

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 5754

Introduced by KABATAAN PARTY-LIST Representative Sarah Jane I. Elago,
ACT TEACHERS PARTY-LIST Representative France L. Castro,
BAYAN MUNA PARTY-LIST Representatives Carlos Isagani T. Zarate,
Ferdinand Gaite and Eufemia C. Cullamat,
and GABRIELA WOMEN'S PARTY Representative Arlene D. Brosas

EXPLANATORY NOTE

The Philippines has the second biggest business process outsourcing (BPO) industry in the world according to the International Labor Organization (ILO). It brought in an estimated revenue of \$25 billion and employed roughly workers in 2018. In the absence of genuine national industries, we praise this industry for the apparent and immediate employment opportunities it grants many of our people. In the light of the foregoing, we need to ensure the rights and welfare of those who have chosen to rely on this "sunshine industry," thus, we now re-file the BPO Workers Welfare & Protection Bill under the 19th Congress.

There have been several consultations made among stakeholders including BPO managers, call center agents, and parents of BPO workers since the 14th Congress. Numerous concerns about the working conditions in many of the companies in this industry have been raised. This include not having regular breaks and enough restroom breaks as well as health and psychological risks attendant to the nature of their work.

The ILO study on the BPO industry in 2010 said that while the BPO industry provide relatively "good quality jobs," key changes in the BPO industry policies and practices need to be pushed to improve work conditions. The study reported that 48 percent of BPO workers suffer from insomnia while 54 percent from fatigue. Of which 456 percent cited that harassment from rate clients are among the causes of work-related stress among workers, 41 percent from excessive and tedious workload, 37.4 percent from performance demands 337 percent from monotony and 33.4 percent from regular night work. The ILO study also noted high workforce attrition of staff turnover rates which needs to be addressed.

On 2018, the first National Summit of BPO Workers a issues faced by BPO employees have been identified namely:

1. *Race-to-the-bottom wages.* Wage rates in BPO companies have been decreasing largely as a result of regionalized wage rates. BPO companies in IT-hubs outside Metro Manila offer new hires with near-poverty as low as P5,500 a month in the Bicol region.

Even in the National Capital Region, basic salaries can be as low as P12,500 a month and workers have to rely on incentives to increase take home pay. In addition, regular increases in salaries have been nominal or sometimes non-existent.

2. *Lack of security of tenure.* BPO workers do not enjoy security of tenure even if they have served their companies for many years. When clients pull-out, BPO workers are placed on "floating status" meaning they are still employed with no pay for as long as six months even if the companies continue to hire new agents for other clients. Because of this scheme, many BPO workers are forced to resign and transfer to other BPO companies. BPO companies also follow a systematic attrition scheme wherein workers who are unable to keep up with the performance metrics are "managed-out". The shift to automation and digitalization is also reported to aggravate these attacks on job security of workers as various reports pegged that job losses in the BPO industry at 110,000 to as much as 800,000.

3. *Highly intensified labor flexibilization* constantly threatens and attacks workers' exercise of rights. Workers are prevented from taking regular breaks (including lunch time) due to long queues of incoming calls. Workers are imposed to take mandatory overtime, multiple job assignments, and are subjected to very oppressive metrics (performance scorecards) schemes that are often unreachable.

4. *Health and safety risks and hazards.* Last December 23, 2017, 37 call center workers of Survey Sampling International got trapped and killed in a fire in NCCC mall in Davao City. This demonstrates the gravity of safety and health hazards the BPO workers face each day. Many BPO companies are lax with OSH standards especially with emergency drills as it will affect company operations. Additionally, BPO workers also face many health problems rooted to the nature of their work. Common health problems include throat problems, cardio and respiratory ailments, ulcers (because of deferred breaks), headaches among others. BPO workers' safety is always on the line when workers go to work during wee hours of the night.

5. *The right to organize is severely curtailed.* The right to organize and form unions guaranteed both by national and international laws is suppressed by many BPO companies and big industry groups. Some BPO companies would discourage or forbid workers upon employment from joining any union or organization. In some companies, they would even include clauses that prohibit workers to form or join unions. In addition, those workers who are brave enough to organize and fight for their right to organize face various forms of harassment and discrimination from the management.

6. *Other exploitative and oppressive practices as a result of self-regulation.* Clients of BPO companies exercise power over workers even if the clients themselves do not have an employee-employer relationship. Such has impact on conditions at work because clients dictate performance scores, incentive schemes, and even job security of workers. But since clients are based in other countries and the BPO industry has been asserting its self-regulatory powers despite the absence of independent unions, workers have no effective means of redress to make clients and BPO firms liable for workers' rights violations.

The bill seeks to promote and protect the rights of our fellow Filipinos, many of them belonging to the youth sector, who flock to BPO companies for immediate employment.

The bill reasserts the prescribed labor standards set forth in the Labor Code and institutionalize additional benefits that would hopefully address specific work related problems and issues peculiar to the nature of BPO work. Salient proposals of the bill include:

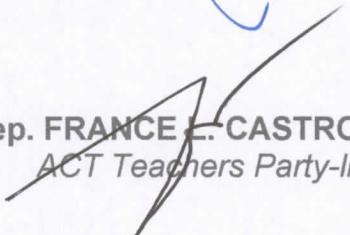
1. Added protection to the right of security of tenure of BPO workers, prohibition of floating while hiring and regularization of all BPO workers upon the completion of a maximum probationary training period of six months;
2. Standardized restroom breaks not shorter than 15 minutes on top of regular breaks and lunches throughout the entire duration of the shift;
3. Entitlement to medical benefits upon entry in the BPO company and not merely upon regularization;
4. Right to Self-association to engage in Collective Bargaining and to participate in democratic exercises and decision making on especially on company policies that affect rights at work.

It has to be noted also that a bill was filed under the 15th Congress by then Bayan Muna Representative Teddy A. Casiño entitled "An Act Ensuring The Occupational Health, Safety And Welfare Of Business Process Outsourcing (BPO) Workers And Others Similarly Employed".

The BPO Workers Welfare and Protection bill was originally filed under the 14th Congress and re-filed under the 15th, 16th and 17th Congresses by then Kabataan Party-list Representatives Raymond Palatino, Terry Ridon and Sarah Elago, respectively. It is now our fervent hope that the 18th Congress will see through the immediate passage of this important piece of legislation.

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

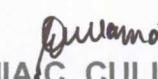

Rep. SARAH JANE I. ELAGO
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Rep. FRANCE L. CASTRO
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Rep. ARLENE D. BROSAS
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Rep. FERDINAND GAITÉ
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AN ACT
ENSURING THE WELFARE AND PROTECTION OF BUSINESS PROCESS
OUTSOURCING (BPO) WORKERS AND THE RECOGNITION OF THEIR RIGHTS AS
PROVIDED FOR IN THE LABOR CODE OF THE PHILIPPINES

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

- 1 **SECTION 1. Short Title.** - This Act shall be known as the "BPO Workers' Welfare and Protection Act".
- 3
- 4 **SECTION 2. Declaration of Policy.** - It is hereby declared the policy of the State to protect the rights, and promote the welfare of workers in the Business Process Outsourcing (BPO) industry and to take appropriate steps to recognize such rights and welfare. The State recognizes the role of BPO workers in nation-building and that protecting and promoting their rights and welfare form an integral part of national development. The State shall strive to improve and promote their social and economic status, living and working conditions, terms of employment, professional growth and career development.
- 11
- 12 **SECTION 3. Coverage.** - This Act shall cover all employees and workers engaged in the Business Processing Outsourcing industry.
- 14
- 15 **SECTION 4. Standard of Treatment.** - The employer and supervisors must, at all times, treat the BPO worker in a just and humane manner and ensure and provide that the rights and benefits of BPO workers be accorded them as mandated by Presidential Decree 442, otherwise known as the Philippine Labor Code. Abusive language, physical violence or any act which debases the dignity of a person shall not be used against the employee.
- 20
- 21 **SECTION 5. Access to Relevant Information.** - The State shall ensure that BPO companies allow their workers and employees access to:
- 22

1
2 (a) relevant information to make them understand their rights, benefits, obligations,
3 conditions and realities attending to the profession. BPO companies shall not restrain their
4 employees from organizing or attending activities, such as, but are not limited to, workshops
5 and symposia, that seek to equip BPO workers with relevant information with regard to their
6 rights, welfare and conditions.

7
8 (b) information on service level agreement between client and vendor, especially when it
9 affects working conditions and worker compensation and benefits; as consistent with Article
10 13 Section 3 of the 1987 Philippine Constitution which states that "They shall also participate
11 in policy and decision-making processes affecting their rights and benefits as may be
12 provided by law;"

13
14 **SECTION 6. Protection from Understaffing or Overloading.** - There shall be no understaffing
15 or overloading of BPO workers. The ratio of BPO worker to client quota or quantitative
16 targets shall be such as to reasonably effect a sustained quality of service at all times
17 without overworking the worker and over-extending his/her services beyond what is
18 stipulated in the employment contract, or what is allowed as the worker's regular hours of
19 work. The employer may request the employee to perform tasks beyond the duties stipulated
20 in the employment contract, Provided That the employee consents and; Provided, That such
21 tasks are duly compensated by the employer with an additional pay of not less than 25% of
22 the regular rate per hour.

23
24 **SECTION 7. Regularization of all BPO workers.** - They shall be considered regular
25 employees within the six month training period as trainee or apprentice, or upon completion
26 of a maximum probationary training period of six months.

27
28 **SECTION 8. Right to Self-organization to engage in Collective Bargaining and to participate
in Democratic Exercises.** - It shall be unlawful for any person or company to restrict the right
30 of BPO workers to join organize, or assist organizations and to collective bargaining. In
31 addition, BPO companies should exercise due diligence and actively provide venues for
32 workers to participate in the deliberation of issues and in the formulation of policies that
33 affect them.

34
35 **SECTION 9. Freedom from Interference or Coercion.** - It shall be unlawful for any person or
36 company to commit any of the following acts of interference or coercion:

37
38 (a) to require as a condition of employment that BPO employees shall not join, form or assist
39 in the formation of an organization
40 (b) to discriminate in order to encourage or discourage membership in an organization
41 (c) to prevent a BPO employee from carrying out his duties and functions in his organization
42 to penalize the employee for any lawful action performed in that capacity
43 (d) to perform acts calculated to diminish the independence and freedom of the union or
44 organization to direct its own affairs.

45
46 **SECTION 10. Freedom from Company Bond.** - It shall be unlawful for any person or
47 company to compel a BPO worker to commit to a company bond, imposing an exorbitant fee
48 to be paid by the employee upon leaving the company before a specified length of time.

1
2 **SECTION 11. Right to Money Claims.** - The company may not in any case, prevent a BPO
3 worker from receiving his/her rightful money claims arising from labor disputes.
4

5 **SECTION 12. Protection from Discrimination.** - BPO workers shall be protected from
6 discrimination by reason of sex, sexual orientation, age, political or religious beliefs, civil
7 status, physical characteristics or disability, or ethnicity
8

9 **SECTION 13. Safeguards in Administrative Proceedings.** - In any administrative proceeding,
10 a BPO worker shall have:
11

- 12 (a) the right to be informed of the charges;
- 13 (b) the right to full access on evidence against him/her;
- 14 (c) the right to defend himself/herself or by a counsel of his/her choice;
- 15 (d) the right to be given adequate time to prepare his/her case, which shall in no case be
less than one week;
- 16 (e) the right to appeal to designated authorities; and
- 17 (f) such other rights as will ensure fairness and impartiality during proceedings.
18

19 **SECTION 14. Regular Hours of Work.** - Normal hours of work for BPO workers shall not
20 exceed eight (8) hours a day Any work done by BPO employees beyond the regular hours of
21 work shall be duly compensated by the employer.
22

23 **SECTION 15. Overtime Work.** - BPO workers who work beyond his/her required working
24 hours in cases provided for in the Labor Code, Provided, That the employee is paid for the
25 overtime work with an additional compensation equivalent to not less than his regular wage
26 plus twenty-five percent (25%).
27

28 **SECTION 16. Night Shift Differential.** - BPO workers shall be paid a night shift differential of
29 not less than ten percent (10%) of his regular wage for each hour of work performed
30 between ten o'clock in the evening and six o'clock in the morning.
31

32 **SECTION 17. Rest & Meal Periods.** - BPO workers shall be entitled to compensable rest
33 periods and meal periods not less than what is provided for in the Labor Code and other
34 existing laws. Employees shall have the right to brief restroom breaks, which shall not be
35 shorter than five minutes for each two hour intervals or a cumulative of at least 15 minute
36 restroom throughout the work shift. These restroom breaks shall be added on top of the two
37 15-minute breaks and lunch breaks. To comply with such, the BPO company shall devise a
38 mechanism in order to ensure the implementation of regular restroom breaks among its
39 workers without sacrificing the continuous flow of work among its employees.
40

41 **SECTION 18. Regular Working Days.** - All BPO workers shall render work for not more than
42 five (5) consecutive days per week. While the specific day of the week set aside as rest day
43 may be stipulated in the employment contract, the same may be changed for another day of
44 the week upon the mutual agreement of the employer and the employee; Provided, that the
45 employer shall respect the preference of the employee for his/her weekly rest day when said
46 preference is based on religious grounds.
47

1 **SECTION 19. Work on Holidays.** - BPO workers have the right to refuse to work on days
2 designated as non-working holidays. And the employer shall duly compensate the
3 employee's work on such days in accordance to existing laws with regard to holiday pay.
4 Given the nature of the industry, the company shall devise a mechanism in order to ensure
5 that workers are able to exercise this right without prejudice to workers' performance
6 assessment and evaluation.

7
8 **SECTION 20. Leave Benefits.** - BPO workers shall be entitled to all leave benefits and
9 privileges, such as but not limited to maternity, paternity, vacation and sick leaves, as
10 provided for under existing laws: Provided, that upon separation of the employee from
11 service, they shall be entitled to all accumulated leave credits with pay. No employee shall
12 be terminated based solely on unapproved leaves without affording the employee due
13 process in an administrative proceeding.

14
15 **SECTION 21. Transportation Benefits.** - In the absence of or in the lack of safe and
16 adequate public transportation services in BPO workers' places of work, they shall be
17 entitled to safe transportation service, which may include but are not limited to shuttle
18 services or travel allowance for Transport Network Vehicle Service (TNVS)--safer--or
19 commute, to and from the place of work to designated drop-off points, to be provided by the
20 company in order to facilitate the safe commute of employees at vulnerable times at night or
21 early in the morning.

22
23 **SECTION 22. Medical Examination and Medical and Health Benefits.** - Apart from
24 PHILHEALTH, BPO workers shall be entitled other medical and health benefits which
25 include:

26
27 (a) medical examination free of charge upon entry in the BPO company and not merely upon
28 regularization, and every year thereafter during his/her tenure of employment.

29
30 (b) An HMO or Medical and Health insurance benefits upon employment with minimum
31 coverage of Php 250,000.00; this shall cover basic laboratory tests, dental procedures, and
32 hospitalization. They shall also be compensated for injuries and medical complications
33 arising from and related to their work in accordance to existing laws, labor policies,
34 guidelines or circulars as the case may be.

35
36 (c) The company shall also have a resident psychologist available 24/7 as the nature of the
37 BPO employees' work are constantly exposed to highly stressful environment (e.g.
38 demeaning treatment of customers, high pressure to meet performance targets, exposure to
39 obscene and violent content, especially for content moderators.)

40
41 (d) Annual psychiatric and psychological evaluation which may be included in the annual
42 physical examination as stipulated in Section 22 (a) of this Act. When needed, professional
43 psychological or psychiatric intervention should also be provided for free that may be
44 covered the HMO or Medical and Health insurance as stipulated in Section 22 (b) of this Act.

45
46 **SECTION 23. Workplace Policy on Occupational Safety and Health and during Natural**
47 **Disasters or Danger.** - An occupational safety and health policy shall be formulated by each
48 BPO establishment addressing the safety and health concerns in BPO workplaces and

1 worksites, in accordance with the Occupational Safety and Health Standards (OSHS) and
2 other related OSH issuances. Each BPO company shall enforce a proper business continuity
3 plan that prioritizes the safety, security, and well-being of employees in times of disasters,
4 calamities, and other acts of God.

5
6 **SECTION 24. Security of Tenure.** - No employee can be terminated except for just cause as
7 may be provided by the Labor Code and to protect them from being abused by legal
8 provisions that allows floating status of employees for not more than six months and other
9 existing laws and after due process in an administrative proceeding as provided for in this
10 Act. When putting workers in floating status, the company must not hire new employees until
11 all employees who shall be subject or are currently in floating status have been absorbed in
12 vacancies in other or new accounts, provided that the workers are willing to be absorbed in
13 other or new accounts available.

14
15 **SECTION 25. Prohibition Against Elimination or Diminution of Benefits.** - Nothing in this Act
16 shall be construed to eliminate or diminish in any way existing benefits being enjoyed by
17 BPO employees at the time of effectivity of this Act, or benefits beyond the minimum
18 standards set forth by this Act.

19
20 **SECTION 26. Penal Provision.** - Any person or company who violates the provisions of this
21 Act shall be punished with a fine of not less than Twenty Thousand Pesos (P100,000) and/or
22 imprisonment of not less than two (2) months but not more than one (1) year or both at the
23 discretion of the Court.

24
25 **SECTION 27. Separability Clause.** - If any provision of this Act is declared unconstitutional
26 or invalid, the remainder thereof not affected thereby shall continue to be in full force and
27 effect.

28
29 **SECTION 28. Repealing Clause.** - All laws, ordinances, rules and regulations, other
30 issuances or parts thereof which are inconsistent with this law are hereby repealed or
31 modified accordingly.

32
33 **SECTION 29. Effectivity** - This Act shall take effect fifteen (15) days after its publication in at
34 least two newspapers of general circulation.

Approved,