

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Constitution Hills, Quezon City

EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL No. 4165



Introduced by RAM Party-list REPRESENTATIVE ALOYSIA T. LIM

EXPLANATORY NOTE

Filipinos are scattered across all continents. It is estimated that ten percent (10%) of the one hundred eight million (108M) Filipinos are living or working abroad. As of 2018, the Philippine Statistics Authority reported that there are 2.2M Overseas Filipino Workers (OFWs).

The wave of Filipino labor migration started when Filipinos began working in sugarcane and fruit plantations of Hawaii and Louisiana in the United States of America. After World War II, military bases across the globe commenced the recruitment of workers. When oil production accelerated in the Middle East, Filipino skilled workers were recruited to work in oil fields. The emergence of the newly industrialized economies in Asia saw the wave of labor migration consisting of skilled workers, professionals, entertainers and household workers. Saudi Arabia, United Arab Emirates, Hongkong, Qatar and Taiwan are top hosts of Filipino labor force.

Remittance from Overseas Filipino Workers helped the country's economy buoy through crisis and trade deficit. It continues to increase year after year. In 2018, OFW cash remittance amounted to \$28.9B or an equivalent of PhP1.4T. It is a major source of dollar reserve aside from the export of goods and services. It strengthens the country's Balance of Payments creating a surplus in current accounts. An increased remittance enables our country to purchase foreign goods and services and allows it to service its debts and international obligations.

On the household level, money coming from abroad increased the purchasing power of recipient families resulting to improved consumption on food, clothing, home improvement and some luxuries. Remittance is also invested in the education of children and health care services.

The economic benefits we enjoy come with social costs. The exodus of skilled and talented Filipinos drains the pool of best workers for the country. The negative impact on families left by OFW parents is disintegrating the social fabric of our society. On one hand,

Overseas Filipino Workers have become vulnerable to human trafficking, work-related abuses and considerable risks. Some got sick and even died in foreign countries without the benefit of aid or support.

It is therefore the aim of this Bill to create a Department of Overseas Filipino Workers to synchronize all government policies on OFWs and create a comprehensive plan to protect and promote their rights and welfare. This Bill will ensure, responsive, effective and adequate support and assistance to our modern-day heroes.

It is hereby earnestly sought, that this Bill, be approved.



ALOYSIA T. LIM

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**AN ACT CREATING THE DEPARTMENT OF OVERSEAS FILIPINO WORKERS, DEFINING ITS
POWERS AND FUNCTIONS, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES**

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

CHAPTER I
GENERAL PROVISIONS

SECTION 1. *Short Title.* – This Act shall be known as the “Department of OFW Act of 2019.”

SECTION 2. *Declaration of Policies.*

- a. In the pursuit of an independent foreign policy and while considering national sovereignty, territorial integrity, national interest and the right to self-determination paramount in its relations with other states, the State shall, at all times, uphold the dignity of its citizens whether in the country or overseas, in general, and Filipino migrant workers, in particular, continuously monitor international conventions, adopt/be signatory to and ratify those that guarantee protection to our migrant workers, and endeavor to enter into bilateral agreements with countries receiving overseas Filipino workers.
- b. The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all. Towards this end, the State shall provide adequate and timely social, economic and legal services to Filipino migrant workers.
- c. While recognizing the significant contribution of Filipino migrant workers to the national economy through their foreign exchange remittances, the State does not promote overseas employment as a means to sustain economic growth and achieve national development. The existence of the overseas employment program rests solely on the assurance that the dignity and fundamental human

rights and freedoms of the Filipino citizens shall not, at any time, be compromised or violated. The State, therefore, shall continuously create local employment opportunities and promote the equitable distribution of wealth and the benefits of development.

- d. The State affirms the fundamental equality before the law of women and men and the significant role of women in nation building. Recognizing the contribution of overseas migrant women workers and their particular vulnerabilities, the State shall apply gender sensitive criteria in the formulation and implementation of policies and programs affecting migrant workers and the composition of bodies tasked for the welfare of migrant workers.
- e. Free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty. In this regard, it is imperative that an effective mechanism be instituted to ensure that the rights and interest of distressed overseas Filipinos, in general, and Filipino migrant workers, in particular, whether regular/documented or irregular/undocumented, are adequately protected and safeguarded.
- f. The right of Filipino migrant workers and all overseas Filipinos to participate in the democratic decision-making processes of the State and to be represented in institutions relevant to overseas employment is recognized and guaranteed.
- g. The State recognizes that the most effective tool for empowerment is the possession of skills by migrant workers. The government shall expand access of migrant workers to free skills development and enhancement programs through guidelines on scholarships, training subsidies/grants of the concerned agencies. Pursuant to this and as soon as practicable, the government shall deploy and/or allow the deployment only of skilled Filipino workers.
- h. The State recognizes that non-governmental organizations, trade unions, workers associations, stakeholders and other similar entities duly recognized as legitimate, are partners of the State in the protection of Filipino migrant workers and in the promotion of their welfare. The State shall cooperate with them in a spirit of trust and mutual respect. The significant contribution of recruitment and manning agencies shall form part of this partnership.
- i. The state recognizes the family as the basic autonomous unit of society thereby strengthening and protecting OFW families through support mechanisms to left-behind families and effective transition and employment programs for returning overseas workers.

- j. The state guarantees that adequate and sustainable social fund shall be available for the training, education, assistance and retirement of the Overseas Filipino Workers.
- k. The state ensures that immediate and appropriate response is available for OFWs in emergency and crisis situations.

SECTION 3. *Definition of Terms.*

- a. *Act* refers to the "Department of Overseas Filipino Workers Act of 2019."
- b. *Authority* refers to a document issued by the Secretary of the Department of Overseas Filipino Workers authorizing the officers, personnel, agents or representatives of a licensed recruitment/manning agency to conduct recruitment and placement activities in a place stated in the license or in a specified place.
- c. *Irregular/Undocumented Filipino Migrant Workers* refer to the following:
 - 1. Those who acquired their passports through fraud or misrepresentation;
 - 2. Those who possess expired visas or permits to stay;
 - 3. Those who have no travel document whatsoever;
 - 4. Those who have valid but inappropriate visas; or
 - 5. Those whose employment contracts were not processed and approved by the Department.
 - 6. Those who are victims of trafficking in persons
 - 7. Those whose employment and work destination are different from their employment contract and visa.
- d. *License* refers to the document issued by the Secretary of the Department of Overseas Filipino Workers authorizing a person, partnership or corporation to operate a private recruitment/manning agency.
- e. *Manning Agency* refers to any person, partnership or corporation duly licensed by the Secretary of Department of Overseas Filipino Workers to engage in the recruitment and placement of seafarers for ships plying international waters and for related maritime activities.
- f. *Non-licensee* refers to any person, partnership or corporation with no valid license to engage in recruitment and placement of overseas Filipino workers or whose license is revoked, cancelled, terminated, expired or otherwise delisted from the roll of licensed recruitment/manning agencies registered with the Department of Overseas Filipino Workers.

- g. *Overseas Employment* refers to the employment of workers outside the Philippines.
- h. *Overseas Filipinos* refer to migrant workers, other Filipino nationals and their dependents abroad, including Filipinos permanently residing abroad.
- i. *Overseas Filipino in Distress* refers to an overseas Filipino who has a medical, psychosocial or legal assistance problem requiring treatment, hospitalization, counseling, legal representation as specified in Rule IX of these Rules or any other kind of intervention with the authorities in the country where he or she is found.
- j. *Overseas Filipino Worker or Migrant Worker* – refers to a person who is to be engaged, is engaged, or has been engaged in a remunerated activity in a state of which he or she is not a citizen or on board a vessel navigating the foreign seas other than a government ship used for military or non-commercial purposes, or on an installation located offshore or on the high seas. A “person to be engaged in a remunerated activity” refers to an applicant worker who has been promised or assured employment overseas.
- k. *Private Recruitment/Employment Agency* refers to any person, partnership or corporation duly licensed by the Secretary of Labor and Employment to engage in the recruitment and placement of workers for overseas employment for a fee which is charged, directly or indirectly, from the workers or employers or both.
- l. *Regular/Documented Filipino Migrant Workers* refer to the following:
 - 1. Those who possess valid passports and appropriate visas or permits to stay and work in the receiving country; and
 - 2. Those whose contracts of employment have been processed and approved by the Department of Overseas Filipino Workers.
- m. *Seafarer* refers to any person who is employed or engaged in overseas employment in any capacity on board a ship other than a government ship used for military or non-commercial purposes. The definition shall include fishermen, cruise ship personnel and those serving on mobile offshore and drilling units in the high seas.
- n. *Skilled Filipino Workers* refer to those who have obtained an academic degree, qualification, or experience, or those who are in possession of an appropriate level of competence, training and certification, for the job they are applying, as may be determined by the appropriate government agency.
- o. *Secretary* refers to the Secretary of the Department Overseas Filipino Workers.

CHAPTER II THE DEPARTMENT

SECTION 4. *Creation of the Department of Overseas Filipino Workers.* – The Department of Overseas Filipino Workers, hereinafter referred to as the Department, is created and organized functionally and structurally, in accordance with the provisions of this Act.

SECTION 5. *Mandate.* – The Department shall be the primary agency of the Government that will formulate and implement the policies and plans on the protection of the rights and promotion of the welfare of Overseas Filipino Workers. It shall monitor, coordinate, and administer all activities and programs relative thereto.

SECTION 6. *Powers and Functions.* – The Department shall have the following powers and functions in pursuit of its mandate:

- a. Formulate and implement national policies, guidelines, plans and programs for the protection and welfare of Overseas Filipino Workers, and in consultation with relevant stakeholders.
- b. Review, assess, consolidate and harmonize all local policies, guidelines and procedures including international agreements on overseas workers or labor, to guide and provide consistency in the implementation of national policies.
- c. Develop and promote general and specific government agenda for the OFW's rights and welfare.
- d. Build and develop harmonious and productive relationships with other countries, and international and local organizations to formulate policies and strategies for the welfare of the Overseas Filipino Workers.
- e. Represent, promote and negotiate Philippine interests in foreign countries and international bodies pertaining to OFW affairs in coordination with the Department of Foreign Affairs.
- f. Regulate, restrict and coordinate the deployment of Filipino workers in other countries and provide reliable assessments on political, economic and social conditions of host countries.
- g. Assess, regulate and approve contracts relative to the deployment of the same.
- h. Secure the best terms and conditions of employment of Filipino workers and ensure compliance therewith.

- i. Develop and implement a system of fair and disposition of cases involving violation of terms and contracts of overseas employment as well as violations of rules and regulations.
- j. Provide timely advisories on labor and economic conditions of countries where Filipinos workers are deployed or about to be deployed.
- k. Conduct an in-depth study, create a database system and promote information sharing to assist Overseas Filipino Workers.
- l. Provide efficient and timely assistance to Filipino workers in distress, anywhere in the world.
- m. Develop, promote and implement training and continuing education programs for OFWs.
- n. Monitor and regulate business activities including that of the private recruitment agencies, relative to the deployment of Filipino workers.
- o. Develop and implement social protection programs for OFW families.
- p. Develop and implement transition and retirement programs for returning OFW's.
- q. Assume all other powers, functions and responsibilities assigned to the Department of Labor and Employment, Overseas Workers Welfare Administration and other related bodies.
- r. Perform such other functions needed to fully fulfill its mandate and objectives, as may be provided by law.

SECTION 6. COMPOSITION. – The Department shall consist of the Department proper consisting of the Secretary, the Office of the Undersecretaries and Assistant Secretaries, the Service Units, the Staff Bureaus, Regional Offices, and the Philippine Overseas Labor Offices.

The Secretary shall be appointed by the President and confirmed by the Commission on Appointments. The Undersecretaries and Assistant Secretaries shall likewise be appointed by the President upon his own choice or upon the recommendation of the Secretary.

SECTION 8. Secretary of the Department of Overseas Filipino Workers. – The authority and responsibility for the exercise of the mandate of the Department of Overseas Filipino Workers and for the discharge of its powers and functions shall be vested in the Secretary of the Department of Overseas Filipino Workers, hereinafter referred to as the Secretary, who shall

have supervision and control over it. For such purposes, the Secretary shall have the following powers and functions:

- a. Exercise executive supervision and provide direction over the entire operations of the Department and its attached agencies,
- b. Establish policies and standards for the effective, efficient and economical operation of the Department, in accordance with the programs of the government,
- c. Formulate policies and guidelines necessary to carry out the programs and projects of the Department,
- d. Advise the President on the promulgation of executive orders, administrative orders and other issuances, and for regulatory and legislative proposals relative to overseas employment and Filipino Overseas Workers welfare,
- e. Designate and appoint officers and employees of the Department, excluding the undersecretaries, assistant secretaries, and regional directors and assistant regional directors, in accordance with the civil service laws, rules and regulations,
- f. Delegate functions and authority to officers and employees of the Department,
- g. Exercise disciplinary powers over officers and employees of the Department in accordance with law, including their investigation and the creation of a committee to conduct such investigation,
- h. Issue orders and directives relative to the mandate of the Department,
- i. Coordinate with the Local Government Units, other government agencies, non-government and people's organizations, labor groups and employer's associations on the Department's policies and regulations,
- j. Negotiate with foreign governments, in close coordination with the Department of Foreign Affairs, on agreements and commitments relative to overseas employment,
- k. Prepare and submit regular reports to the President and to the public; and
- l. Perform such other tasks as may be provided by law or assigned by the President.

SECTION 9. *The Undersecretaries.* The Secretary shall be assisted by not more four (4) Undersecretaries who shall be appointed by the President upon his own choice or upon the

recommendation of the Secretary. The following offices shall be created, each, to be headed by an Undersecretary and assisted by other officers and staff:

- a. ***Office of the Undersecretary for Administration and Finance*** which shall provide the Department with efficient, effective, and economical services relating to records, management, supplies, equipment, collections, disbursements, building administration and maintenance, security and custodial work; administer personnel programs including selection and placement, development, performance evaluation, employee relations and welfare; and manage internal budgetary and financial matters.
- b. ***Office of the Undersecretary for Overseas Employment*** which absorbs the mandate and functions of the Philippine Overseas Employment Administration under Executive Order 247 S. 1987 and Republic Act No. 8042, as amended, shall have the following additional functions:
 - 1.) Advise and assist the Secretary in the formulation of long-term and short-term plans and programs of the Department on overseas employment;
 - 2.) Review and evaluate the progress/status of projects and accomplishments in relation to set standards, objectives and schedules;
 - 3.) Supervise the operational activities of the Policy Planning, Research and Legal Affairs Unit, and the Information and Publication Unit; and
 - 4.) Perform such other functions as may be provided by law or assigned by the Secretary from time to time.
- c. ***Office of the Undersecretary for Reintegration and Assistance to Overseas Filipinos in Distress*** which shall absorb the mandates and functions of the Overseas Workers Welfare Administration under Republic Act No. 10801, implement and deliver programs and services through regional and on-site operations and shall have the following additional functions:
 - 1.) Develop support programs and projects for livelihood, entrepreneurship, savings, investment and financial literacy for returning Filipino overseas migrant workers and their families, in coordination with relevant stakeholders, service providers, and local and international organizations;
 - 2.) Institute, in cooperation with other government agencies concerned, a computer-based information system on returning Filipino overseas migrant workers which shall be accessible to all local recruitment agencies and employers, both public and private;

- 3.) Provide a periodic study and assessment of job opportunities for returning Filipino overseas migrant worker;
- 4.) Maintain an on-line registration system for returning OFWs;
- 5.) Develop capacity-building programs for returning overseas Filipino workers and their families, implementers, service providers and stakeholders;
- 6.) Conduct research for policy recommendation and program development;
- 7.) Provide immediate and effective response to Filipino overseas workers and their families, in crisis situations;
- 8.) Undertake repatriation activities in coordination with relevant government agencies in times of crisis and emergency situations;
- 9.) Administer the Overseas Filipino Assistance Fund;
- 10.) Supervise the operational activities of the Overseas Filipinos Assistance Fund Unit; and
- 11.) Undertake other programs and activities as may be determined by the Department.

d. ***Office of the Undersecretary for International Labor Affairs*** which shall have the following functions:

- 1.) Monitor the observance and implementation of the Philippine obligations and commitments to international organizations and treaties;
- 2.) Supervise and monitor the activities of the Philippine Overseas Labor Offices;
- 3.) Coordinate with the Department of Foreign Affairs regarding treaties, agreements, compacts, and other instruments related to labor migration; and
- 4.) Perform such other functions as may be provided by law or assigned by the Secretary.

SEC. 10. Assistant Secretaries. — The Secretary and the Undersecretaries shall be assisted by five (5) assistant secretaries who shall be appointed by the President and shall assist the Secretary and the Undersecretaries as the case maybe:

- a. Assistant Secretary for Administration and Finance
- b. Assistant Secretary for Overseas Employment
- c. Assistant Secretary for Reintegration and Assistance to Overseas Filipinos in Distress
- d. Assistant Secretary for International Labor Affairs
- e. Assistant Secretary for Legislative Coordination

The Assistant Secretaries may be career officers or non-career officers depending upon the discretion of the President of the Philippines.

SECTION 11. *Regional Offices.* - The Department is hereby authorized to establish, operate, and maintain such Department-wide Regional Offices in each of the administrative regions of the country, insofar as necessary, which shall be headed by a Regional Director who shall have supervision and control thereof. The Regional Director, whenever necessary, shall be assisted by an Assistant Regional Director. A Regional Office shall have, within its regional area, the following functions:

- a. Implement laws, policies, plans, programs projects, rules and regulations of the Department;
- b. Provide economical, efficient and effective service to the people;
- c. Coordinate with regional offices of other departments and agencies;
- d. Coordinate with local government units; and
- e. Perform such other functions as may be provided by law or assigned by the Department.

SECTION 12. *Qualifications.* — No person shall be appointed Secretary, Undersecretary, or Assistant Secretary of the Department unless he or she is a citizen and resident of the Philippines, of good moral character, of proven integrity and with competence and expertise in the plans, programs, projects and activities of the government relative to overseas employment.

SEC. 13. *Sectoral and Industry Task Forces.* — The Department may create task forces, technical working groups, advisory bodies or committees to pursue its mandate and objectives. Additional private sector representatives, such as from the academe, NGOs, POs and association of private industries directly engaged in the deployment of OFWs, as well as representatives of other National Government Agencies (NGAs), LGUs and government owned or controlled corporations (GOCCs) may be appointed to these working groups.

CHAPTER III ABOLITION OF AGENCIES

SECTION 14. *ABOLITION OF AGENCIES AND TRANSFER OF PERSONNEL* - The following agencies are hereby abolished, and their powers and functions, under Republic Act 8042, as

amended, and other applicable laws and the funds and appropriations, records, equipment, property, and personnel are likewise transferred to this Department:

- a. Overseas Workers Welfare Administration (OWWA);
- b. Philippine Overseas Employment Administration (POEA);
- c. Commission on Filipino Overseas (CFO);
- d. International Labor Affairs Bureau of the Department of Labor and Employment (DOLE); and
- e. National Reintegration Center for OFWs (NRCO).

The laws and rules on government reorganization as provided for by Republic Act 6656, otherwise known as the Reorganization Law, and other relevant civil service laws and regulations shall govern the reorganization process of the Department.

CHAPTER IV TRANSITORY PROVISIONS

SECTION 15. *Structure and Pattern.* – Upon approval of this Act, the Department shall carry out the reorganization of the aforesaid agencies in such a manner that personnel of the agencies absorbed by the Department shall, in a holdover capacity, continue to perform their respective duties and responsibilities, so as not to unduly delay the services provided to the OFWs, and likewise receive their corresponding salaries and benefits unless they are separated from government service as may be provided by law.

Subject to the approval of the DBM, the Department shall determine its organizational structure and create new divisions or units as it may deem necessary, and shall appoint officers and employees of the Department in accordance with the Civil Service law, rules, and regulations.

SECTION 16. *Absorption, Retirement, Separation Pay and Other Benefits.* - Personnel of the merged agencies shall enjoy the security of tenure and absorbed into by the Department in accordance with the new staffing pattern and organizational structure and the selection process as prescribed under Republic Act No. 6656, otherwise known as Government Reorganization Law.

Personnel who will not be absorbed into the new staffing pattern due to redundancy or failure to meet the standards of competence and proficiency, or those who voluntarily decide to be separated from government service shall be given the option to avail themselves of any of the following:

- a. Retirement gratuity provided under Republic Act No. 1616 (An Act Further Amending Section Twelve Of Commonwealth Act Numbered One Hundred Eighty Six, As Amended, by Prescribing Two Other Modes Of Retirement And For Other Purposes), as amended, payable by the last employer of the affected personnel, plus the refund of retirement premiums payable by the Government Service Insurance System (GSIS), without the incentive herein provided.

- b. Retirement benefit under Republic Act No. 660 (An Act To Amend Commonwealth Act Numbered One Hundred And Eighty-Six, Entitled "An Act to Create And Establish A Government Service Insurance System, To Provide For Its Administration, And To Appropriate The Necessary Funds Therefor,nd To Provide Retirement Insurance And For Other Purposes) or applicable retirement, separation or unemployment benefit provided under Republic Act No. 8291 (An Act Amending Presidential Decree No. 1146, As Amended, Expanding And Increasing The Coverage And Benefits Of The Government Service Insurance System, Instituting Reforms Therein and For Other Purposes) if qualified, plus the following applicable incentives:
- b.1. 1/2 month of the present basic salary for every year of government service and a fraction thereof, for those who have rendered twenty (20) years of service and below:
 - b.2. 3/4 month of the present basic salary for every year of government service and a fraction thereof, computed starting from the 1st year, for those who have rendered twenty-one (21) to less than thirty-one (31) years of service; and
 - b.3. 1 month of the present basic salary for every year of government service and a fraction thereof, computed starting from the 1st year, for those who have rendered thirty-one (31) years of service and above.

In addition, the affected personnel shall be entitled to the refund of PAG-IBIG contributions, and the commutation of unused vacation and sick leave credits.

CHAPTER V

THE OVERSEAS FILIPINO WORKERS ASSISTANCE FUND

SECTION 17. *The Overseas Filipino Workers Assistance Fund.* – There is hereby created an Overseas Filipino Workers Assistance Fund that shall address the needs of Filipino workers in distress and those returning to the Philippines for good. The Legal Assistance Fund provided under Republic Act No. 8042 shall be abolished. The Overseas Filipinos Assistance Fund under the said law and the fees and charges paid by overseas Filipino workers pursuant to their approved contract shall form part of the Overseas Filipino Workers Assistance Fund.

The Fund shall have the following purposes:

1. Repatriation
2. Legal Assistance
3. Rescue, rehabilitation and hospitalization of OFWs in distress
4. Shelter and basic provisions for OFWs in distress
5. Training, education, and reintegration programs for returning OFWs
6. Other operations expenses as may be determined by the Secretary in accordance with existing laws and regulations.

The Secretary shall issue the rules and guidelines for the management, utilization and disbursement of the Fund.

CHAPTER VI APPROPRIATIONS

SECTION 25. *Appropriations.* - The amount for the initial operation of the Department shall be sourced from the Contingency Fund of the President as well as from the existing funds of the attached offices, bureaus, and agencies. Subsequent funding requirements shall be included in the annual General Appropriations Act.

CHAPTER VII MISCELLANEOUS PROVISIONS

SECTION 26. *Implementing Rules and Regulations.* — The Department of Labor and Employment (DOLE), Department of Foreign Affairs (DFA), Department of Budget and Management (DBM), Overseas Workers Welfare Administration (OWWA), Philippine Overseas Employment Administration (POEA), Commission on Filipino Overseas (CFO) and Civil Service Commission (CSC) shall formulate the implementing rules and regulations of this Act within sixty (60) days after its approval.

SEC. 27. *Separability Clause.* — If any portion, section or provision of this Act is declared invalid or unconstitutional, the remaining portions, sections or provisions not affected, shall remain in full force and effect.

SEC. 21. *Repealing Clause.* — All laws, decrees, ordinances, rules, regulations, other issuances or parts thereof, which are inconsistent with this Act are hereby, repealed or modified, accordingly.

SEC. 22. *Effectivity Clause.* — This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in at least two (2) newspapers of general circulation.

Approved,