

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SEVENTEENTH CONGRESS
Second Regular Session

House Bill No. **6406**



Introduced by
REP. RAYMOND DEMOCRITO C. MENDOZA
Trade Union Congress Party (TUCP PARTYLIST)

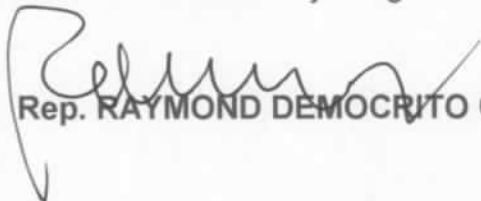
EXPLANATORY NOTE

Data from the Department of Budget and Management (DBM) and the Civil Service Commission (CSC) show that there are around 500,000 workers who are deployed in various national government agencies (NGAs), state universities and colleges (SUCs) and local government units (LGUs) who have no security of tenure and benefits due to regular employees. They are working in the public service as contractuels under "Job Order (JO)", "Contract of Service (COS)", and "Memorandum of Agreement (MOA)" work arrangements. Aside from them, there are around 78,000 casual employees in the government whose regularization is still uncertain.

The present Administration promised to end contractualization and strengthen the security of tenure of workers in the private sector. This policy must also extend to public sector workers. Contractualization in the government is a serious concern. Government workers are the ones who actually deliver public services. Their rights and welfare must be protected and promoted so that they can deliver excellent service to the people. Their right to security of tenure must be secured so that they can also exercise their right to collective bargaining and so that they can have better benefits and working conditions.

The government must be the model for promoting decent work and job security and must begin by addressing the rampant labor contractualization in the public service and provide security of tenure to "Job Order", "Contract of Service", "Memorandum of Agreement" and casual government workers. This is a matter of social justice that must be prioritized by the government.

In view of the foregoing, the passage of this Bill is earnestly sought.


Rep. RAYMOND DEMOCRITO C. MENDOZA

1 Republic of the Philippines
2 HOUSE OF REPRESENTATIVES
3 Quezon City, Metro Manila

4 SEVENTEENTH CONGRESS
5 Second Regular Session

6 **6406**
House Bill No. _____

7
8 *Introduced by*
9 REP. RAYMOND DEMOCRITO C. MENDOZA
10 Trade Union Congress Party (TUCP PARTYLIST)

11
12 **AN ACT**
13 **TO REGULARIZE AND TO PROVIDE SECURITY OF TENURE TO "JOB ORDER**
14 **(JO)", "CONTRACT OF SERVICE (COS)", "MEMORANDUM OF AGREEMENT**
15 **(MOA)" AND CASUAL GOVERNMENT WORKERS**

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

18 **Section 1. Declaration of Policy.** The State affirms labor as primary social
19 economic force. It shall protect the rights of workers and promote their welfare.

20 The State recognizes the right of public sector workers to security of tenure and to
21 self-organize and collectively bargain.

22
23 The State promotes the participation of public sector unions in decision-making
24 processes.

25
26 The State restricts the contractualization of labor in all its forms in public sector and
27 shall provide security of tenure and mandatory benefits to all contractual and casual
28 workers in the government.

29
30 **Section 2. Definition.** For purposes of this Act, the following terms shall mean:

- 31
32 a. **Individual Contract of Service/Job Order/Memorandum of Agreement**
33 **or Any Similar Agreement** - shall refer to employment as herein
34 described, thus:
35

1. The contract covers lump sum work or services such as janitorial, security, or consultancy;
2. The job order covers piece work or intermittent job of short duration not exceeding six months and pay is on daily basis;
3. The contract of service, job order and MOA are covered by relevant provisions of the Civil Service Commission (CSC) and the Labor Code;
4. The employee involved in the contract of service, job order, Memorandum of Agreement or any similar agreement shall enjoy minimum social security benefits such as GSIS, Philhealth, Pag-ibig, PERA, COLA and other statutory benefits;
5. Services rendered in view of aforesaid contract/agreement shall be considered government service; and
6. Payment of salaries and benefits of contracts of service, job orders, Memorandum of Agreement and similar agreement shall be drawn from personnel services of the agency's/local government unit's/GOCC's budget.

- b. ***Institutional Contract of Service*** – shall refer to a contract of service entered into between the hiring government agency and a private firm or non-governmental agency through public bidding or negotiated contract, subject to pertinent rules and regulations of the Civil Service Commission (CSC) and the Commission on Audit (COA).

In an institutional contract of service, the contracted agency is engaged to provide personnel who shall perform lump sum work or services incidental to the hiring agency's functions and operations for a specific period of time not exceeding six (6) months; provided that such contract of service shall be entered into when the expertise and capacities are not internally available or when it is impractical or more expensive for the hiring government agency to directly undertake such service.

The personnel rendering the service remain the employees of the contracted agency.

Section 3. Coverage. This Act applies to all employees, whose appointments are other than regular or permanent, in national government agencies (NGAs), government owned or controlled corporations (GOCCs) state universities and colleges (SUCs) and local government units (LGUs).

Section 4. Execution of a Contract of Service, Job Order, Memorandum of Agreement or Similar Agreement. The employment referred to in Section 2 (a) requires the execution of the contract of service, job order contract, memorandum of agreement or any similar agreement between the government agency concerned

1 and the individual, in accordance with the rules and regulations of the CSC, COA
2 and the Labor Code.

3
4 With respect to institutional contracts of service defined in Section 2 (b), a contract of
5 service, memorandum of agreement or any similar agreement must be executed
6 between the hiring government agency and the contracted agency, also subject to
7 CSC, COA and Labor Code rules and regulations.

8
9 **Section 5. Hiring and Selection.** Hiring of personnel shall be based on merit and
10 fitness in the public service.

11
12 Participation of public sector unions in the hiring and selection process must be
13 ensured at all times.

14
15 **Section 6. Prohibitions.** The following provisions cannot be contained in the
16 contract of service, job order contract, Memorandum of Agreement or similar
17 agreements:

- 18
19 a. The employee performs work or a regular function that is necessary and
20 essential to the agency, government unit concerned or work also performed
21 by regular personnel of the hiring agency;
22 b. The employee is required to report to the office and render service during the
23 agency's prescribed office hours from 8:00am to 5:00 pm or for forty (40)
24 hours per week;
25 c. There is no employee-employer relationship;
26 d. The employee is not entitled to the minimum social security benefits such as
27 GSIS, Pag-Ibig, Philhealth and other statutory benefits;
28 e. The employee's conduct and performance shall be under the direct control
29 and supervision of the government agency concerned;
30 f. The employee's performance shall be evaluated by the government agency;
31 and
32 g. The employee cannot join trade union/association/federation/confederation.

33
34 **Section 7. Other Prohibitions.** The following are prohibited from being hired under
35 a contract of services, job order contract, Memorandum of Agreement and similar
36 agreement :

- 37
38 a. Those who have been previously dismissed from the service due to
39 commission of an administrative and/or criminal offense;
40 b. Those who are covered under the rules of nepotism;
41 c. Those who are being hired to perform functions pertaining to core functions of
42 the agency or a vacant regular plantilla position; and
43 d. Those who have reached the compulsory retirement age, except as to
44 consultancy services.

1 **Section 8. *Submission of Contract of Service /Memorandum of Agreement/Job***
2 ***Order Contract and similar agreement for Review.*** The contract of service, Job
3 Order contract, Memorandum of Agreement or any similar agreement, including but
4 not limited to consultancy services, shall be submitted to the CSC Regional Office
5 (CSCRO) having jurisdiction over the government agency and local government
6 units for review of its stipulations within thirty (30) days from its signing or execution,
7 whichever comes first, which shall be the date indicated on the said instrument. The
8 CSCRO, with the full participation of the public sector union (PSU) representative (s)
9 duly named by the public sector union, shall jointly review the contracts.

10
11 **Section 9. *No Rendition of Service.*** No service shall be rendered under the
12 contract of service, Job Order contract, Memorandum of Agreement or similar
13 agreement pending its joint review by the CSCRO and PSU.

14
15 **Section 10. *Findings of the Regional Office and the Public Sector Union.*** In
16 case where the findings of the CSCRO and PSU show that the contract of service,
17 Memorandum of Agreement , Job Order contract and any similar agreement contain
18 prohibited provisions, the CSCRO shall direct the agency concerned to comply with
19 the guidelines provided herein and/or be held administratively liable without prejudice
20 to subsequent filing of pertinent case for criminal liability.

21
22 **Section 11. *Effects of Non-Submission of Contract of Service/Memorandum of***
23 ***Agreement /Job Order Contract or similar agreement.*** Failure of submission of
24 the contract of service, Job Order contract, Memorandum of Agreement or similar
25 agreement for joint review by CSCRO and PSU shall invalidate the same without
26 prejudice to the filing of pertinent charge for Neglect of Duty against the Human
27 Resource Management Office of the hiring agency and the Approving Officer.

28
29 **Section 12. *Contract of Service/Job Order Contract/Memorandum of***
30 ***Agreement and Similar Agreement Subject for CSC Audit.*** As far as practicable,
31 all contracts of service, job order contracts, Memorandum of Agreement and similar
32 agreements, including but not limited to Consultancy Services shall be subject to
33 audit by the CSCRO with the full participation of the public sector union insofar as
34 compliance with these guidelines, and to pertinent Civil Service rules and
35 regulations.

36
37 **Section 13. *Conversion of Status.*** The status of employees who have worked as
38 Job Order Contract, Contract of Service or Memorandum of Agreement, shall be
39 converted to Casual Employee status, entitling them to the same benefits enjoyed by
40 the latter.

41
42 The status of casual employees who have worked for a period of at least five (5)
43 years of continuous service shall be converted to a Regular employee status,
44 entitling them to the same benefits enjoyed by the latter, subject to compliance with

1 eligibility requirements. For this purpose, the agency shall provide all the support
2 and the necessary review classes for the CSC exams to said employees.

3
4 Security of tenure shall be provided to all workers under existing contracts of service,
5 job order contracts, Memorandum of Agreement and similar agreements, including
6 casual employees, who have worked for a period of at least five (5) years of
7 continuous service but lack the eligibility requirement.

8
9 **Section 14. *Effects on Existing Contracts of Service, Job Order Contracts,***
10 ***Memorandum of Agreement and similar agreements, including but not limited***
11 ***to Consultancy Services.*** All existing contracts of service, job order contracts,
12 Memorandum of Agreement and similar agreements, including but not limited to
13 consultancy services which are in any way inconsistent with this Act shall be
14 modified to conform under this Act.

15
16 **Section 15. *Implementing Rules and Regulations.*** The Civil Service Commission,
17 with full participation of public sector union, will draft and issue the Implementing
18 Rules and Regulations for this Act within one (1) year from its effectivity.

19
20 **Section 16. *Separability Clause.*** If, for any reason, part of this Act shall be
21 rendered unconstitutional or invalid, other parts or provisions hereof which are not
22 thereby affected shall continue to be in effect and full force.

23
24 **Section 17. *Repealing Clause.*** All orders, rules and regulations, issuances or any
25 part thereof inconsistent with the provisions of this Act are hereby repealed,
26 amended or modified accordingly.

27
28 **Section 18. *Effectivity Clause.*** This Act shall take effect fifteen (15) days after
29 publication in the Official Gazette or in at least (2) newspapers of general circulation.

30
31 ***Approved,***