

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

FIFTEENTH CONGRESS
First Regular Session

House Bill No. 2592

Introduced by **Kabataan Party-List Rep. Raymond V. Palatino**

EXPLANATORY NOTE

Last Congress, after delivering a privilege speech exposing several realities among workers in the Business Process Outsourcing (BPO) industry, we filed a bill seeking 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, which we called the “BPO Workers Welfare & Protection Act,” sought to assert 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.

Due to our proposed legislative measure, we have received hundreds of feedback from BPO managers, call center agents, and even mothers of BPO workers, all expressing concern with the working conditions in many of the companies under this industry.

Though bigger BPO companies offer relatively competitive compensation packages, among other benefits, there are many other smaller BPO companies which do not address the peculiar problems of their employees arising from the very nature of their work. Among the problems we’ve noticed from the feedback we have received, 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.

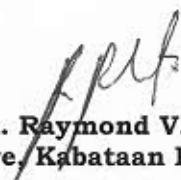
This brings me to another problem faced by BPO employees—the health and psychological risks attendant to the nature of their work. In many BPO companies, employees are not allowed to take restroom breaks for hours on end in order to satisfy quotas or demands. It is thus no wonder why many BPO employees complain of urinary tract infections and other such complications after their employment in BPO workplaces. Because of the nature of their work, BPO workers, more than half of whom work in night

shifts according to the most recent study of the International Labor Organization (ILO), have a greater risk of contracting sleeping disorders, depression, eye strains, vocal complications and other similar health problems. According to the same study by the ILO, many BPO workers suffer from "high-strain" working conditions, many of them complain of stress arising from harassment from irate clients, excessive and tedious workloads, performance demands and monotony. These make it even more imperative for all BPO workers to be afforded regular medical check-ups, regardless of their status as regulars, probationary workers or trainees.

To address these problems, we have incorporated two new provisions in this new bill for BPO workers, one for mandatory regularization of all employees who have worked for at least six months in the company, and one for the standardization of restroom breaks, aside from the standardization of the medical check-up benefits for all workers.

Aside from these provisions, we have retained much of the rights and benefits that we have incorporated in our first bill for BPO workers' welfare and protection, from asserting their right to organize and establish formations and unions, to asserting their right to due process in administrative proceedings.

Hundreds of thousands of Filipinos are working in the BPO industry. In the absence of genuine national industries, we praise this industry for the apparent and immediate employment opportunities it grants many of our people. Is it too much to ask that we ensure the rights and welfare of those who have chosen to rely on this "sunshine industry"?


Hon. Raymond V. Palatino
Representative, Kabataan Party-List

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 17. *Rest & Meal Periods.* – BPO workers shall be entitled to compensable rest periods and meal periods not less than what is provided for in the Labor Code and other existing laws. Employees shall have the right to brief restroom breaks, which shall not be

shorter than five minutes each, with intervals of two hours during their working hours. To comply with such, the BPO company shall devise a mechanism in order to ensure the implementation of regular restroom breaks among its workers without sacrificing the continuous flow of work among its employees.

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

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

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

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

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

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

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

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

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

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

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

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

Approved,