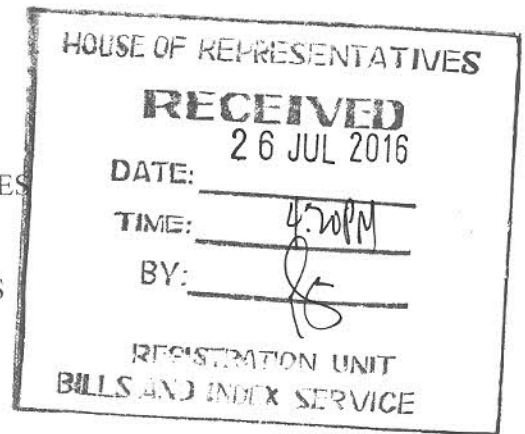


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **1910**



Introduced by REP. LINABELLE RUTH R. VILLARICA
4TH DISTRICT, BULACAN

EXPLANATORY NOTE

Presidential Decree No. 442, the "Labor Code of the Philippines", was enacted to afford protection to labor, promote employment and human resources development, and ensure industrial peace based on social justice.

The 2010 Bureau of Labor and Employment Statistics Integrated Survey (BITS) shows that out of a total employment of 3,042,750 by non-agricultural establishments with 20 or more workers in June 2010, a significant number, 850,685, were non-regular workers, including:

- 179,384 probationary workers;
- 170,817 casual workers;
- 445,020 contractual/project-based workers.

The present Labor Code, while silent on term or fixed-period employment, does not declare it per se illegal or against public policy. This silence has resulted in abuse and arbitrage on the part of both employers and employees: The State can address this issue by amending pertinent laws.

This bill therefore seeks to amend the present Labor Code so as to substantially implement it by providing standards specific to term or fixed-period employment, including but not limited to the following:

- A clear definition of term or fixed period employment;
- Requisites for validity of term or fixed period employment;
- Conditions for regularization of term or fixed-period employment.

This bill was filed during the 16th Congress. However, no further action was taken on it due to time constraints. This is filed for the consideration of the 17th Congress.

Support for the enactment of this measure is earnestly requested.

A handwritten signature in cursive script, appearing to read "L. Villarica".

REP. LINABELLE RUTH R. VILLARICA

Republic of the Philippines
HOUSE OF REPRESENTATIVES
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SEVENTEENTH CONGRESS

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House Bill No. _____

Introduced by HON. LINABELLE RUTH R. VILLARICA
4TH DISTRICT, BULACAN

AN ACT TO ADDRESSING THE ISSUE OF LABOR CONTRACTUALIZATION BY
PROVIDING STANDARDS FOR TERM OR FIXED-PERIOD EMPLOYMENT,
AMENDING FOR THE PURPOSE PRESIDENTIAL DECREE NO. 442, OTHERWISE
KNOWN AS "THE LABOR CODE OF THE PHILIPPINES"

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

SECTION 1. Article 280 of Presidential Decree No. 442 is hereby amended as follows:

"ART. 280. *REGULAR AND CASUAL EMPLOYMENT.* - The provisions of written agreement to the contrary notwithstanding and regardless of the oral agreement of the parties, an employment shall be deemed to be regular where the employee has been engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer, except where the employment has been fixed for a TERM OR PERIOD, specific project or undertaking the completion or termination of which has been determined at the time of the engagement of the employee or where the work or services to be performed is seasonal in nature and the employment is for the duration of the season.

An employment shall be deemed to be casual if it is not covered by the preceding paragraph: *Provided*, That, any employee who has rendered at least one year of service, whether such service is continuous or broken, shall be considered a regular employee with respect to the activity in which he is employed and his employment shall continue while such activity exists."

SECTION 2. A new Article 280-A of Presidential Decree No. 442 is hereby inserted as follows:

"ART. 280-A. *TERM OR FIXED-PERIOD EMPLOYMENT.* - "TERM OR FIXED-PERIOD EMPLOYMENT" SHALL REFER TO ANY DOMESTIC CONTRACT OF EMPLOYMENT, EXCEPT PROJECT OR SEASONAL, FOR A DEFINITE PERIOD THAT TERMINATES BY ITS OWN TERMS AT THE END OF THE PERIOD.

TERM; OR FIXED-PERIOD EMPLOYMENT SHALL NOT BE PROHIBITED PROVIDED THE FOLLOWING REQUISITES CONCUR:

- A. THERE MUST BE AN EMPLOYER-EMPLOYEE RELATIONSHIP;
- B. IT MUST BE KNOWINGLY AND VOLUNTARILY AGREED UPON BY THE PARTIES, WITHOUT ANY FORCE, DURESS OR IMPROPER PRESSURE BEING BROUGHT TO BEAR UPON THE EMPLOYEE AND ABSENT ANY OTHER CIRCUMSTANCES VITIATING HIS CONSENT;
- C. IT MUST SATISFACTORILY APPEAR THAT THE EMPLOYER AND EMPLOYEE DEALT WITH EACH OTHER ON MORE OR LESS EQUAL TERMS WITH NO MORAL DOMINANCE WHATEVER BEING EXERCISED BY THE FORMER ON THE LATTER; AND
- D. IT MUST NOT BE USED TO CIRCUMVENT SECURITY OF TENURE.

TERMINATION OF TERM OR FIXED-PERIOD EMPLOYMENT SHALL BE DEEMED EQUIVALENT TO THE COMPLETION OF THE PROBATIONARY PERIOD. ANY EXTENSION OR SUBSEQUENT CONTRACT BY THE SAME OR ANY ASSOCIATED ENTERPRISE OR RELATED PARTY, REGARDLESS OF INTERVENING TIME, SHALL BE DEEMED AS FOR REGULAR EMPLOYMENT.

"ASSOCIATED ENTERPRISES" OR "RELATED PARTIES" SHALL REFER TO TWO OR MORE ENTERPRISES WHERE ONE PARTICIPATES DIRECTLY OR INDIRECTLY IN THE MANAGEMENT, CONTROL, OR CAPITAL OF THE OTHER; OR IF THE SAME PERSONS PARTICIPATE DIRECTLY OR INDIRECTLY IN THE MANAGEMENT, CONTROL, OR CAPITAL OF THE ENTERPRISES.

"CONTROL" SHALL REFER TO ANY KIND OF CONTROL, DIRECT OR INDIRECT, WHETHER OR NOT LEGALLY ENFORCEABLE, AND HOWEVER EXERCISABLE OR EXERCISED. MOREOVER, CONTROL SHALL BE DEEMED PRESENT IF INCOME OR DEDUCTIONS HAVE BEEN ARBITRARILY SHIFTED BETWEEN TWO OR MORE ENTERPRISES. "

SECTION 3. Article 281 of Presidential Decree No. 442 is hereby amended as follows:

"ART. 281. *PROBATIONARY EMPLOYMENT.* - Probationary employment shall not exceed six (6) months from the date the employee started working, unless it is covered by an apprenticeship agreement stipulating a longer period. The services of an employee who has been engaged on a probationary basis may be terminated for a just cause or when he fails to qualify as a regular employee in accordance with reasonable standards made known by the employer to the employee at the time of his engagement. An employee who is allowed to work after a probationary period shall be considered a regular employee. THE EMPLOYER AND EMPLOYEE MAY, BY MUTUAL AGREEMENT PRIOR TO AND WITHOUT ALLOWING THE LAPSE OF THE PROBATIONARY PERIOD, EXTEND ONCE ONLY, THE PROBATIONARY PERIOD THAT SHALL IN TOTAL NOT EXCEED THE ONE (1) YEAR PERIOD FOR CASUAL EMPLOYMENT UNDER ART.280."

SECTION 4. Separability Clause. - Any portion or provision of this Act that may be declared unconstitutional or invalid shall not have the effect of nullifying the other portions and provisions hereof as long as such remaining portion or provision can still subsist and be given effect in their entirety.

SECTION 5. Repealing Clause. Presidential Decree No . 442, otherwise known as the "Labor Code of the Philippines" and all decrees executive orders, proclamations and administrative regulations or parts thereof inconsistent herewith are hereby repealed, amended or modified accordingly.

SECTION 6. Effectivity Clause. This Act shall take effect fifteen (15) days after its publication in any national paper of general circulation.

Approved,