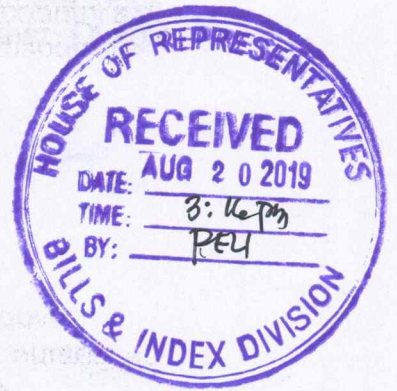


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 4065



Introduced by Representative Ron P. Salo

EXPLANATORY NOTE

In 2018, the Commission on Filipinos Overseas (CFO) estimated that approximately 10 million Filipinos worked or resided abroad. Of this figure, the Philippine Statistics Authority (PSA) estimates that roughly 2.3 million are overseas workers.

Every year, more than a million Filipinos leave to work abroad through overseas employment agencies, and other programs, including government sponsored initiatives. Many of these work as doctors, physical therapists, nurses, accountants, IT professionals, engineers, architects, entertainers, technicians, teachers, military servicemen, seafarers, fast food workers, and domestic helpers. The exodus includes a number of skilled workers taking on unskilled work overseas, resulting in what has been referred to as a brain drain.

The contribution of the Filipinos working overseas to the Philippine economy is considerable. Their remittances significantly contribute to the country's gross domestic product, and their role in keeping the economy buoyant is indisputable. Based on the figures provided by the World Bank, the cash remittances in 2018 sent by Overseas Filipino workers (OFWs) amounted to \$33.8 billion.

Currently, several government agencies are involved in looking after the welfare and interest of OFWs or migrant workers, among them, the Department of Foreign Affairs (DFA), the Philippine Overseas Employment Administration (POEA), and the Overseas Workers Welfare Administration (OWWA) of the Department of Labor (DOLE). These agencies are mandated to address the main concerns of OFWs, which include repatriation, illegal recruitment, excessive collection of placement fees, and legal assistance. While there is coordination among these agencies, overlapping of functions and responsibilities is inevitable, and consequently, lead to wastage of public funds. Ultimately, the efficiency and effectiveness in the delivery of services to the OFWs is compromised.

This proposed measure seeks to create a department dedicated for the protection of Overseas Filipino Workers (OFWs) and other Overseas Filipinos, promote full employment, ensure more work opportunities, regulate the relations between OFWs and their employers, and promote their welfare and well-being at all times. A separate department for OFWs is necessary to address the concerns of our

Overseas Filipino Workers because they certainly have unique concerns that pertain only to their sector.

It also seeks to establish the OFW Kabayan Centers in all cities and major municipalities nationwide, and in Philippine embassies and consulate offices worldwide to ensure prompt, efficient, vital and relevant services to migrant Filipinos and their families. The OFW Kabayan Centers shall also provide assistance to those seeking to work overseas, provide assistance to OFWs and their families in distress, and provide legal assistance to victims of illegal recruitment.

This proposal also mandates the establishment of a Special Assistance Fund which shall be used to provide the necessary assistance for distressed Overseas Filipinos, including both documented and undocumented workers.

In view of the foregoing, the immediate passing of this bill is earnestly sought.



RON P. SALO
KABAYAN Partylist

Republic of the Philippines
HOUSE OF REPRESENTATIVES
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House Bill No. **4065**

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

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 “Department of Overseas Filipinos Workers Act.”

SEC. 2. Declaration of Policy. – The State shall afford full protection to Overseas Filipino Workers (OFWs) and other Overseas Filipinos, promote full employment, ensure equal work opportunities regardless of sex, gender, race, creed or religion, regulate the relations between OFWs and their employers, and promote their welfare and well-being at all times. The State shall protect the rights of the workers and ensure just and humane conditions of work. Towards this end, the State shall provide adequate and timely social, economic, and legal services to OFW.

The State shall protect the right of every citizen to work locally or overseas by securing for him or her the best possible terms and conditions of employment.

SEC. 3. Definition of Terms. – As used in this Act:

- a) *Act* refers to the “Department of Overseas Filipino Workers Act”;
- b) *Department* refers to the Department of Overseas Filipino Workers;
- c) *Claims* refer to money claims arising from employer-employee relation arising out of, or by virtue of, any law or contracts involving Filipinos for overseas employment;
- d) *Disputes* refer to a controversy between an employer and an employee regarding terms and conditions of employment;

- e) *Migration* refers to the movement of a person or a group of persons, either across an international border, or within a State. It is a population movement, encompassing any kind of movement of people, whatever its length, composition and causes; it includes migration of refugees, displaced persons, economic migrants, and persons moving for other purposes, including family reunification.
- k) *Overseas Filipinos* refers to migrant workers, other Filipino nationals and their dependents abroad, Filipino permanent migrants or permanent resident abroad, Filipino overseas who have become naturalized citizens of other countries or dual citizens, Filipino spouses and other partners of foreign nationals leaving the country, descendants of Filipinos overseas, Filipino youth overseas and exchange visitor program participants;
- l) *Overseas Filipinos in Distress* refers to an Overseas Filipino who has a medical, psycho-social, labor and employment related or legal assistance problem requiring treatment, hospitalization, counseling, legal representation, or any other kind of intervention is done while and upon return to the country with the authorities in the country where he or she is found
- m) *Overseas Filipino Worker* refers to a person who is to be engaged, is engaged, or has been engaged in a remunerated activity in a state of which he or she is not a citizen, or on board a vessel navigating the foreign seas other than a government ship used for military or non-commercial purposes, or on an installation located offshore or on the high seas.
- o) *Principal* refers to a foreign employer or placement agency hiring or engaging Filipino workers for overseas employment through a licensed private recruitment or manning agency;
- p) *Regular or Documented Filipino Overseas Migrant Workers* refers to the following:
 - 1) Those who possess valid passports and appropriate visas or permits to stay and work in the receiving country; and
 - 2) Those whose contracts of employment have been processed by the Department, or subsequently verified and registered on-site by the POLO, if required by law or regulation;
- q) *Reintegration* refers to the process of integrating returning Overseas Filipinos back in the country. this includes properly guiding and assisting them in adapting life in their homeland in a holistic approach by addressing their social, emotional, cultural, and economic needs, among others, and giving them opportunities and support to further develop and utilize the skills, expertise and resources they gained abroad.
- r) *Repatriation* refers to the process of restoring or returning someone or something to the country of origin, allegiance, or citizenship; and

- s) *Seafarer* refers to any person who is employed or engaged in overseas employment in any capacity on board a ship other than a government ship used for military or non-commercial purposes, and shall include fisherfolk, cruise ship personnel, and those serving on mobile offshore and drilling units in the high seas.

SEC. 4. Creation of a Department of Overseas Filipino Workers. – There is hereby created a Department of Overseas Filipino Workers, hereinafter referred to as the Department, which shall implement the government's policies, plans and programs for the promotion, protection, safety, development, and support of Overseas Filipinos and their families.

SEC. 5. Mandate. – The Department shall be the primary policy, planning, coordinating, and implementing arm of the executive branch of the government that will plan, develop, and manage the national migration and development agenda for Overseas Filipinos that is supportive and complementary to national efforts to create, sustain, and strengthen local employment.

SEC. 6. Powers and Functions. – The Department shall have the following powers and function:

I. Policy, Planning, and Coordination

- a) Formulate and craft national policies, issue guidelines, and implement programs for the greater protection of Overseas Filipinos;
- b) Craft the country's National Strategy for the protection and promotion of the rights and welfare of OFWs and their families; and
- c) Coordinate with other agencies of the government for the greater protection of OFWs and their families, whenever necessary.

II. Operational and Technical

- d) Facilitate and provide assistance in the processing, deployment, and repatriation of Overseas Filipinos;
- e) Streamline guidelines and procedures in order to facilitate the delivery of services to OFWs and their families;
- f) Monitor international situation to ensure the welfare and protection of the OFWs and create a proactive approach in providing assistance to them especially in times of distress;
- g) Provide assistance for the repatriation of Overseas Filipinos in distress. The Department shall provide shelter for Overseas Filipinos in distress while their repatriation is being processed;

- h) Establish hotlines where Overseas Filipinos in distress can contact for assistance;
- i) Rescue Overseas Filipinos in distress from abusive employers in their host countries, in coordination with the Department of Foreign Affairs and other concerned agencies;
- j) Provide legal assistance to OFWs in conflict with the law of other countries. The Department shall engage the services of foreign counsels, when necessary, for the protection of the rights, interests and liberties of OFWs;
- k) Provide technical and legal assistance, and collaborate with the public prosecutors of the Department of Justice, to prosecute anti-illegal recruitment offenses;
- l) Create and implement effective reintegration programs, and provide training, retooling and support programs for returning OFWs;
- m) Adjudicate and decide all cases involving claims and contractual disputes of Overseas Filipino Workers against their employers or its representatives;
- n) Represent in, and negotiate for the Philippines before, international bodies or organs on matters pertaining to Overseas Filipino affairs; and
- o) Implement treaties, international agreements, and executive agreements concerning OFWs in which the Philippines is a party or a signatory.

III. General Powers

- p) Promote, develop and monitor the continuing education, training and qualification, availability and deployment of OFWs and coordinate with concerned agencies in the training of Overseas Filipinos to improve their competitiveness globally;
- q) Develop new markets for the country's skilled labor force to give them greater option, particularly in other parts of the world where there is high respect for human rights in general, and labor rights in particular;
- r) Establish programs to promote financial literacy among the OFWs and their families;
- s) Promulgate rules and regulations for the implementation of its policies and guidelines and related laws;
- t) Conduct in-depth studies to address perennial issues faced by OFWs and their families to support the policy issuances of the Department;
- u) Administer, accept, hold and utilize property, both personal and real, subject to limitation by existing laws, for the purpose of assisting or expediting the work of the Department; and

- v) Perform such other functions, as maybe needed to achieve the objectives provided under this Act.

SEC. 7. Composition. – The Department shall be headed by one (1) Secretary who shall be assisted by five (5) Undersecretaries – one (1) undersecretary for Overseas Employment, one (1) undersecretary for Overseas Workers' Welfare, one (1) undersecretary for Reintegration of OFWs, one (1) undersecretary for Adjudication, and one (1) undersecretary for Administration and Finance. Each Undersecretary shall be assisted by an Assistant Secretary.

SEC. 8. Qualifications. – The Secretary, Undersecretary, or Assistant Secretary of the Department shall be a citizen and resident of the Philippines, of good moral character, of proven integrity, and has knowledge, competence, or expertise in the field of migration and development; *Provided that*, the Undersecretary for Adjudication shall be a member of the Bar and have practiced for at least ten (10) years.

The Secretary shall be appointed by the President subject to confirmation by the Commission on Appointments. The Undersecretaries and Assistant Secretaries shall be appointed by the President upon recommendation of the Secretary.

SEC. 9. Powers and Functions of the Secretary. – The Secretary shall exercise policy-making functions on all matters within the mandate of the Department, as well as exercise supervision and control over all the operations of the Department. Among others, the Secretary shall exercise the following specific powers:

- a) Impose deployment ban and lifting of the same for the protection of Overseas Filipinos upon consultation with stakeholders. The Secretary may *motu proprio* order the ban in times of war or impending war, terrorism, epidemics, or natural disasters in foreign countries;
- b) Order immediate repatriation of OFWs in distress;
- c) Negotiate for the release of OFWs in detention, depending on the merit of their case;
- d) Negotiate for better employment conditions of OFWs;
- e) Adjudicate over all complaints, claims and disputes submitted to the Department that are within its jurisdiction; and
- f) Sit as a member of the Board of Directors of the Overseas Filipino Bank (OFB). He shall replace the representative from the Overseas Workers Welfare Administration (OWWA) as a member of the Board of Directors.

SEC. 10. Undersecretaries and Assistant Secretaries. – The Undersecretaries and Assistant Secretaries shall aid the Secretary in the performance of his or her operational duties and shall perform such other functions as may be directed by the Secretary. Specifically:

- a) The Undersecretary for Overseas Employment shall be responsible for optimizing the benefits of the country's overseas employment program. They shall also promote and monitor the overseas employment of Filipino workers, as well as respond to changing markets and economic condition; and to strengthen the workers protection and regulatory components of the overseas employment program.
- b) The Undersecretary for Overseas Workers Welfare shall be responsible for the welfare of the OFWs and their families. They shall protect the interests of Overseas Filipino Workers and their families, providing social security, cultural services and help with employment, remittances and legal matters.
- c) The Undersecretary for Reintegration of OFWs shall be responsible for providing mechanisms for the OFWs' reintegration into Philippine society, and shall promote their local employment, and tap their skills and potentials for national development.
- d) The Undersecretary for Adjudication shall be responsible for all disputes and/or claims of seafarers and OFWs shall be transferred from the Labor Arbiters and NLRC to the Department.
- e) The Undersecretary for Administration and Finance shall be responsible for all administrative, financial, and staffing matters of the Department.

SEC. 11. Regional Offices. – The Department shall be authorized to establish, operate, and maintain Regional Offices in each administrative regions of the country as the need arises. They shall perform functions necessary to achieve the objectives of this Act. It shall be headed by a Regional Director.

SEC. 12. Establishment of Overseas Filipinos Kabayan Centers. – The Department, in partnership with other government agencies and non-government organizations, shall establish the Overseas Filipinos Kabayan Centers in all cities and major municipalities nationwide, and in Philippine embassies and consulate offices worldwide to ensure prompt, efficient, vital and relevant services to migrant Filipinos and their families to include passport and authentication services, acquisition of government clearances and permits, validation of overseas job offers, reintegration services, and all pertinent seminars and workshops for all stakeholders.

In addition, the Overseas Filipinos Kabayan Centers shall provide assistance to those seeking to work overseas, provide assistance to OFWs and their families in distress, and provide legal assistance to victims of illegal recruitment.

SEC. 13. Special Assistance Fund for Distressed Overseas Filipinos. – A Special Assistance Fund for distressed Overseas Filipinos, including both documented and undocumented workers, in the amount of One Billion Pesos (PHP 1,000,000,000.00) is hereby created, hereinafter referred to as the Special Assistance Fund for Overseas Filipinos, the Fund shall be utilized for the following purposes:

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- a) Emergency repatriation of Overseas Filipinos in the following cases and circumstances:
 - 1) When the foreign principal or employer who is primarily responsible for the immediate repatriation of distressed Overseas Filipinos, or who should advance the repatriation costs and attendant costs, fails to do so, for whatever reason;
 - 2) Overseas Filipino, who are victims of physical or sexual abuse or human trafficking needing immediate legal and health services;
 - 3) Ailing and indigent Overseas Filipinos needing immediate medical evacuation;
- b) Financial assistance of a maximum of P200,000.00 to cover medical and hospitalization expenses, for each repatriated Overseas Filipinos with dreaded diseases;
- c) Immigration fines and penalties for Overseas Filipinos whose violation of host country's immigration laws are due to foreign principal or employer's failure to secure appropriate visa, or any other reason without Overseas Filipino's fault;
- d) Legal assistance for labor cases filed in the host country; and
- e) Payment of blood money, when recommended by the Department as the chair of the Inter-Agency Coordinating Council.

SEC. 14. Appropriations. – The amount needed for the initial implementation of this Act shall be taken from the current year's appropriations of the agencies, entities, divisions, sections or bodies abolished and/or transferred to the Department by virtue of this Act. Thereafter, such sums as may be necessary for its continued implementation shall be included in the annual General Appropriations Act.

SEC. 15. Abolition of Offices and Agencies. – The following offices and agencies are hereby abolished as a result of the consolidation of these office and agencies into the Department, and their functions shall be performed by the corresponding offices created under this Act:

- a) Philippine Overseas Employment Administration (POEA);
- b) Overseas Workers Welfare Administration (OWWA);
- c) National Reintegration Center for OFWs (NRCO);
- d) Office for the Undersecretary for Migrant Workers Affairs of the Department of Foreign Affairs;
- e) Overseas Absentee Voting Secretariat of the Department of Foreign Affairs;

- f) Commission on Filipinos Overseas of the Office of the President;
- g) National Maritime Polytechnic of the Department of Labor and Employment;
- h) Pertinent offices of MARINA in relation to international seafaring under the Department of Transportation (DOTr); and
- i) National Labor Relations Commission (NLRC) unit mandated with the jurisdiction on all disputes and/or claims of seafarers and OFWs.

SEC. 16. Supervision and Control Over the International Labor Affairs Bureau. – The International Labor Affairs Bureau, including all Philippine Overseas Labor Offices, with direct supervision over labor attaches and welfare officers and the Filipino Workers Resource Centers shall be placed under the supervision and control of the Secretary of the Department.

SEC. 17. Jurisdiction on Disputes and Claims of OFWs. – Jurisdiction on all disputes and/or claims of seafarers and OFWs shall be transferred from the Labor Arbiters and NLRC to the Department.

There shall be an Adjudications Office that shall be in-charge of adjudicating all disputes and/or claims of seafarers and OFWs.

SEC. 18. Appeals. – In the case that any of the adverse parties are not satisfied with the decision of the arbiter, the decision may be appealed to the Undersecretary for Adjudication, and thereafter, it may be appealed to the Secretary of the Department. The Secretary shall issue the necessary rules of procedure for the orderly conduct of proceedings in the exercise of the Department's adjudicatory power.

The Rules of Civil Procedure shall have suppletory application. In this regard, the decision of the Secretary may be appealed to the Court of Appeals under Rule 43, or to the Supreme Court under Rule 65, of the Rules of Civil Procedure.

SEC. 19. Transition of Bureaus, Offices and Agencies. – The laws and rules on government reorganization as provided for in Republic Act No. 6656, otherwise known as the Reorganization Law, shall govern the reorganization of the offices and agencies that are abolished, transferred or absorbed by the Department.

The Department shall determine its organizational structure in order to effectively and efficiently perform its mandate, as well as the functions previously performed by the abolished offices and agencies. The Department may create new divisions or units for this purpose, and the Secretary shall appoint the officers of the Department in accordance with the Civil Service law, rules and regulations.

Officers and employees of abolished agencies holding permanent appointments shall be given preference for appointment to the new positions in the approved staffing pattern which are comparable to their former position, or in case there are not enough comparable positions, to positions next lower in rank.

No new employees shall be taken in until all permanent officers and employees of the abolished agencies have been appointed, including temporary and casual employees who possess the necessary qualification requirements, among which is the appropriate civil service eligibility, for permanent appointment to positions in the approved staffing pattern, unless such positions are policy-determining, primarily confidential or highly technical in nature.

Officers and employees of the abolished agencies holding permanent appointments shall be given preference for appointment in other agencies if they meet the qualification requirements of the positions therein.

Officers and employees of the abolished agencies shall also be given the option to resign or early retire and shall be given the mandated entitlements pursuant to existing laws.

SEC. 20. Implementing Rules and Regulations. – The Office of the President, the Department of Labor and Employment Secretary, and the representatives from the Department of Foreign Affairs, Philippine Overseas Employment Administration, Overseas Workers Welfare Administration, National Reintegration Center for OFWs, International Labor Affairs Bureau, and the National Labor Relations Commission Chairman shall promulgate the necessary implementing rules and regulations (IRR) within one hundred and twenty (120) days from the effectivity of this Act. The Office of the President shall Chair the crafting of the IRR.

SEC. 21. Transitory Provision. – All existing orders, rules, regulations and other issuances shall remain in force until the effectivity of this Act.

SEC. 22. Separability Clause. – If any provision of this law or the application thereof to any person or circumstance, is held in valid, the remainder of this law, or the application of such provision or part to other persons of circumstances, shall not be affected thereby.

SEC. 23. Repealing Clause. – All laws, decrees, rules and regulations or parts thereof, which are contrary to or inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 24. Effectivity. – This act shall take effect one (1) year after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved.