

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
Second Regular Session

HOUSE BILL No. 7415



Introduced by Reps. CARLOS ISAGANI T. ZARATE, ANTONIO L. TINIO,
EMMI A. DE JESUS, FRANCE L. CASTRO, ARLENE D. BROSAS,
ARIEL B. CASILAO, and SARAH JANE I. ELAGO

AN ACT
GRANTING SUBSTITUTE CIVIL SERVICE ELIGIBILITY TO AND PROVIDING
FOR SECURITY OF TENURE FOR ALL NON-REGULAR EMPLOYEES OF THE
GOVERNMENT INCLUDING NATIONAL GOVERNMENT AGENCIES, LOCAL
GOVERNMENT UNITS, STATE UNIVERSITIES AND COLLEGES,
GOVERNMENT OWNED AND CONTROLLED CORPORATIONS AND ALL
OTHER GOVERNMENT INSTRUMENTALITIES, WHO HAVE RENDERED AT
LEAST SIX (6) MONTHS OF CONTINUOUS SERVICE, AND FOR OTHER
RELATED PURPOSE

EXPLANATORY NOTE

Social justice demands that the State provide full protection to labor including entitlement to security of tenure.

The 1987 Philippine Constitution, Article 13, Section 3, states that:

“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.”

“It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to *security of tenure*, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law [emphasis supplied]”.

President Rodrigo Roa Duterte vowed to stop the practice of “endo” or labor contractualization. Yet, almost two (2) years into the Duterte presidency, labor

contractualization has worsened and become even more widespread, both in the private and public sectors.

In the public sector, according to the Inventory of Government Human Resources as of July 1, 2016, there are 721,282¹ contract of service (COS), job orders (JOs), casual, and contractual workers out of the 2,301,191 government employees. This figure is more than twice the 282,586 contractual workers in the public sector in 2008². Top agencies in 2016 with most number of JOs and COS include the DPWH, DOH, DSWD, DA, DOTr and DepEd³.

Contractualization is so prevalent that non-regular workers comprise a significant portion of the government's workforce. From around 10% non-regular employees in the 1990s, the contractuels comprise more than 31% of the government employees in 2016.⁴

In the Department of Social Work and Development (DSWD) alone in 2013, contractual workers comprise 20,840 out of the total 25,589 employees, or 81.44% of the agency workforce.

In another case, in the country's premier public tertiary school, University of the Philippines, in 2012, 44% of the employees are contractual⁵. In the University of the Philippines - Philippine General Hospital as of January 2018, 1,614 out of 4,461 health workers or 36.18%, are contractual, job-order, casual or temporary workers⁶.

Labor contractualization blatantly violates the worker's right to security of tenure. Many of the contractual workers have worked for 20 years or more and were made to perform regular agency functions, yet were never regularized.

Aside from having no security of tenure, contractual workers have no or lower benefits, no social insurance protection, no right to self-organization, no promotion opportunities, have higher withholding taxes, and become targets of discrimination at work.

Yet, to the disappointment and rage of workers in the private sector, the Department of Labor and Employment on March 16, 2017 issued Department Order 174-17 "Rules Implementing Articles 106 to 109 of the Labor Code as Amended," which, according to many labor groups, supposedly prohibits labor-only contracting but still allows job contracting, thus further promoting and legitimizing contractual employment schemes.

The Civil Service Commission, Commission on Audit, and Department of Budget and Management followed suit with the issuance of Joint Circular No. 1, s. 2017 on June 15, 2017 regarding "Rules and Regulations Governing Contract of Service and Job Order Workers in the Government." Like DO 174, Joint Circular No. 1 further legitimizes labor contractualization and provides no guarantee for the security of tenure for non-regular workers in the public sector.

¹ COURAGE, Inventory of Government Human Resources 2016.xls (Reencoded), March 2018.

² COURAGE, et al, Praymer Hinggil sa Kontraktwalisasyon Booklet.pdf, July 2017.

³ <http://www.csc.gov.ph/2014-02-21-08-28-23/pdf-files/category/980-2016.html>

⁴ COURAGE, Inventory of Government Human Resources 2016.xls (Reencoded), March 2018.

⁵ Data from UP Academic Employees Union, 2012.

⁶ Data from AUPWU-UP-PGH, 2018.

The Joint Circular stressed that JOs and COS workers in government agencies have no employee-employer relationship thus have no right to any benefit for government employees. This is despite the court ruling on the MWSS-COS employees case in June 30, 2005 that JOs and COS workers are de-facto employees of the government⁷. Worse, the circular provides that starting from the year 2019 government agencies may only avail of outsource services through institutional contract of service or subcontracting.

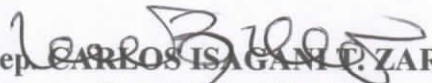
Labor contractualization, in all its forms, must be stopped and workers regularized in both private and public sector. The government must set a good example by regularizing all its contractual workers, and, prohibiting and penalizing the hiring of contractals.

This bill, thus, aims to prohibit all forms of labor contractualization in the public sector. It provides for civil service eligibility for all non-regular employees who have worked continuously for at least six (6) months and provide security of tenure for all non-regular employees in the government.

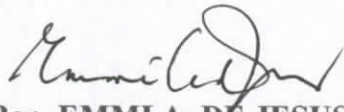
There is an urgent need to correct the long suffering and injury wrought by the government itself to the government workers.

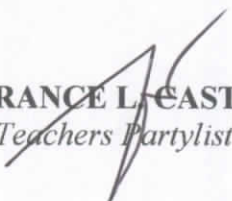
Passage of this bill, thus, is earnestly sought.

Approved,


Rep. CARLOS ISAGANI P. ZARATE
Bayan Muna Partylist


Rep. ANTONIO L. TINIO
ACT Teachers Partylist


Rep. EMMI A. DE JESUS
Gabriela Women's Party


Rep. FRANCE L. CASTRO
ACT Teachers Partylist

Rep. ARLENE D. BROSAS
Gabriela Women's Party


Rep. ARIEL B. CASILAO
Anakpawis Partylist


Rep. SARAH JANE I. ELAGO
Kabataan Partylist

⁷ G.R. 154472 Lopez vs. MWSS as cited by COURAGE et al, Praymer Hinggil sa Kontraktwalisasyon Booklet.pdf, July 2017

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
Second Regular Session

HOUSE BILL No. 7415

Introduced by Reps. **CARLOS ISAGANI T. ZARATE, ANTONIO L. TINIO,**
EMMI A. DE JESUS, FRANCE L. CASTRO, ARLENE D. BROSAS,
ARIEL B. CASILAO, and SARAH JANE I. ELAGO

AN ACT
GRANTING SUBSTITUTE CIVIL SERVICE ELIGIBILITY TO AND PROVIDING
FOR SECURITY OF TENURE FOR ALL NON-REGULAR EMPLOYEES OF THE
GOVERNMENT INCLUDING NATIONAL GOVERNMENT AGENCIES, LOCAL
GOVERNMENT UNITS, STATE UNIVERSITIES AND COLLEGES,
GOVERNMENT OWNED AND CONTROLLED CORPORATIONS AND ALL
OTHER GOVERNMENT INSTRUMENTALITIES, WHO HAVE RENDERED AT
LEAST SIX (6) MONTHS OF CONTINUOUS SERVICE, AND FOR OTHER
RELATED PURPOSE

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

SECTION 1. Title. –This Act shall be known and cited as the “Security of Tenure for Non-Regular Employees in Government Act of 2018.”

SECTION 2. Declaration of Policy. – Government workers, being vital components of the State’s human resources, shall be afforded their constitutional rights to security of tenure and living wage. No agency or instrumentality of government shall prevent the acquisition by any government worker of these rights through various short term but repeated contractual agreements whereby workers are hired for work performed by regular employees.

All forms of labor contractualization including casual work, job-order, contract of service, subcontracting, outsourcing, labor-only contracting and agency hiring, shall be prohibited in all government agencies and instrumentalities. All workers shall be treated as regular employees. Government workers shall be accorded security of tenure and afforded all opportunities to exercise their constitutionally-guaranteed right to organization and collective bargaining.

SECTION 3. Substitute Eligibility for Long-Time Non-Regular Government Employees. Substitute civil service eligibility is hereby granted to all employees in government service who are considered as non-regular employees such as casuals and contractuels and all workers under job orders, contracts of service, and emergency and seasonal hiring contracts

however designated who are able to render at least six (6) months of continuous service in the government, including all the national government agencies, LGUs, SUCs, GOCCs and all other government instrumentalities;

As used in this Act, substitute civil service eligibility refers to the qualification acquired by an individual after serving for at least six (6) continuous months in any government agency or instrumentality, LGU, SUCs, GOCCs, etc. as a nonregular employee or worker, for entrance into and promotion in the civil service. In the case of substitute civil service eligibles, merit and fitness to perform the duties and assume the responsibilities of the position are deemed to have been acquired through the individual's daily performance of his or her work for six (6) months or more and to be recognized by the government agency or instrumentality which utilized his or her services for the said period.

SECTION 4. *Security of Tenure for Long-Time Non-Regular Government Employees.* All employees and workers covered by this Act are hereby granted security of tenure and may not be separated or terminated from the positions they are currently holding except for just or lawful cause and with due process of law. All positions affected by this Act currently held by the covered employees and workers shall be deemed necessary and desirable for the efficient operation of the government, including all the national government agencies, LGUs, SUCs, GOCCs and all other government instrumentalities, and, shall not be considered as coterminus with the incumbent.

Nothing in this Act shall prevent the creation of a sufficient number of personnel required by the agency or instrumentality for this purpose, all agencies and instrumentalities shall submit to the Department of Budget and Management (DBM), as part of their annual budget proposals, the number of positions occupied by covered employees and workers in this Act which are required to be created.

SECTION 5. *Appropriations.* The initial funding required for the implementation of this Act shall be sourced from the budget of the agencies concerned. The funds needed in subsequent years shall be included in the General Appropriations Act.

SECTION 6. *Penalty Clause.* Any violation or circumvention of the provisions of this Act shall make the involved officials of the government agency or instrumentality criminally and administratively liable.

SECTION 7. *Implementing Rules and Regulations.* The Civil Service Commission, in consultation with the DBM, shall issue the rules and regulations necessary to implement the provisions of this Act within ninety (90) days after its approval.

SECTION 8. *Separability Clause.* Should any provision herein be declared unconstitutional, the remaining provisions not otherwise affected shall be valid and subsisting.

SECTION 9. *Repealing Clause.* – All laws, decrees, orders, rules and regulations or other issuances or parts thereof inconsistent with the provisions of this Act are hereby repealed.

SECTION 10. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or one (1) newspaper of general circulation.

Approved,