

Republic of the Philippines
House of Representatives
Quezon City, Metro Manila
Eighteenth Congress
First Regular Session
HOUSE BILL NO. 4802



Introduced by Representatives Jose "Bonito" C. Singson, Jr.

EXPLANATORY NOTE

This bill seeks to extend the maximum prescribed period of probationary employment from six months to twenty-four months.

Employees are made to undergo a probationary period of employment in order for the employers to better assess and ascertain their competence and level of skill. This trial period is needed in order for the employee to familiarize themselves with the nature and the standards of the company they wish to become a permanent part of. Employers on the other hand would make use of this trial period to observe the probationary employee's work ethics, fitness and efficiency in order to determine if such probationary employees are qualified for regular employment.

Under Article 296 of Presidential Decree No. 442 as amended, otherwise known as the "*Labor Code of the Philippines*", 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 the employee fails to qualify as a regular employee in accordance with reasonable standards made known by the employer to the employee at the time of the engagement.

If the probationary employee continues to work for more than six months, the employee becomes a regular employee by operation of law.

However, a period of six months under the present set up is not sufficient a period in order for the employer to determine if the probationary

employee is qualified for regular employment, especially in positions which require specialized skills and talents. It limits the right of the employer to secure quality employees. Considering the advent of technological advances in various industries, the probationary employees must undergo a series of developmental training and assessment to ascertain their ability to do the job. In every stage of the development, the probationary employee must satisfy a set of standards to qualify. These processes demand more time, which in a lot of cases takes more than six months.

Because of the maximum six-month period prescribed by law, employers are inclined to terminate the probationary employees before the expiration of the six-month period, rather than risk oppression by being stuck with a substandard employee. Employers are left with no recourse but to end the probationary employment even when they are still in the process of evaluating the probationary employee to avoid the automatic regularization of an unqualified employee in their workforce.

In keeping with the constitutional mandate to afford protection to labor, the extension of the probationary stage of the employment will provide the employees better opportunities to prove their value to the employer and that they have the required skills, talents, and other qualifications that would warrant their subsequent regularization along with all the mandatory benefits that go with it. Probationary employees will have a better chance to improve their performance, meet their targets, and learn new skills that will allow them to meet the required standards set by the employer. Furthermore, this measure will also provide an opportunity for the probationary employees to have continuous employment for more than six months, which will enable them to qualify for some of the mandatory benefits under existing laws. It will also free probationary employees from the hassle of finding and applying for a new job and in incurring job application expenses every time the six-month probationary period lapses.

As it was held in the case of *"Philippine Daily Inquirer, Inc., vs Leon M. Magtibay, Jr. and Philippine Daily Inquirer Employees Union (PDIEU),"* (G.R. 165432, July 24, 2007).

"Being in the nature of a "trial period" the essence of a probationary period of employment fundamentally lies in the purpose or objective sought to be attained by both the employer and the employee during said period. The length of time is immaterial in determining the correlative rights of both in dealing with each other during said

period. While the employer, as stated earlier, observes the fitness propriety and efficiency of a probationer to ascertain whether he is qualified for permanent employment, the probationer, on the other, seeks to prove to the employer, that he has the qualifications to meet the reasonable standards for permanent employment. (bold italics ours)

It is noteworthy to state that by increasing the time element of the probationary period, we are in effect creating better job security for the average probationary employee, who most often than not fall victim to company practices that takes advantage of loopholes in the law. Increasing the probationary period without prejudice to employers granting regular status to probationary employees at anytime within the period of the probationary contract, would drastically increase the chances of probationary employees to qualify for regular status while at the same time employers would be able to save on labor costs related to the frequent rehiring and retraining of new probationary employees.

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

A handwritten signature in blue ink, appearing to be 'Jose Bonito C. Singson Jr.', written over a printed name.

JOSE "BONITO" C. SINGSON JR.

1 **Republic of the Philippines**
2 **House of Representatives**
3 **Quezon City, Metro Manila**
4 **Eighteenth Congress**
5 **First Regular Session**
6 **HOUSE BILL NO. ⁴⁸⁰²_____**

7 **Introduced by Representatives Jose "Bonito" C. Singson, Jr.**

8
9 **AN ACT EXTENDING THE MAXIMUM ALLOWABLE PERIOD OF**
10 **PROBATIONARY EMPLOYMENT, AMENDING FOR THE PURPOSE**
11 **PRESIDENTIAL DECREE NO. 442, OTHERWISE KNOWN AS THE "LABOR**
12 **CODE OF THE PHILIPPINES," AS AMENDED**
13

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

16 SECTION 1: Article 296 of the Labor Code of the Philippines, as
17 amended, is hereby amended to read as follows:

18 "ARTICLE 296. *Probationary employment.* Probationary employment
19 shall not exceed [24] **TWENTY FOUR** months from the date the employee
20 started working, unless it is covered by an apprenticeship agreement
21 stipulating a longer period. The services of an employee who has been
22 engaged on a probationary basis may be terminated for a just cause or when
23 he fails to qualify as a regular employee in accordance with reasonable
24 standards made known by the employer to the employee at the time of his
25 engagement. An employee who is allowed to work after a probationary period
26 shall be considered a regular employee."

27 For this purpose the rule on automatic regularization after one year of
28 continuous employment does not apply to employees under probationary
29 employment.

30 SEC. 2. Within one hundred and twenty (120) days from the
31 effectivity of this Act, the Secretary of Labor and Employment shall
32 promulgate the necessary implementing rules and regulations.

33 SEC. 3. All laws, decrees, rules, and regulations or parts thereof, which
34 are contrary to or inconsistent with this Act are hereby repealed or modified
35 accordingly.

36 SEC. 4. The Act shall take effect fifteen (15) days after its publication in
37 the *Official Gazette* or in a newspaper of general circulation.

38 Approved

A handwritten signature in blue ink, consisting of stylized initials and a long horizontal stroke extending to the right.