

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS

First Regular Session

HOUSE BILL NO. **4414**



Introduced by the **Honorable Zajid M. Mangudadatu**

EXPLANATORY NOTE

The Business Process Outsourcing (BPO) industry has been growing rapidly in terms of revenue and employment; it has greatly contributed to the Philippine economy and has become one of the biggest employers of Filipinos. It should be highlighted that BPOs are owned and operated by foreigners and are in PEZA-accredited locations. BPOs desire Filipinos as employees because we are fluent in English and are experts in information technology.

BPO employees are often exposed to stress because they take calls of agitated or angry customers. They likewise make calls to customers of their companies for purposes of addressing concerns, making sales or other matters that require a lot of activity, resulting to undue stress. In addition, most BPOs operate during the night and this adds to the employees' exposure to health hazards.

The existing applicable provision in the Labor Code only mandates an additional pay of ten percent (10%) for work done between ten o' clock in the evening (10:00 pm) to six o' clock in the morning (6:00 am). Daily or frequent exposure to work during said hours and the stress involved in working in BPOs might cause serious health problems. As such, it is proper that Filipino employees of BPOs be properly compensated for such health risks.

As such, there is a need to increase the mandated additional pay for work done during night time in BPOs. This proposed increase is just a small price to pay for owners and operators of BPOs, some of whom enjoy tax benefits for being located in PEZA-accredited locations.

Approval of the bill is earnestly sought.

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HOUSE BILL NO. 4414

Introduced by the Honorable Zajid M. Mangudadatu

**"AN ACT INCREASING THE NIGHT SHIFT PREMIUM PAY IN
BUSINESS PROCESS OUTSOURCING FIRMS IN THE PHILIPPINES"**

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

Section 1. Title. – This Act shall be known as the "Additional Pay for Business Process Outsourcing Employees Act".

Section 2. Declaration of Policy. – The Business Process Outsourcing (BPO) industry makes great contributions to business and the economy of the Philippines. It also provides employment and opportunities to millions of Filipinos. Employees in the BPOs often work during the night and are heavily exposed to tremendous stress in taking and making calls to foreign and/or local third-parties. However, said employees are only granted a minimal additional pay, not commensurate to the hazards they are exposed to.

The Constitution affirms labor as a primary social economic force and that the State shall protect the rights of workers and promote their welfare. The Constitution also declares that the State shall protect and promote the right to health and instill health consciousness to the people. As such, the State recognizes the right of employees engaged by BPOs to the proper compensation for their exposure to health hazards brought about by the nature of their work.

Section 3. Definition of Terms. – As used in this Act, the following terms shall mean:

- (a) Business Process Outsourcing – refers to businesses in the Philippines that are engaged in providing product support, marketing and sales, or information inquiries of local or foreign customers. This term shall also refer to the totality of business process outsourcing entities in the Philippines or those entities that are hired or engaged to handle business activities of other companies.

- (b) BPO Employees – refers to employees hired as regular, probationary, or contractual employees by Call Centers.
- (c) Graveyard Shift – refers to work undertaken by Employees in BPOs between ten o' clock in the evening (10:00 pm) to six o' clock in the morning (6:00 am).
- (d) Graveyard Shift Additional Pay – refers to the additional compensation for Employees in BPOs who worked in the graveyard shift.
- (e) Basic Pay – refers to the compensation that BPO Employees will receive that does not include the Graveyard Shift Additional Pay or other payments provided by BPOs.
- (f) PEZA – refers to the Philippine Economic Zone Authority.
- (g) DOLE – refers to the Department of Labor and Employment
- (h) DTI – refers to the Department of Trade and Industry

Section 4. Graveyard Shift Additional Pay in BPOs. – All BPO Employees shall be paid an additional Graveyard Shift Additional Pay of twenty-five percent (25%) of their Basic Pay for work undertaken during Graveyard Shift. The Graveyard Shift Additional Pay shall be paid by BPOs to BPO Employees irrespective of the latter's Basic Pay or any other benefits given that are appurtenant to their work.

Section 5. Non-diminution. – The Basic Pay and/or all other benefits, monetary or non-monetary, provided by BPOs to BPO Employees shall not be removed or diminished because of the application of this Act.

Section 6. Coverage. – The Graveyard Shift Additional Pay granted to BPO Employees under this Act shall be applied in the entire BPO industry, including those which are located in Information Technology Centers or other locations that are accredited by PEZA.

Section 7. Implementing Rules and Regulations. – The DOLE, after consultation with the DTI and representatives from the BPOs, shall formulate and issue rules and regulations implementing this Act within thirty (30) days upon its effectivity.

Section 8. Penalty Clause. – Any violation of this Act shall be punished by suspension of the business permit of the violating BPO for thirty (30) days and by a penalty of Two Hundred Fifty Thousand Pesos (P 250,000.00).

Section 9. Repealing Clause. – All laws, decrees, orders, rules and regulations, or any part thereof inconsistent with this Act are hereby repealed or amended accordingly.

Section 10. Separability Clause. – If any provision of this Act or application of such provision to any person or circumstances is declared unconstitutional, the remainder of this Act or the application of such provision to other persons or circumstances shall not be affected by such declaration.

Section 11. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette.

APPROVED,