

Republic of the Philippines
House of Representatives
Quezon City, Metro Manila

EIGHTEENTH CONGRESS
Second Regular Session

House Bill No. 7178



INTRODUCED BY
REP. ALFRED VARGAS

AN ACT
PROVIDING FOR A WAGE EMPLOYMENT ASSISTANCE PROGRAM
FOR DISPLACED AND/OR VULNERABLE WORKERS
INSTITUTIONALIZING FOR THE PURPOSE THE TULONG
PANGHANAPBUHAY SA ATING DISADVANTAGE/DISPLACED
WORKERS (TUPAD) PROGRAM OF THE DEPARTMENT OF LABOR
AND EMPLOYMENT, APPROPRIATING FUNDS THEREFOR,
AND FOR OTHER PURPOSES

EXPLANATORY NOTE

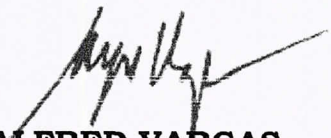
With the announcement of the community quarantine in response to the growing number of COVID-19 cases in the country, some businesses and establishments had no choice but to limit work transactions both for employers and their employees. This signaled a disruption on economic activity and possible loss of jobs for a number of Filipinos in the labor sector. Without a source of livelihood, Filipino workers and their families become more vulnerable not only to the health risks of the coronavirus but also of poverty. Social and economic safety nets need to be put in place to protect the ailing public.

A viable solution is the augmentation of the Tulong Panghanapbuhay sa Ating Disadvantaged/ Displaced Workers (TUPAD) Program of the Department of Labor and Employment (DOLE). TUPAD is a community-based package of assistance that provides emergency employment for displaced workers, underemployed and seasonal workers, for a minimum period of 10 days, but not to exceed a maximum of 30 days, depending on the nature of work to be performed.

With some finetuning, the DOLE may be authorized to *motu proprio* implement employment projects in cases of massive displacements; clarify the covered beneficiaries of workers for both formal and informal employment as affected by the gravity of public emergencies; ensure the just compensation of the prevailing minimum wage rate for non-agricultural workers in areas of implementation; and, provide penalties for such illegal acts. These provisions are to be included in a measure that upholds and protects the Filipino workers in these trying times.

This bill seeks to institutionalize the Department of Labor and Employment's *Tulong Panghanapbuhay sa Ating Disadvantaged/ Displaced Workers (TUPAD)* Program or the emergency employment program as a social safety net for our workers.

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



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

SECTION 1. Short Title. – This Act shall be known as the “TUPAD Act.”

SECTION 2. Declaration of Policies. – The State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all.

It shall improve the quality of life of all Filipino workers through active labor market policies promoting and facilitating employment generation, human resource development and by providing displaced and/or vulnerable workers a social safety net from the effects of disasters, epidemics/outbreaks, pandemics, public health emergencies, war, armed conflict, crises, economic shocks or income loss brought about by ill-health, disability, work-related injury, unemployment, work displacements, and other related contingencies.

SECTION 3. Coverage. – This Act shall cover all displaced and/or vulnerable workers affected by disasters, epidemics/outbreaks, pandemics, public health emergencies war armed conflict, crises, economic shocks or income loss brought about by ill health, disability, work-related accidents or injuries, unemployment, work displacements due to business closure, retrenchment, rightsizing, redundancy technological advances, and other analogous causes.

SECTION 4. Definition of Terms. – As used in this Act:

- (a) **Accredited Co-Partner** refers to the program partner, which may be a peoples' or workers organization, union, association, federation, cooperative, business association, church-based organization, educational institution, or private foundation, that has been accredited by the Department of Labor and Employment (DOLE) to implement TUPAD programs and projects using government or public funds;
- (b) **Beneficiary** refers to individuals or group of individuals who are qualified recipients of assistance under TUPAD;
- (c) **Disaster** refers to a serious disruption of the functioning of a community or a society involving widespread human, material, economic or environmental losses and impacts, which exceeds the ability of the affected community or society to cope using its own resources, as defined in Republic Act No. 10121 otherwise known as the Philippine Disaster Risk Reduction and Management Act of 2010;
- (d) **DOLE** hereby referred to as the 'Department' refers to the Department of Labor and Employment;
- (e) **Displaced workers** refer to workers in the formal and informal economy or self-employed, whether overseas or local, who became unemployed, underemployed, or have lost their livelihood due to disasters, epidemics/outbreaks, pandemics, public health emergencies, war, armed conflict, crises, economic shocks, or income loss brought about by ill-health, disability, work-related accidents or injuries, business closure, retrenchment, rightsizing, redundancy, technological advances, and other analogous adverse events as may be determined by the DOLE;
- (f) **Massive displacement** refers to large-scale displacement of workers in the formal and informal sectors brought about by disasters,

epidemics/outbreaks, pandemics, public health emergencies, war, armed conflict crises, or economic shocks, among others, resulting in serious disruption of means of livelihood;

- (g) **Micro-insurance** refers to a scheme that provides specific insurance and similar products and services that meet the needs of the low-income sector for risk protection and relief against distress, misfortune, and other contingent events;
- (h) **Self-employed** refers to individuals who create their own earnings and opportunities in the form of business, contract work whether overseas or local or freelance activities;
- (i) **Sub-professionals** refer to individuals who hold first level position under the Revised Administrative Code of 1987, which includes the clerical, trades, crafts and custodial service positions requiring less than four (4) years of collegiate studies;
- (j) **TESDA** refers to the Technical Education and Skills Development Authority;
- (k) **TUPAD Program** is a safety net wage employment assistance program for displaced and/or vulnerable workers also known as the Tulong Panghanapbuhay sa Ating Disadvantaged/Displaced Workers Program and herein interchangeably referred to as TUPAD or Program.
- (l) **Underemployed workers** refer to employed persons who express the desire to have additional hours of work in their present job or an additional job, or have a new job with longer working hours;
- (m) **Vulnerable workers** refer to minimum wage earners, working poor, or marginalized workers, as defined below, whether in an employer-employee relationship in the public or private sector, or self-employed including the Overseas Filipino Workers (OFWs), and whose families depend solely on their wages or compensation income for their minimum basic needs, such as food, health, education, housing and other essential amenities of life.
 - i. **Minimum wage earners** refer to workers in the private sector who are paid the statutory minimum wage, or to employees in the public sector with compensation income of not more than the statutory minimum wage in the non-agricultural sector where he/she is assigned as defined under Republic Act No. 10963 otherwise known as the TRAIN law;

- ii. **Working poor** refers to individuals and/or groups whose income fall below the poverty threshold as defined by the National Economic and Development Authority (NEDA) and/or cannot afford in a sustained manner to provide their minimum basic needs of food, health, education housing and other essential amenities of life;
- iii. **Marginalized workers** refer to workers who have not benefitted from education, health, employment, and other opportunities by reasons of poverty, geographical inaccessibility, culture, gender, among others, and to workers who are less likely to have formal work arrangements, and are more likely to lack decent working conditions, adequate social security, and whose employment is characterized by inadequate earnings, low productivity, and difficult conditions of work that undermine their fundamental rights;

(n) **Wage employment** refers to the act of generating one's income from an employer-employee relationship

SECTION 5. Wage Employment Assistance Program for Displaced and/or Vulnerable Workers or TUPAD Program. – The TUPAD Program is a social safety net designed to assist displaced and/or vulnerable workers and their families, and get them back on their feet by providing them wage employment if they fall on hard times due to disasters, epidemics, war, armed conflict, crises, economic shocks or income loss brought about by ill-health, disability, work-related accidents or injuries, unemployment, work displacements due to business closure, retrenchment, rightsizing, redundancy, technological advances, and other analogous causes. For this purpose, the TUPAD Program being implemented by the DOLE providing emergency employment for displaced or disadvantaged workers is hereby institutionalized.

SECTION 6. Lead Agency and Convergence with Related Government Assistance Program. – The Department shall be the lead agency in the implementation of the TUPAD Program and shall proactively administer directly, *motu proprio*, wage employment projects, in coordination or collaboration with relevant government agencies, in the event of massive displacement of workers resulting in serious disruption of means of livelihood.

The Department shall be responsible in the administration, sourcing, assessment and approval of all project proposals for appropriate funding using TUPAD funds. It shall integrate and collaborate with other government

agencies, business and labor groups, and civil society groups in implementing similar or related programs and services for efficient and effective whole-of-nation approach in the delivery of social safety nets.

SECTION 7. Eligible Projects for TUPAD; No Counterpart Funding Requirement. – All employment projects, to be eligible for funding under TUPAD, shall be under any of the listed eligible projects below. The Department shall set the period of work of approved employment project depending on the nature and duration of the work to be performed, but in no case shall the project duration be less than ten (10) days, nor to exceed ninety (90) days, as provided herein:

Eligible Projects	Maximum No. of Work Days
(a) Light works, such as street sweeping and cleaning of public facilities	15
(b) Social community projects such as de-clogging of canals, debris clearing/segregation and materials recovery, stockpiling and clearing at the aftermath of calamity or disaster.	45
(c) Social community projects such as minor repair and maintenance of common public facilities such as schools and health centers.	60
(d) Government projects requiring improvement of government facilities and infrastructures such as health centers, irrigation canals, roads, evacuation centers school buildings, and the like.	90
(e) Economic community projects such as maintenance and/or rehabilitation of farm-to-market roads, bridges, post-harvest facilities, public markets, and common public facilities such as production and display centers fish ports, etc.	
(f) Agro-forestry and eco-agriculture farming which include tree-planting, seedling preparation, re-forestation and crop growing.	
(g) Field works, such as conduct of survey and profiling, in partnership with other government offices.	

No counterpart funding shall be required in the implementation of the project from the Local Government Units (LGUs) or any of DOLE'S accredited program partners. However, they shall provide technical assistance, which could be in the form of identification of projects, profiling

of beneficiaries, procurement, monitoring, and facilitating access of services from other agencies.

TUPAD projects involving 46-90 days period of work shall be implemented in partnership and/or complementation with agencies implementing public projects, such as the Department of Public Works and Highways (DPWH), the Department of Environment and Natural Resources (DENR), Local Government Units, as well as private sector entities willing to engage in public projects. Said offices/program partners shall provide the required materials, tools, and equipment including office equipment, as warranted by the nature of work.

SECTION 8. *Qualified Beneficiaries.* – All displaced workers and/or vulnerable workers are qualified beneficiaries under this Act; Provided, that the Secretary of Labor, may, in proper instances, also approve programs under the TUPAD Program that will include the underemployed, including sub-professionals involved in structured work in support of office operations or those engaged in arts crafts manual and clerical work, as beneficiaries under this Act.

The Secretary of DOLE shall set standards on the TUPAD beneficiaries, including the allowable number of beneficiaries per household, and the number of projects under the Program a qualified beneficiary may participate in, and such other relevant matters for the effective implementation of this Act, with a view to helping the most number of beneficiaries.

SECTION 9. *Modes of Implementation of the TUPAD Program.* – The TUPAD Program shall be implemented by the DOLE Regional Offices through any of the following modes:

- (a) **Accredited Co-Partner (ACP).** Under this mode, the ACP shall be the Department's partner or conduit in the implementation of the program, provided they are registered with any registering body of the government and accredited by DOLE as ACP under the TUPAD Program. The following shall qualify as ACP:
 - i. People's organization;
 - ii. Private sector unions, federations or workers' associations, as defined in Book V of the Omnibus Rules and Regulations Implementing the Labor Code of the Philippines;
 - iii. Cooperatives;
 - iv. Church-based organization;

- v. Private educational institutions;
- vi. Private foundations; and
- vii. Government agencies and instrumentalities, including National Government Agencies, Local Government Units, and Government Owned and Controlled Corporations;

(b) **Direct Administration.** Under this, the administration and implementation of the TUPAD Program shall be undertaken directly by the Department's regional provincial and/or field offices.

SECTION 10. Accreditation of Co-Partners (ACP). – DOLE shall accredit the co-partners in the implementation of the TUPAD Program, and for this purpose shall set the guidelines for the accreditation process.

Government agencies, including local government units (LGUs) and state university and colleges (SUCs), shall automatically be TUPAD program partners, without need of accreditation, upon execution of a TUPAD Partnership Memorandum of Agreement clearly outlining the responsibilities and deliverables of each party under the program.

SECTION 11. Employment Project Implementation Requirements. – All programs under the TUPAD Program shall observe the following:

- (a) Strict compliance with the Occupational Safety and Health Standards provided under Republic Act No. 11058 and other related laws and regulations;
- (b) Provision of necessary equipment for beneficiaries needed to effectively and safely participate in a project under the Program;
- (c) Enrollment of every beneficiary to a group micro-insurance to be included in the total project cost;
- (d) Issuance of an identification card or document for every beneficiary participating in a project under the Program;
- (e) Assistance to beneficiaries who have participated in the Program of skills training or upgrading towards self-employment or wage employment. For this purpose, the Department and TESDA shall ensure the implementation and enforcement of this provision;

- (f) Mechanisms to ensure that the Department and/or its accredited co-partners monitor the implementation of every employment project under the TUPAD Program; and
- (g) Submission of proper documentary requirements for the release and liquidation of funds for every employment project under the TUPAD Program subject to relevant accounting and auditing rules and regulations.

SECTION 12. *Wages and Compensation of Beneficiaries; Prohibited Practices.* – The wages and compensation of the beneficiaries shall not be less than 100% of the prevailing private sector minimum wage rate set by the Regional Tripartite Wages and Productivity Board (RTWPB) for non-agricultural workers in the area or locality where the project will be implemented.

To ensure compliance with this provision, the Department shall establish mechanisms for strict implementation providing safeguards and a listing of prohibited activities such as cuts for commission, job sharing, ghost beneficiaries, and padding of beneficiaries, among others.

Any violation of this provision shall result in the blacklisting of the accredited co-partner, including the payment of the amount involved, with legal interest, without prejudice to the filing of criminal cases. If the accredited co-partner is an LGU or sue, the LGU or SUC shall be immediately address such deficiency and/or error Without prejudice to applicable rules and regulations of the Commission on Audit and the filing civil, criminal or administration actions. In case of direct administration, the responsible DOLE personnel shall be subjected to administrative investigation without prejudice to the filing of appropriate civil or criminal case.

SECTION 13. *Project Funding.* – Approved employment project proposals shall be funded under the TUPAD Program fund under the budget of the DOLE. The Department shall be primarily responsible for managing the funds for the implementation of the Program.

SECTION 13. *National Digital Transformation Council.* – The National Digital Transformation Council is hereby created to ensure the effective implementation of this Act.

SECTION 14. *Authority to Receive and Administer Donations for TUPAD Program.* – The Department is hereby authorized under this Act to

receive donations from government and non-government organizations and to administer the same strictly and exclusively for the beneficiaries and qualified applicants of the TUPAD Program, subject to relevant accounting and auditing rules and regulations.

SECTION 15. *Monitoring, Reporting and Evaluation of the TUPAD Program.* – The Department shall establish a standardized monitoring and reporting system to properly document every approved project under the Program.

It shall also submit to Congress and make available to the public, an annual accomplishment report and utilization of the funds earmarked for the implementation of the TUPAD Program. The annual report shall include the pertinent details of every project under the Program, the mode of implementation, number of beneficiaries, donations from private and other organizations, expenditures, number of beneficiaries who acquired employment after their participation in the Program, and other pertinent information as may be necessary. An impact evaluation shall be conducted from time to time, but not later than every three years.

SECTION 16. *Appropriations.* – The funds for the initial implementation of this Act shall be sourced from the current budget of the Department of Labor and Employment for the implementation of the TUPAD Program. Thereafter, the amount necessary for its continued implementation shall be included in the annual General Appropriations Act; provided, that such appropriation shall take into consideration an administration fee of not more than five percent (5%).

SECTION 17. *Implementing Rules and Regulations.* – Within ninety (90) days from the effectivity of this Act, DOLE shall, in consultation with TESDA, Department of Trade and Industry, and other relevant government agencies and stakeholders, issue the necessary rules and regulations for the effective implementation of this Act.

SECTION 18. *Separability Clause.* – Any portion or provision of this Act that is declared unconstitutional or invalid shall not have the effect of nullifying other portions or provisions hereof as long as such remaining portions can still subsist and be given effect in their entirety.

SECTION 19. *Repealing Clause.* – All laws, ordinances, rules, regulations, other issuances or parts thereof, which are inconsistent with this Act, are hereby repealed or modified accordingly. Nothing in this Act shall result in the diminution of the benefits and/or assistance given to overseas Filipinos

and migrant workers as provided in other laws, ordinances, rules, regulations and issuances.

SECTION 20. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,