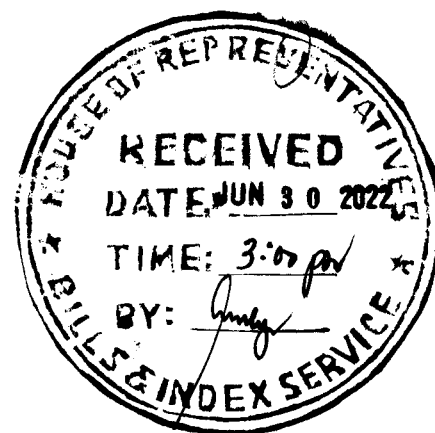


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Batasan Hills, Quezon City

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL No. 204



Introduced by
ACT Teachers Party-List Rep. FRANCE L. CASTRO,
GABRIELA Women's Party Rep. ARLENE D. BROSAS,
and **KABATAAN Party-List Rep. RAOUL DANNIEL A. MANUEL**

AN ACT
PROVIDING FOR SECURITY OF TENURE AND GRANTING SUBSTITUTE
CIVIL SERVICE ELIGIBILITY FOR ALL NON-REGULAR AND REGULAR
EMPLOYEES OF THE GOVERNMENT WHO HAVE RENDERED AT LEAST
SIX (6) MONTHS OF CONTINUOUS SERVICE

EXPLANATORY NOTE

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

The 1987 Constitution upholds the full protection to labor. Section 3 of Article XIII 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." Likewise, all workers "shall be entitled to security of tenure, humane conditions of work, and a living wage."

President Rodrigo Duterte vowed to stop the practice of "endo" or labor contractualization. The Duterte presidency has ended, yet 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 August 31, 2021, there are 582,378 contract of service (COS)/job order (JO) personnel out of the 2,337,802 government employees. This figure is more than twice the 282,586 contractual workers in the public sector in 2008¹. Top agencies

¹ COURAGE, et al, *Praymer Hinggil sa Kontraktwalisasyon Booklet*, July 2017

in 2021 with the most number of JOs and COSs include the DPWH, DOH, DepEd, DENR and DSWD.²

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 2016.³

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 the country's premier public tertiary school, University of the Philippines, in 2012, 44% of the employees are contractual.⁴ In UP-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 workers⁵.

Labor contractualization is a blatant violation of 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.

The Civil Service Commission, Commission on Audit, and Department of Budget and Management followed with the issuance of Joint Circular 1, s. 2017 on June 15, 2017, amended into Joint Circular No. 1, s. 2018, or the *"Rules and Regulations Governing Contract of Service and Job Order Workers in the Government."* Like the Department of Labor Department Order 174-16 which was widely criticized by workers, Joint Circular 1 further legitimizes labor contractualization and provides no guarantee for the security of tenure for non-regular workers in the public sector.

The Joint Circular stressed that JO 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 government.⁶ 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.

² IGHR Job-Order and Contract of Service Data as of August 31, 2021.pdf

³ COURAGE, Inventory of Government Human Resources 2016.xls (Reencoded), March 2018.

⁴ Data from UP Academic Employees Union, 2012.

⁵ Data from AUPWU-UP-PGH, 2018.

⁶ G.R. 154472 Lopez vs. MWSS as cited by COURAGE et al, Praymer Hinggil sa Kontraktwalisasyon Booklet.pdf, July 2017

Aside from contractualization, non-regular employees need to hurdle the civil service eligibility requirement as provided for in Executive Order 292 or the *Revised Administrative Code of 1987*.

Many more regular employees have no civil service eligibility despite having rendered years, even decades, of continuous service. Many were hired prior to the institutionalization of the civil service requirements, or were hired in positions not requiring civil service eligibility. These employees have no opportunity for promotions to higher positions requiring civil service eligibility, despite years of service, meritorious performance or mastery of their tasks. This results to low morale especially among those who have dedicated their productive years working in the government yet were never qualified for any promotions.

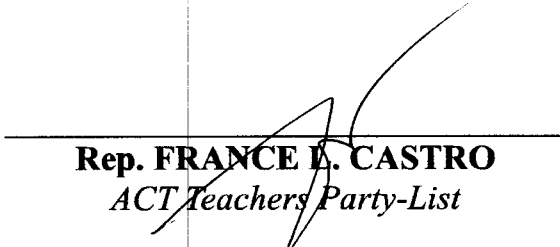
Labor contractualization, in all its forms, must be stopped and workers regularized in both the private and public sector. The government must set a good example by regularizing all its contractual workers, prohibiting and penalizing the hiring of contractuels, and ensuring the security of tenure of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

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

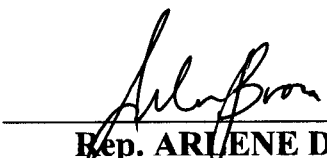
This Bill was first filed as House Bill 7415 in the 17th Congress. It was refiled as one of the priority legislations of the Makabayan Bloc in the 18th Congress. There is an urgent need to correct the long suffering and injury wrought by the government itself to the government workers.

Passage of this Bill, thus, is earnestly sought.

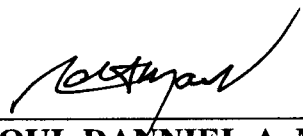
Approved,



Rep. FRANCE L. CASTRO
ACT Teachers Party-List



Rep. ARIENE D. BROSAS
GABRIELA Women's Party



Rep. RAOUL DANNIEL A. MANUEL
KABATAAN Party-List

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SIX (6) MONTHS OF CONTINUOUS SERVICE

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 and Civil Service Eligibility for Non-Regular and Regular Employees in Government Act."

SEC. 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, living wage, full employment and employment opportunities. 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. Government workers shall be accorded security of tenure and afforded all opportunities to exercise their constitutionally-guaranteed right to organization and collective bargaining.

SEC. 3. *Prohibition of Contractualization in Government Service.* 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.

SEC. 4. *Security of Tenure for 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 coterminous 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.

SEC. 5. *Substitute Eligibility for Regular and Non-Regular Government Employees.* For those who do not possess eligibility, substitute civil service eligibility is hereby granted to all regular employees and 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 non-regular 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.

SEC. 6. *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.

SEC. 7. *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.

SEC. 8. *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.

SEC. 9. *Separability Clause.* Should any provision herein be declared unconstitutional, the remaining provisions not otherwise affected shall be valid and subsisting.

SEC. 10. *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.

SEC. 11. *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,