct of the
10 secret balloting. In every case, the union or the employer shall furnish the
11 Department of Labor and Employment the results of the voting at least seven
12 days before the intended strike or lockout, subject to the cooling- off period
13 herein provided.

14
15 g. When there exists a labor dispute causing or likely to cause strike or lockout in
16 an industry engaged in essential services to the public, the Secretary of Labor
17 and Employment may assume jurisdiction over the dispute: *Provided*, That any of
18 the following conditions is present:

- 19 1. Both parties have requested the Secretary of Labor and Employment to
20 assume jurisdiction over the labor dispute; or
- 21 2. Upon request or petition by either parties, or *motu proprio* on the part of the
22 Secretary of Labor and Employment after a conference called for on the
23 propriety of its issuance has been conducted.

24
25 In such case, the Secretary of Labor and Employment may decide or certify the
26 labor dispute to the National Labor Relations Commission for compulsory
27 arbitration, or to a voluntary arbitrator or panel of voluntary arbitrators. The
28 assumption shall have the effect of automatically enjoining an impending strike or
29 lockout. if a strike/lockout has already taken place at the time of assumption, all
30 striking or locked out employees and other employees subject of the notice of
31 strike or lockout shall immediately return to work and the employer shall
32 immediately resume operations and readmit all employees under the same terms
33 and conditions prevailing before the strike or lockout.

34
35 Essential services refer to functions or services being rendered by an
36 establishment, which if interrupted, would endanger the life, personal safety or
37 health of whole or part of the population. For this purpose, the Secretary of Labor
38 and Employment, by appropriate regulations, shall determine the industries
39 engaged in essential services after consultations with the national tripartite
40 industrial peace council.

41
42 In labor disputes affecting industries engaged in essential services, it shall be the
43 duty of the union and employer to provide and maintain the operation or delivery
44 of services. In case of hospitals, clinics or medical institutions, the union and
45 employer shall provide and maintain an effective and functional workforce, whose
46 movement and services shall be unhampered and unrestricted, as are necessary
47 to ensure the proper and adequate protection of the life, personal safety and
48 health of their patients, most especially emergency cases, for the duration of the
49 labor dispute.

50
51 h. Within five (5) days from the issuance of the assumption or certification order, a
52 preliminary conference or hearing shall immediately be conducted by the office of
53 the Secretary of Labor and Employment, the National Labor Relations
54 Commission, or the voluntary arbitrator or panel of voluntary arbitrators as the
55 case may be.

