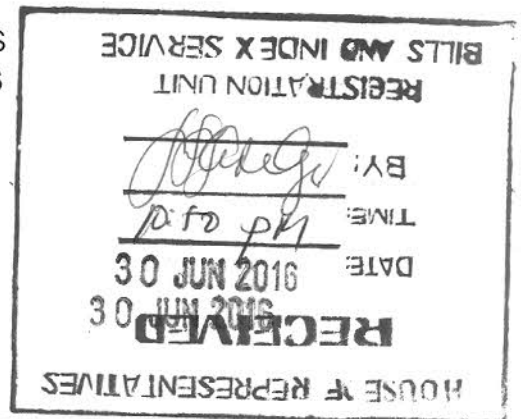


REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **661**



Introduced by **Kabataan Party-List Rep. Sarah Jane I. Elago**

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 \$13 billion and employed at least 700,000 workers in 2012. In 2013, the BPO industry is forecasted to generate \$15 billion gross revenues and employ 1 million workers. 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 17th Congress.

In consultations since the 14th Congress, stakeholders including BPO managers, call center agents, and parents of BPO workers have expressed concern on the working conditions in many of the companies in this industry. Among the problems raised by stakeholders is that BPO companies devise mechanisms to prevent many of their employees from becoming regularized despite having been employed as probationary workers or trainees for more than six months. This mechanism effectively divests many BPO workers of the benefits that should be granted to them for all the time they have spent serving the company, from the right to money claims and security of tenure, to the right to regular medical check-ups. Another concern is the health and psychological risks attendant to the nature of their work. In many BPO companies, employees are not allowed to take restroom breaks for hours on end in order to satisfy quotas or demands. It is no wonder why many BPO employees complain of urinary tract infections and other such complications after their employment in BPO workplaces.

Substantiating the stakeholder feedback, 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, 45.6 percent cited that harassment


from irate clients are among the causes of work-related stress among workers, 41 percent from excessive and tedious workload, 37.4 percent from performance demands, 33.7 percent from monotony and 33.4 percent from regular night work. The ILO study also noted high workforce attrition or staff turnover rates which needs to be addressed.

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. Regularization of all BPO workers upon the sixth month of employment as trainee or apprentice, or upon the completion of a maximum probationary training period of six months.
2. Standardized restroom breaks not shorter than five minutes each, with intervals of two hours during their working hours.
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.

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



HON. SARAH JANE I. ELAGO
Representative, Kabataan Party-list

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **661**

Introduced by **Kabataan Party-list Rep. Sarah Jane I. Elago**

1 **AN ACT**
2 **ENSURING THE WELFARE AND PROTECTION OF BUSINESS PROCESS**
3 **OUTSOURCING (BPO) WORKERS AND THE RECOGNITION OF THEIR RIGHTS AS**
4 **PROVIDED FOR IN THE LABOR CODE OF THE PHILIPPINES**

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

7 **SECTION 1. Short Title.** – This Act shall be known as the “BPO Workers’ Welfare and
8 Protection Act”

9 **SECTION 2. Declaration of Policy.** – It is hereby declared the policy of the State to
10 protect the rights, and promote the welfare of workers in the Business Process Outsourcing
11 (BPO) industry and to take appropriate steps to recognize such rights and welfare. The State
12 recognizes the role of BPO workers in nation-building and that protecting and promoting their
13 rights and welfare form an integral part of national development. The State shall strive to
14 improve and promote their social and economic status, living and working conditions, terms of
15 employment, professional growth and career development.

16 **SECTION 3. Coverage.** – This Act shall cover all employees and workers engaged in
17 the Business Processing Outsourcing industry.

18 **SECTION 4. Standard of Treatment.** – The employer and the supervisors must, at all
19 times, treat the BPO worker in a just and humane manner and ensure and provide that rights
20 and benefits of BPO workers be accorded them as mandated by Presidential Decree 442,
21 otherwise known as the Philippine Labor Code. Abusive language, physical violence or any
22 act which debases the dignity of a person shall not be used against the employee.

1 **SECTION 5.** *Access to Relevant Information.* – The State shall ensure that BPO
2 companies allow their workers and employees access to relevant information to make them
3 understand their rights, benefits, obligations, conditions and realities attending to their
4 profession. BPO companies shall not restrain their employees from organizing or attending
5 activities, such as, but are not limited to, workshops and symposia, that seek to equip BPO
6 workers with relevant information with regard to their rights, welfare and conditions.

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

16 **SECTION 7.** *Regularization.* All BPO workers shall be considered regular employees
17 upon the sixth month of employment as trainee or apprentice, or upon the completion of a
18 maximum probationary training period of six months.

19 **SECTION 8.** *Right to Self-Association, to engage in Collective Bargaining, and to*
20 *participate in Democratic Exercises.* – It shall be unlawful for any person or company to restrict
21 the right of BPO workers to join, organize, or assist organizations, to collective bargaining and
22 to participate in the deliberation of issues and in the formulation of policies that affect them.

23 **SECTION 9.** *Freedom from Interference or Coercion.* – It shall be unlawful for any
24 person or company to commit any of the following acts of interference or coercion:

- 25 (a) to require as condition of employment that BPO employees shall not join, form or
26 assist in the formation of an organization;
- 27 (b) to discriminate in order to encourage or discourage membership in an
28 organization;
- 29 (c) to prevent a BPO employee from carrying out his duties and functions in his
30 organization to penalize the employee for any lawful action performed in that
31 capacity;
- 32 (d) to perform acts calculated to diminish the independence and freedom of the union
33 or organization to direct its own affairs.

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

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

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

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

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

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

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

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

28 **SECTION 17. *Rest & Meal Periods.*** – BPO workers shall be entitled to compensable
29 rest periods and meal periods not less than what is provided for in the Labor Code and other
30 existing laws. Employees shall have the right to brief restroom breaks, which shall not be
31 shorter than five minutes each, with intervals of two hours during their working hours. To

1 comply with such, the BPO company shall devise a mechanism in order to ensure the
2 implementation of regular restroom breaks among its workers without sacrificing the
3 continuous flow of work among its employees.

4 **SECTION 18. *Regular Working Days.*** – All BPO workers shall render work for not more
5 than six (6) consecutive days per week. While the specific day of the week set aside as rest
6 day may be stipulated in the employment contract, the same may be changed for another day
7 of the week upon the mutual agreement of the employer and the employee; *Provided*, That
8 the employer shall respect the preference of the employee for his/her weekly rest day when
9 said preference is based on religious grounds.

10 **SECTION 19. *Work on Holidays.*** – BPO workers may be required to work on days
11 designated as non-working holidays in the Philippines granted the nature of their profession;
12 *Provided*, That the employer shall duly compensate the employee's work on such days in
13 accordance to existing laws with regard to holiday pay.

14 **SECTION 20. *Leave Benefits.*** – BPO workers shall be entitled to all leave benefits and
15 privileges, such as but not limited to maternity, paternity, vacation and sick leaves, as provided
16 for under existing laws: *Provided*, That upon separation of the employee from service, they
17 shall be entitled to all accumulated leave credits with pay. No employee may be terminated
18 based solely on unapproved leaves without affording the employee due process in an
19 administrative proceeding.

20 **SECTION 21. *Transportation Benefits.*** – In the absence of or in the lack of safe and
21 adequate public transportation services in BPO workers' places of work, they shall be entitled
22 to safe transportation service, which may include, but are not limited to shuttle services, to and
23 from the place of work to designated drop-off points, to be provided by the company in order
24 to facilitate the safe commute of employees at vulnerable times at night or early in the morning.

25 **SECTION 22. *Medical Examination and Treatment.*** – BPO workers shall be entitled to
26 a medical examination free of charge upon entry in the BPO company and not merely upon
27 regularization, and every year thereafter during his/her tenure of employment. They shall also
28 be compensated for injuries and medical complications arising from and related to their work
29 in accordance to existing laws, labor policies, guidelines or circulars as the case may be.

30 **SECTION 23. *Workplace Policy on Occupational Safety and Health*** – An occupational
31 safety and health policy shall be formulated by each BPO establishment addressing the safety
32 and health concerns in BPO workplaces and worksites, in accordance with the Occupational
33 Safety and Health Standards (OSHS) and other related OSH issuances.

1 **SECTION 24. *Security of Tenure.*** – No employee may be terminated except for just
2 cause as may be provided by the Labor Code and other existing laws and after due process
3 in an administrative proceeding as provided for in this Act.

4 **SECTION 25. *Prohibition Against Elimination or Diminution of Benefits.*** – Nothing in
5 this Act shall be construed to eliminate or diminish in any way existing benefits being enjoyed
6 by BPO employees at the time of the effectivity of this Act, or benefits beyond the minimum
7 standards set forth by this Act.

8 **SECTION 26. *Penal Provision.*** – Any person or company who violates the provisions
9 of this Act shall be punished with a fine of not less than Twenty Thousand Pesos (P20,000)
10 and/or imprisonment of not less than two (2) months but not more than one (1) year, or both
11 at the discretion of the Court.

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

15 **SECTION 28. *Repealing Clause.*** – All laws, ordinances, rules and regulations, other
16 issuances or parts thereof which are inconsistent with this law are hereby repealed or modified
17 accordingly.

18 **SECTION 29. *Effectivity.*** – This Act shall take effect fifteen (15) days after its
19 publication in at least two newspapers of general circulation.

20 *Approved,*