

SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

17 MAY 10 A9:55

RECEIVED BY: *[Signature]*

S E N A T E
S. B. No. 1445

Introduced by Senator Aquilino "Koko" Pimentel III

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

EXPLANATORY NOTE

Out of an estimated ten million overseas Filipinos, an estimated 2.4 million are contract workers who support their respective families and other loved ones at home. Over the years, the remittances of the overseas Filipino workers (OFWs) have reached more than US \$20 Billion, or about ten percent of our Gross Domestic Product (GDP).

The remittances of OFWs—which are sent to feed, educate, house, clothe, and maintain the health of their families and loved ones—have contributed to a sustained rise in household consumption that, according to the Philippine Statistics Authority (PSA), make up 73.7% of our GDP. Above all these, the OFWs' overall contribution to our society is well recognized as we refer to them as our “modern day heroes.”

While laws have been passed, programs have been initiated, offices have been established, and funds have been provided to address the needs of our OFWs, these services lack focused management with many of them spread out in an assortment of programs lodged in different entities and systems of accountabilities.

Among the many government offices involved are the Department of Foreign Affairs (DFA) Consular Affairs Office, PSA (formerly National Statistics Office), National Bureau of Investigation, Bureau of Immigration, Bureau of Customs, Department of Health, Philippine

National Police, Technical Education and Skills Development Authority, Insurance Commission, Department of Social Work and Development, Social Security System, Home Development Mutual Fund (Pag-IBIG), Overseas Workers Welfare Administration, and the Philippine Overseas Employment Administration, among others.

Despite efforts to reconcile and streamline these programs, better overall control, coordination, monitoring, and feedback are necessary to improve services for our OFWs. This is an urgent need given that as the numbers of our countrymen abroad rise, so do the number of distressed OFWs that require the assistance of our government due to numerous issues, including nonpayment and underpayment of wages, working beyond normal working hours coupled with insufficient rest periods, maltreatment, sexual abuse, and criminal charges filed against them.

The problems mentioned above require highly complex responses that call for a whole-of-government approach. Hence, a creation of a specialized body is the best option so that it could focus solely on the specific needs of this important sector.

This bill seeks to provide for a Department of Overseas Filipino Workers, which will address the needs of our OFWs all under one government body. A department-level budget and the corresponding manpower complement will reflect our seriousness and commitment in supporting our modern-day heroes—a commitment that is commensurate to their sacrifices and contributions, not just to their families but also to our country.

In view of the foregoing, the passage of this measure is earnestly requested.



AQUILINO "KOKO" PIMENTEL III



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

SECTION 1. *Short Title.* – This Act shall be known as the

⁷ “Department of Overseas Filipino Workers Act.”

8 **SEC. 2. *Declaration of Policy.*** – The following are hereby
9 declared as State policies:

10 (a) The State shall, at all times, uphold the dignity of its
11 Overseas Filipino Workers (OFWs);

12 (b) The State shall continuously monitor international
13 conventions, adopt and ratify those that guarantee protection to our

1 OFWs, and represent and negotiate for Philippine interest on matters
2 pertaining to OFW affairs;

3 (c) The State shall provide adequate and timely social,
4 economic, and legal services to OFWs;

5 (d) The State recognizes non-governmental organizations, trade
6 unions, workers associations, stakeholders and similar legitimate
7 entities as partners of the State in the protection of OFWs and in the
8 promotion of their welfare. The State shall cooperate with them in a
9 spirit of trust and mutual respect. The significant contribution of
10 recruitment and manning agencies shall form part of this partnership.

11 (e) While recognizing the significant contribution of OFWs to
12 the national economy through their foreign exchange remittances, the
13 State does not promote overseas employment as a means to sustain
14 economic growth and achieve national development. The existence of
15 the overseas employment program rests solely on the assurance that
16 the dignity and fundamental human rights and freedoms of the
17 Filipino citizens shall not, at any time, be compromised or violated.
18 The State, therefore, shall continuously create local employment

1 opportunities and promote the equitable distribution of wealth and the
2 benefits of development;

3 (f) The State affirms the fundamental equality before the law of
4 women and men and the significant role of women in nation building.

5 Recognizing the contribution of women OFWs, the State shall apply
6 gender sensitive criteria in the formulation and implementation of
7 policies and programs affecting OFWs;

8 (g) Free access to the courts and quasi-judicial bodies and
9 adequate legal assistance shall not be denied to any person by reason
10 of poverty. In this regard, it is imperative that an effective mechanism
11 be instituted to ensure that the rights and interest of distressed OFWs,
12 whether regular/documentated or irregular/undocumented, are
13 adequately protected and safeguarded;

14 (h) The right of OFWs to participate in the democratic decision-
15 making processes of the State and to be represented in institutions
16 relevant to overseas employment is recognized and guaranteed; and

17 (i) The State recognizes that the ultimate protection to all OFWs
18 is the possession of marketable skills. Pursuant to this and as soon as

1 practicable, and taking into consideration the fundamental right to
2 work, the government shall allow the deployment only of skilled
3 Filipino workers.

4 **SEC. 3. *Creation and Mandates.*** – A Department of Overseas
5 Filipino Workers, hereinafter referred to as the Department, is hereby
6 created to serve as the primary agency under the Executive Branch
7 tasked to formulate, plan, coordinate, promote, administer and
8 implement policies, including, but not limited to, the national
9 development agenda for OFWs. It shall render an annual report of its
10 activities and achievements to the President and to Congress.

11 **SEC. 4. *Powers and Functions.*** – To carry out its mandates the
12 Department shall exercise the following powers and functions:

13 (a) Formulate, recommend, and implement national policies,
14 plans, programs, and guidelines that will ensure the protection of
15 OFWs and address the problems that they face abroad in consultation
16 with all relevant stakeholders;

17 (b) Assess, review, harmonize, and coordinate applicable
18 policies and procedures, as well as multilateral or bilateral treaties and
19 agreements with OFW receiving countries and other migrant sending

1 countries, the United Nations and its affiliate organizations, and other
2 international and regional organizations, fora, and processes, in
3 coordination with the Department of Labor and Employment (DOLE)
4 and the Department of Foreign Affairs (DFA);

5 (c) Improve cooperation and coordination with OFW host
6 countries and monitor labor developments in these jurisdictions to
7 ensure that the terms and conditions of work afforded to OFWs are in
8 accordance with applicable and appropriate local, on-site, and
9 international standards;

10 (d) Employ a proactive approach in providing assistance to
11 OFWs in times of war, civil unrest, or other analogous circumstances,
12 whether potential or actual;

13 (e) Encourage and enhance information and resource-sharing,
14 develop an electronic database to improve services for OFWs and
15 linkages among government agencies, consistent with national and
16 OFW-focused objectives;

17 (f) Regulate the operation of private recruitment agencies and
18 other relevant business entities involved in the deployment of OFWs
19 taking into account the primacy of upholding the welfare and

1 protection of OFWs, and with due consideration to relevant market
2 conditions;

3 (g) Assist in the professionalization, training, and capacity
4 building of private recruitment agencies, and recognize their freedom
5 of association for the purpose of self-regulation, raising accountability
6 and effective representation, and the adoption of a code of ethical
7 conduct among its members, and provide a system of incentives
8 therefor;

9 (h) Assist and provide timely assistance to OFWs in distress
10 and, for this purpose, tap the services of local and foreign-based
11 personnel, lawyers, labor experts, security providers, and other
12 professionals;

13 (i) Represent Philippine interests and negotiate on matters
14 pertaining to migrant workers in international bodies, in coordination
15 with the Department of Foreign Affairs (DFA) and the Department of
16 Labor and Employment (DOLE);

17 (j) Conduct research and studies, and submit policy
18 recommendations on migration and development to the President and
19 to Congress;

1 (k) Promulgate rules and regulations for the implementation of
2 pertinent laws and related policies;

3 (l) Administer, accept, hold, and utilize property, both personal
4 and real, subject to limitations set by existing laws, in pursuit of the
5 mandates of the Department stated herein;

6 (m) All other powers, functions, and responsibilities assigned to
7 the DOLE relating to OFWs provided for under *Republic Act No.*
8 *8042*, as amended, otherwise known as the *Migrant Workers Act of*
9 *1995*, *R.A. No. 10801* otherwise known as the *Overseas Workers*
10 *Welfare Administration Act*, and other related laws are hereby
11 transferred to the Department; and

12 (n) Perform such other functions as may be necessary to achieve
13 the objectives provided for by this Act.

14 **SEC. 5. Composition.** – The Department shall be headed by a
15 Secretary. The Department proper shall be composed of the Office of
16 the Secretary and the Offices of the Undersecretaries and the
17 Assistant Secretaries.

18 **SEC. 6. Secretary of the Department of Overseas Filipino**
19 **Workers.** – The Secretary shall be appointed by the President, subject

1 to confirmation by the Commission on Appointments. The Secretary
2 shall have the following functions:

3 (a) Provide executive direction and supervision over the entire
4 operations of the Department and its attached agencies;

5 (b) Establish policies and standards for the effective, efficient,
6 and economical operation of the Department, in accordance with the
7 programs of government;

8 (c) Review and approve requests for financial and manpower
9 resources of all operating offices of the Department;

10 (d) Designate and appoint officers and employees of the
11 Department, excluding the undersecretaries, assistant secretaries, and
12 regional and assistant regional directors, in accordance with the civil
13 service laws, rules, and regulations;

14 (e) Exercise disciplinary powers over officers and employees
15 of the Department in accordance with law, including their
16 investigation and the designation of a committee or officer to conduct
17 such investigation;

1 (f) Coordinate with other agencies and public and private
2 interest groups, including non-government organizations and people's
3 organizations, on Department policies and initiatives;

4 (g) Prepare and submit to the President through the
5 Department of Budget and Management (DBM) an estimate of the
6 necessary expenditures of the Department during the next fiscal year,
7 on the basis of the reports and estimates submitted by bureaus and
8 offices under the Department;

9 (h) Advise the President on the promulgation of executive and
10 administrative orders and formulation of necessary regulatory and
11 legislative proposals on matters pertaining to OFWs;

12 (i) Formulate such rules and regulations and exercise such
13 other powers as may be required to implement the objectives of this
14 Act; and

15 (j) Perform such other tasks as may be provided by law or
16 assigned by the President.

17 **SEC. 7. *Undersecretaries.*** – The Secretary shall be assisted by
18 three (3) undersecretaries, who shall be appointed by the President

1 upon the recommendation of the Secretary: Provided, that two (2) of
2 the undersecretaries shall be career officers.

3 **SEC. 8. *Assistant Secretaries.*** – The Secretary shall be assisted
4 by four (4) assistant secretaries who shall be appointed by the
5 President upon the recommendation of the Secretary: Provided, that
6 two (2) of the assistant secretaries shall be career officers: Provided,
7 further, that at least one (1) of the assistant secretaries shall be a
8 lawyer.

9 **SEC. 9. *Qualifications.*** – No person shall be appointed
10 Secretary, Undersecretary, or Assistant Secretary of the Department
11 unless he or she is a citizen and resident of the Philippines, of good
12 moral character, of proven integrity, and with at least six (6) years of
13 competence and expertise in labor law or migrant workers affairs.

14 **SEC. 10. *Regional Offices.*** – The Department shall establish,
15 operate, and maintain a regional office in all the administrative
16 regions of the country, and such lower level offices as may be deemed
17 necessary. Each regional office shall be headed by a Regional
18 Director, who may be assisted by one (1) Assistant Regional Director.
19 The Regional Director and Assistant Regional Director shall be

1 appointed by the President. The regional offices shall have, within
2 their respective administrative jurisdictions, the following functions:
3 (a) Implement laws, policies, plans, programs, and projects, and
4 enforce compliance with rules and regulations of the Department;
5 (b) Provide timely, affordable, efficient, and effective services
6 to the people in line with Department policies and programs;
7 (c) Coordinate with regional offices of other departments,
8 offices, and agencies;
9 (d) Coordinate with the local government units (LGUs); and
10 (e) Perform such other necessary functions as may be provided
11 by law or assigned by the Secretary.

12 **SEC. 11. *Transfer of Agencies and Personnel.*** – The following
13 agencies and their functions are hereby specifically transferred to the
14 Department:

15 (a) Office of the Legal Assistant for Migrant Workers Affairs of
16 the DFA as provided for under *Section 24* of *R.A. No. 8042*, as
17 amended;
18 (b) All Philippine Overseas Labor Offices under DOLE;
19 (c) The National Reintegration Center for OFWS under DOLE;

- 1 (d) The International Labor Affairs Bureau under DOLE;
- 2 (e) The Philippine Overseas Employment Administration
- 3 (POEA); and
- 4 (f) Overseas Workers Welfare Administration (OWWA).

5 **SEC. 12. *Special Assistance to Nationals Fund.*** – The Legal

6 Assistance Funds provided for under *Section 25* of *R.A. No. 8042*, as
7 amended, is abolished. In its stead, a Special Assistance to Nationals
8 Fund (SATNAF) for OFWs in distress, in the amount of Five Billion
9 Pesos (P5,000,000,000.00), is hereby created, to be administered and
10 maintained by the Department. In addition to those provided for under
11 *Section 26* of *R.A. No. 8042*, as amended, and in accordance with
12 guidelines to be formulated by the Department, the SATNAF shall be
13 used for repatriation, medical and hospitalization expenses, legal
14 retainers and lawyers fees, other legal fees and costs, payment of
15 blood money, and other needs of OFWs facing legal cases and/or
16 detention and other forms of emergencies where such cost and fees
17 are currently not covered by OWWA and other existing funds and
18 sources.

1 **SEC. 13. *Institute for Advanced and Strategic Studies on***

2 ***Migration and Development.*** – There is hereby established an
3 Institute for Advanced and Strategic Studies on Migration and
4 Development (IASSMD) headed by an Executive Director with the
5 rank of Assistant Secretary. It shall carry out the following functions:

6 (a) Conduct advanced, strategic, and up-to-date studies and
7 research on global migration and development trends, and publish
8 papers based on the highest standards of international scholarly work;

9 (b) Edit and publish a Journal of Advance and Strategic Studies
10 on Migration and Development of the highest standards of
11 scholarship and reputation;

12 (c) Prepare and submit annual strategic estimates and
13 recommendations to the Secretary of the Department, Congress, and
14 the President to advance national development goals;

15 (d) Conduct regular lectures, seminars, trainings, workshops,
16 and public briefings both local and international;

17 (e) Enter into collaborative partnerships and consortiums with
18 academic and research institutions, both local and internationally;

19 (f) Receive grants and endowments; and

1 (g) Host visiting scholars, fund relevant research, provide
2 scholarships, locally and abroad, based on open and competitive
3 selection criteria. For this purpose, an initial fund in the amount of
4 Fifty Million Pesos (P50,000,000.00) shall be included in the annual
5 budget of the Department to be enacted as part of the annual General
6 Appropriations Act.

7 ***SEC. 14. Separation and Retirement from Service. –***

8 Employees who are separated from service within six (6) months
9 from the effectivity of this Act as a result of the organization and
10 rationalization processes as provided for by this Act shall receive
11 separation benefits to which they may be entitled under *Executive*
12 *Order No. 366, s. 2004*: Provided, That those who are qualified to
13 retire under existing retirement laws shall be allowed to retire and
14 receive retirement benefits to which they may be entitled under
15 applicable laws and issuances.

16 ***SEC. 15. Structure and Staffing Pattern. –*** Subject to the

17 approval of the DBM, the Department shall determine its
18 organizational structure and create new divisions or units as it may
19 deem necessary, and shall appoint officers and employees of the

1 Department in accordance with civil service laws, rules, and
2 regulations.

3 The laws and rules on government reorganization as provided
4 for by *R.A. No. 6656*, otherwise known as the *Reorganization Law*,
5 shall govern the organization and rationalization processes of the
6 Department.

7 **SEC. 16. *Transition Period.*** – The transfer of functions, assets,
8 funds, equipment, properties, transactions, and personnel of the
9 affected agencies, and the formulation of the internal organic
10 structure, staffing pattern, operating system, and revised budget of the
11 Department, shall be completed within six (6) months from the
12 effectivity of this Act: Provided, That within this period, the existing
13 personnel shall continue to assume their posts in holdover capacities
14 until new appointments shall have been issued: Provided further, That
15 after the organization and rationalization process, the Department, in
16 coordination with the DBM, shall determine and create new positions,
17 the funding requirements of which shall not exceed the equivalent
18 cost of positions abolished.

1 **SEC 17. *Appropriation.*** – The amount needed for the operation
2 and maintenance of the Department shall be included in the General
3 Appropriations Act.

4 **SEC 18. *Implementing Rules and Regulations.*** – The DFA,
5 DOLE, DBM, and the Civil Service Commission shall, within sixty
6 (60) days after the effectivity of this Act, promulgate such rules and
7 regulations necessary to implement this Act.

8 **SEC 19. *Separability Clause.*** – Should any provision of this
9 Act or part hereof be declared unconstitutional, the other provisions or
10 parts not affected thereby shall remain valid and effective.

11 **SEC 20. *Repealing Clause.*** – All other laws, decrees, orders,
12 rules and regulations or parts thereof inconsistent with this Act are
13 hereby repealed or modified accordingly.

14 **SEC 21. *Effectivity Clause.*** – This Act shall take effect fifteen
15 (15) days after its complete publication in at least two (2) newspapers
16 of general circulation.

Approved,