

NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



HOUSE OF REPRESENTATIVES
H. No. 1750

Introduced by **Representative Raul C. Tupas**

**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**

EXPLANATORY NOTE

The 1987 Constitution enunciates that "the Government may call upon the people to defend the State and, in the fulfillment thereof, all citizens may be requested under conditions provided by law, to render personal, military, or civil service."

Reservists are known to be among the first responders during disasters and calamities, conducting disaster response and rescue operations, and relief and rehabilitation efforts. During the Marawi siege in 2017, the Philippine Army mobilized two battalions from the Reserve Force. Although these Ready Reserve Units (RRUs) were not engaged in the actual fighting in the main battle area, they have provided manpower augmentation in support to the regular troops conducting operational activities. Unfortunately, some members of the Reserve Force in Marawi were refused to be accepted back by their employers after obeying the call to active service.

This proposed measure aims to strengthen the employment rights of members of the Citizen Armed Forces or the Reserve Force of the Armed Forces of the Philippines (RF, AFP). It ensures non-discrimination in terms of employment, promotion, and reinstatement of Reservists who rendered military service, whether for training or mobilization.

Some of the key provisions of the bill include the following:

- a. Prevents and prohibits discrimination in employment on the basis of rendering military service to the State;
- b. Grants employment rights to reservists with the following conditions:
 - Reservists who perform military service are entitled to their original position (or similar position) without loss of seniority rights or diminution of pay.

- Military service shall not be considered a break in the employment for retirement purposes or granting of benefits.
- Reservists cannot be required to use earned or entitled service incentive leaves for leave of absence in the performance of military service.
- Every reservist shall be entitled to a leave of seven (7) days with pay per year for military training or military activities. This shall be on top of applicable leaves of the reservist-employee.
- Reservists who suffer from disability due to military service shall not be denied reintegration if such employee can still perform the essential functions of their original employment.

In cases where reintegration is impossible or unreasonable (subject to the determination and approval of the Department of Labor and Employment (DOLE), the reservist shall be entitled to at least three (3) months' worth of basic salary or to a separation pay of one (1) month basic salary per year of service, whichever is higher.

- The mother agency of the reservist shall continue to remit the reservist's premium contributions to the GSIS, Pag-ibig, and Philhealth, and shall not reflect any gap in contributions.

Reservists shall have the option to pay their SSS contribution as a voluntary paying SSS member to avoid any gap in payment.

The proposed bill not only benefit Reservists who opted to render military service, but will also encourage professionals to join the AFP's Reserve Force. If this bill becomes a law, it will strengthen the Reserve Force which can be called and mobilized when threat to the country's peace, security, and sovereignty is imminent.

In view of the following, the immediate approval of this bill is earnestly sought.



RAUL "BOBOY" C. TUPAS

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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.

1 **SECTION 4. Definition of terms.** – As used in this Act, the following terms shall mean:
2

3 (a) *Active Duty Training* – the compulsory or voluntary trainings for reserve units and/or
4 individual reservists provided by the AFP to update their working knowledge in the
5 current military organization, doctrines, and in tactics, techniques and procedures
6 or TTPS, in order to maintain a desirable state of readiness, enable them to satisfy
7 the active service-in-grade required for promotion to higher grades, and maintain a
8 level of proficiency and competency for those reservists designated as instructors
9 in Reserve Officers' Training Corps (ROTC) and other reservists training programs;
10

11 (b) *Auxiliary Service*- the voluntary performance of a service by a reservist for the
12 purpose of helping maintain local peace and order, meeting local insurgency and
13 terror threats for intelligence requirements, assisting in rescue and relief operations
14 during disasters and calamities, health welfare activities and participating in local
15 socioeconomic development projects;
16

17 (c) *Citizen Soldiers or Reservists*- members of the Reserve Force of the AFP
18 composed of the following:
19

- 20 1. Graduates of the ROTC basic and advance courses and who were issued
21 orders as enlisted reservists officers of the AFP;
22
- 23 2. Graduates of authorized basic military training instructions who, as a result
24 thereof, were issued orders as enlisted reservists or reserve officers;
25
- 26 3. Ex-servicemen and retired officers of the AFP who have been integrated into
27 the Reserve Force of the AFP; and
28
- 29 4. Reservist officers and enlisted reservists including those procured under
30 existing laws and included in the present AFP rosters.
31

32 There shall be three (3) categories of citizen soldiers or AFP reservists: the First Category
33 Reserve, the Second Category, and the Third Category Reserve based on age.
34

- 35 1. First Category Reserve – The First Category Reserve shall be composed of
36 able-bodied reservists whose ages are between eighteen (18) years and thirty-
37 (35) years, inclusive.
38
- 39 2. Second Category Reserve – The Second Category Reserve shall be composed
40 of able-bodied reservists whose ages are between thirty-six (36) years and fifty-
41 one (51) years, inclusive.
42
- 43 3. Third Category Reserve – The Third Category Reserve shall be composed of
44 able-bodied reservists who are above fifty-one (51) of age.
45

46 Based on the categorization above, the Reserve Force units shall be further classified into
47 the Ready Reserve, the Standby Reserve, and the Retired Reserve based on their
48 operational readiness for immediate deployment/ utilization;
49

- 1 (d) *Employment* – the act of hiring and continued engagement including the
2 reintegration of an employee called to military service to one’s former position, or if
3 not practicable to a substantially equivalent position, without loss of seniority rights
4 and diminution of pay;
- 5
- 6 (e) *Military Service* – any service rendered by a citizen soldier or reservist to the State
7 upon orders of the AFP or call to active duty (CAD) to meet active duty training
8 (ADT) requirements, or for any purpose that the AFP leadership may deem
9 necessary in order to augment and support the Regular Force operations in times
10 of war, national emergency, or such other times as the national security requires;
- 11
- 12 (f) *Mobilization* – the utilization of the Reserve Force of the AFP in times of emergency
13 to meet threats to national security;
- 14
- 15 (g) *Reintegration* – the actual resumption of work of an employee after one’s military
16 service to one’s former position, or if not practicable to a substantially equivalent
17 position, without loss of seniority rights and diminution of pay;
- 18
- 19 (h) *Reserve Force* – those composing of members of the reserve components of the
20 AFP;
- 21
- 22 (i) *Ready Reserve* – citizen soldiers or reservists belonging mostly to the First
23 Category reserve who shall be organized, trained, and maintained as mobilizable
24 ready reserve subject to being called at any time to augment the regular armed
25 force of the AFP not only in times of war or national emergency but also to meet
26 local emergencies arising from calamities, disasters, and threats to peace, order,
27 security and stability in any locality, including the need to provide assistance in relief
28 and rescue work and other civil assistance activities;
- 29

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

35

36 All citizen soldiers belonging to the First Category Reserve, except those exempted under
37 Republic Act No. 7077, otherwise known as the “Citizen Armed Forces of the Philippines
38 Reservist Act”, and other pertinent policies, shall be required to serve with the Ready
39 Reserve units and will have assignments and promotions in accordance with existing
40 policies of the AFP until transferred to the Standby Reserve by virtue of their age;

41

- 42 (j) *Standby Reserve* – citizen soldiers or reservists belonging mostly to the Second
43 Category Reserve and the Third Category Reserve. The members of the Standby
44 Reserve shall be organized and assigned to specific reserve units and shall be
45 maintained through annual assembly test to update their records and present
46 addresses, among others. The Standby Reserve may be mobilized or ordered to
47 active duty only in times of national emergency or war. The ranks of the members
48 of the Standby Reserve may be upgraded if they voluntarily participate in training
49 or serve with the Ready Reserve units in their areas or if their Standby Reserve unit
50 undergo retraining. They will however be encouraged to upgrade their military

1 knowledge and skills by taking up non-resident or resident courses which shall be
2 set up for the purpose; and

3
4 (k) *Retired Reserve* – citizen soldiers who have qualified for retirement through length
5 of service, old age, or disability. For this purpose, sixty-five (65) years shall be
6 considered as the retirement age. However, if qualified and fit for duty, a member
7 of the Retired Reserve may be ordered to active duty in times of local or national
8 emergencies if one volunteers for active duty and when the Secretary of National
9 Defense determines that there are not enough qualified citizen soldiers with one's
10 special skills and qualifications in the Ready Reserve or Standby Reserve in one's
11 particular area of residence.

12
13 **CHAPTER 2**
14 **NON-DISCRIMINATION OF RESERVISTS**

15
16 **SECTION 5. *Anti-Reservists Discrimination.* –**

17
18 (a) It shall be unlawful for an employer or those acting in the interest of the employer,
19 whether private or public, including all government agencies and political
20 subdivisions, as well as government-owned and/or –controlled corporations and
21 their subsidiaries, nongovernment organizations, and other socioeconomic entities
22 to:

- 23
24 1. Discriminate against an individual in terms of compensation, terms and
25 conditions, or privileges of employment on account of such individual's
26 membership, application for membership, performance of military
27 service, application for military service or obligation with the Reserve
28 Force of the AFP;
- 29
30 2. Print or publish, or cause to be printed or published, in any form of media,
31 including the internet, any notice of advertisement relating to
32 employment suggesting preferences, limitations, specifications, and
33 discrimination based on membership, application for membership,
34 performance of military service, application for military service or
35 obligation with the Reserve Force of the AFP;
- 36
37 3. Require the declaration of application for membership, or status of
38 membership in the Reserve Force of the AFP;
- 39
40 4. Decline employment on the basis of membership in the Reserve Force
41 of the AFP;
- 42
43 5. Deny any employee's or worker's promotion or opportunity for training
44 on the basis of membership, application for membership, performance
45 of military service, application for military service or obligation with the
46 reserve Force of the AFP;
- 47
48 6. Lay off an employee or worker because of membership, application for
49 membership, performance of military service, application for military
50 service or obligation with the reserve Force of the AFP; or

1 functions of their original employment, whether with or without reasonable
2 accommodations.

3
4 **SECTION 7. *Hiring of Substitute Employee.*** – An employer whose reservist employee
5 is called to military service may hire another employee as substitute during the period of
6 the military service of the reservist employee.

7
8 The employment of the substitute employee shall be deemed terminated upon the
9 reintegration of the reservist employee. The employer or those acting in the interest of the
10 employee may, however, consider the substitute employee for another position, if
11 practicable.

12
13 **SECTION 8. *Reintegration Duty of an Employer.*** – It shall be the duty of the employer,
14 or those acting in the interest of the employer, to reintegrate reservists returning from
15 military service to their former position, or when not practicable to a substantially equivalent
16 position, without loss of seniority rights and diminution of their pay.

17
18 **SECTION 9. *Conditions for Reintegration of Reservists.*** – Reservists shall be entitled
19 the reintegration as provided in Section 8 of this Act, subject to the following conditions:

- 20
21 (a) The reservist has rendered or performed military service as a member of the
22 Reserve Force of the AFP.
23
24 (b) The employer, or those acting in the interest of the employer, has been given a
25 written notice by the AFP or the reservist which, if practicable, shall indicate the
26 duration of military service, at least thirty (30) days prior to departing for military
27 service unless precluded by military necessity, except when under all of the relevant
28 circumstances, the timely provision of notice is otherwise impossible or
29 unreasonable;
30
31 (c) The employer, or those acting in the interest of the employer, shall immediately
32 reintegrate the reservist after the latter is officially discharged from military service
33 in accordance with the notice issued by the AFP; and
34
35 (d) The employer, or those acting in the interest of the employer, shall provide its
36 reservist employee the prevailing salary or wage at the time of reintegration of the
37 reservist.

38
39 In a timely manner, the AFP shall issue and provide the pertinent notices and documents
40 to reservists and their employers, and those acting in the interest of the employers, to
41 facilitate the reintegration of the reservists to their employment.

42
43 **SECTION 10. *Period to Notify of intent to Return.*** – Reservists are hereby required to
44 notify their employers, or those acting in the interest of the employers, of their intent to
45 return to work subject to the following circumstances and conditions:

- 46
47 (a) In the case of reservists called to military service for a definite period when indicated
48 in the call for active duty training or such other notice issued by the AFP, the
49 employer, or those acting in the interest of the employer, shall be deemed notified

1 of the intent to return when furnished a copy of the pertinent notice from the AFP
2 prior to the absence of the reservist for military service;

3
4 (b) In the case of reservists called to military service for an indefinite period when not
5 indicated in the call for active duty training or such other notices issued by the AFP,
6 the employer, or those acting in the interest of the employer, shall be deemed
7 notified of the intent to return when furnished a copy of the pertinent notice from the
8 AFP indicating the impending discharge of reservists at least fifteen (15) days prior
9 to the end of the military service. *Provided*, that the reservists shall not be deemed
10 ineligible when circumstances do not permit the timely prior notification of absence
11 due to military service and/or intent to return of a reservists in compliance with this
12 provision in accordance with Sections 9(b) and 9(d) of this Act: *Provided, further*,
13 That reservists who suffer from illness or injury incurred in, or aggravated during
14 the performance of military service shall be allowed to indicate their desire to return
15 to their former position within a reasonable time as prescribed by a military doctor:
16 *Provided, finally*, That the AFP shall ensure that its policies and administrative
17 processes, whenever practicable, allow for least fifteen (15) days prior notification
18 of employers, or those acting in their interest, of the absence of reservists for
19 military service and their capacity and intent to return to their employment.

20
21 **SECTION 11. *Compensation for Non-Reintegration of Reservists.*** – In cases of
22 authorized causes or circumstances, subject to the determination and approval of
23 Department of Labor and Employment (DOLE), where reintegration is impossible or
24 unreasonable, the reservist shall be entitled to at least three (3) months' worth of basic
25 salary or to a separation pay equivalent to one-month basic salary per year of service,
26 whichever is higher.

27
28 **SECTION 12. *Compensation of Reservists for Military Service.*** – In order to enhance
29 the general welfare, commitment to service and professionalism of the members of the
30 Reserve Force of the AFP, the reservist rendering military service shall be entitled to the
31 base pay commensurate to their rank consistent with their counterpart in the regular force.

32
33 The mother agency of the reservist shall promptly pay and remit the reservist employee's
34 premium contributions, based on one's salary, during the absence due to military service,
35 whether to the Government Service Insurance System (GSIS), the Pagtutulungan sa
36 Kinabukasan: Ikaw, Bangko, Industriya, at Gobyerno (PAG-IBIG), Philippine Health
37 Insurance Corporation (PhilHealth), and all pertinent contributions related to the
38 employment, and shall not reflect any gap in contributions in the records.

39
40 Reservists shall have the option to pay their Social Security System (SSS) contributions
41 as a voluntary paying SSS member to avoid any gap in their contribution records and afford
42 their full entitlement to SSS benefits in accordance with existing guidelines.

43
44 The AFP shall establish the necessary administrative process to assist reservists in the
45 timely remittance of pertinent contributions, whether mandatory or voluntary.

46
47 **SECTION 13. *Multi-stakeholder Engagements and Advocacies.*** – The Department of
48 National Defense (DND) and the AFP shall strengthen coordination and cooperation
49 among stakeholders through a sustained and comprehensive advocacy campaign for the

1 purpose of ensuring that the employment rights of reservists are understood and protected
2 by all concerned.

3
4 For this purpose, the Department of Budget and Management (DBM), in consultation with
5 the DND and the AFP, shall create the necessary plantilla or non-tenured positions. The
6 necessary funds for the implementation of this provision shall be included in the budget of
7 the DND and AFP in the annual General Appropriations Act.

8
9 **SECTION 14. *Tax Benefits and Incentives.*** – The Department of Finance (DOF), in
10 coordination with the DND, AFP, and other appropriate government agencies, shall
11 develop the appropriate rules and regulations on the provision of tax benefits and
12 incentives based on justified costs and expenses by employers associated with
13 organizational adjustments borne out of the absence of reservists in an organization in
14 compliance with this Act, Republic Act No.7077, and other appropriate laws, rules, and
15 regulations.

16
17 **SECTION 15. *Administrative Fines and Penalties.*** – The violation of any of the provision
18 of this Act shall be punished with a fine of not less than Fifty thousand pesos (50,000.00)
19 but not more than One million pesos (P1,000,000.00), or imprisonment of not less than
20 three (3) months but not more than two (2) years, or both, at the discretion of the court. If
21 the offense is committed by a corporation, trust, firm, partnership or association or other
22 entity, the penalty shall be imposed upon the responsible officer or officers of such
23 corporation, trust, firm, partnership or association or entity.

24
25 **SECTION 16. *Military Duty Leave.*** - Every reservist shall be entitled to a leave of seven
26 (7) days with pay per year for purposes of military training or military activities. This shall
27 be on top of applicable leaves entitled to a reservist from one's employer.

28 29 **CHAPTER 4** 30 **FINAL PROVISIONS**

31
32 **SECTION 17. *Appropriations.*** – The amount necessary for the immediate and effective
33 implementation of this Act shall be charged against any available funds of the DND and
34 the AFP. Thereafter, such sums as may be necessary for the implementation of this Act
35 shall be included in the annual appropriations of the AFP.

36
37 **SECTION 18. *Implementing Rules and Regulations.*** – Within sixty (60) days from the
38 effectivity of this Act, the DOLE shall, in coordination with the DND, the AFP, the Civil
39 Service Commission (CSC) and appropriate government agencies promulgate the rules
40 and regulations for the effective implementation of this Act.

41
42 **SECTION 19. *Separability Clause.*** – Should any provision herein be declared
43 unconstitutional, the same shall not affect the validity of the other provisions of this Act.

44
45 **SECTION 20. *Repealing Clause.*** – All laws, decrees, orders, rules and regulations, or
46 other issuances or parts inconsistent with the provisions of this Act are hereby repealed,
47 amended, or modified accordingly.

48
49 **SECTION 21. *Effectivity Clause.*** – This Act shall take effect in fifteen (15) days after
50 publication in the Official Gazette or in a newspaper of general circulation in the Philippines.

1 *Approved,*