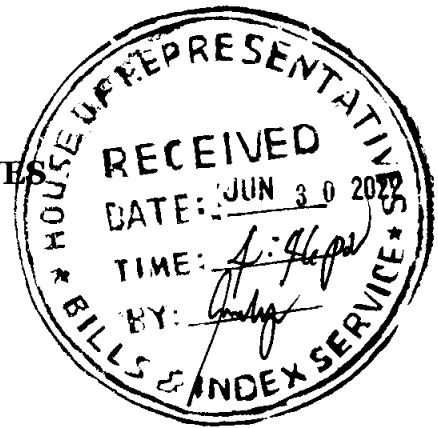


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

NINETEENTH CONGRESS
First Regular Session

House Bill No. **363**



INTRODUCED BY REPRESENTATIVE MARISSA "DEL MAR" P. MAGSINO

AN ACT
ENSURING THE WELFARE AND PROTECTION OF
BUSINESS PROCESS OUTSOURCING (BPO) WORKERS
IN THE PHILIPPINES

EXPLANATORY NOTE

One of the sectors that have kept the Philippine economy afloat even amidst the worst global pandemic of the new millennium is the Business Processing Outsourcing (BPO) sector. With over eight hundred fifty (850) registered BPO companies in the Philippines, we have been dubbed as the BPO capital of the world. With just barely two (2) decades of being established in the country, it has turned into a multi-billion industry from which many Filipino families have relied on for their livelihood. It has truly sustained the nation and its people over the past years, making us survive even the worst economic shocks that have plagued the world. It has offered employment to over one million Filipinos, playing an important role in a society where life is made more difficult by the lack of opportunities.

However, since its inception in the country, despite many of its needs having grown in number and complexity, laws have failed to dynamically evolve to cater to such needs. Such scenario has left BPO employees at the mercy of a results-driven industry. This has caused them to be subjected to stressful workload and very high performance standards, inadequate breaks and even sudden changes in shift schedules. In a severely competitive workplace, BPO employees' health and safety have become at the receiving end of brutal expectations.

When the COVID-19 pandemic lambasted the country, the ugly truth of the industry has been exposed. The issues that they have long endured to keep their jobs, have been aggravated by temporary closures. When the industry shifted to the "new normal", work arrangements needed to be innovated in order to remain in operation. Work-from-home setup was adopted by many companies, while some employees were obliged to still come to the office despite modes of transportation being scarce, and office spaces failing to meet health and safety standards.

BPO employees also reported incidents of being placed on a “floating status, causing a temporary suspension of their work despite technically still being considered “hired” – this leaving them without compensation until the said suspension is lifted.

This proposed legislative measure is the response that this sector, whose members belong to the underrepresented and underserved, is in dire need of. Under this measure, more equitable arrangements that will provide protection to both labor and capital will be institutionalized.

Among the most salient features of the bill is the setting of the standard of treatment of BPO workers – requiring employers and supervisors to at all times treat them in a just and humane manner and ensure that their rights and benefits that are mandated by law are given to them. Furthermore, abusive language, physical violence or any act which debases the dignity of a person shall not be used against BPO workers.

The State shall also be mandated to ensure that BPO workers are given access to relevant information that will allow them to understand their rights, benefits, obligations, conditions and realities attending their profession.

The measure also seeks to protect BPO workers from understaffing and overloading. Another important feature of this bill is regularization – mandating that all BPO workers who are allowed to work after the completion of the sixth (6th) month period of employment as trainee or apprentice, or upon the completion of a maximum probationary training period of six (6) months, to be considered as regular employees who shall be entitled to the benefits of privileges under relevant laws.

The aforementioned are only a few of the most necessary changes that this bill seeks to implement that will give BPO employees what they rightfully deserve after having contributed to this multi-billion industry.

In view of the foregoing, approval of this measure is most earnestly sought.


MARISSA “DEL MAR” P. MAGSINO

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

NINETEENTH CONGRESS

First Regular Session

House Bill No. 363

INTRODUCED BY REPRESENTATIVE MARISSA “DEL MAR” P. MAGSINO

AN ACT
ENSURING THE WELFARE AND PROTECTION OF
BUSINESS PROCESS OUTSOURCING (BPO) WORKERS
IN THE PHILIPPINES

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

1 Section 1. *Short Title.*— This Act shall be known as the “BPO Workers’ Welfare
2 and Protection Act of 2021.”

3 Sec. 2. *Declaration of Policy.*— The State affirms labor as a primary social
4 economic force. It shall protect the rights of the workers and promote their welfare. It is
5 hereby declared the policy of the State to protect the rights and promote the welfare of
6 workers in the Business Process Outsourcing (BPO) industry and to take appropriate
7 steps to recognize such rights and welfare. The State recognizes the role of BPO workers
8 in nation-building and that protecting and promoting their rights and welfare form an
9 integral part of national development. The State shall strive to improve and promote
10 their social and economic status, living and working conditions, terms of employment,
11 professional growth and career development.

12 Sec. 3. *Coverage.*— This Act shall cover all employees and workers engaged in the
13 BPO industry.

14 Sec. 4. *Definition of Terms.*— For purposes of this Act, the following terms shall
15 be understood as follows:

- 16 a) Business Process Outsourcing (BPO) – is defined as the delegation of service-
17 type business processes to a third-party service provider. It is generally
18 divided into the following sectors: call centers, back-office services, data
19 transcription, animation, software development, engineering development
20 and game development. Most BPO companies engage in shift work to
21 complete their 24-hour work cycle;

b) Call center – also known as contact center, refers to a central customer service operations where agents – whatever their designation – handle business-related telephone calls, and other IT-related non-voice activities, on behalf of a client;

c) Health – shall connote a sound state of the body and mind of the workers which enables him or her to perform his job normally, in a state of well-being;

d) Safe of safety – shall refer to the physical or environmental conditions of work or employment, which substantially comply with the prescribed Standards, as defined below;

e) Work accident – shall mean an unplanned or unexpected occurrence that may or may not result in personal injury, property damage, work stoppage or interference, or any combination thereof, which arises out of and in the course of employment;

f) Work injury – shall mean any injury or occupational illness suffered by a person, which arises out of or in the course of employment;

g) Occupational illness - shall mean any illness caused by environmental factors, the exposure to which is characterized or peculiar to a particular process, trade or occupation, and to which an employee or worker is not ordinarily subjected to, or exposed to, outside of or away from such employment;

h) Workplace – means the office, premises or work site, where the workers are habitually employed and shall include the office or place where the workers, who have no fixed or definite work site, regularly report for assignment in the course of their employment;

i) Standards – shall mean the Occupational Safety and Health Standards and Regulations, as described in Section 29 hereof;

j) Authorized Representative – shall mean and include any employee or official of other government agencies empowered by the Secretary of Labor and Employment to enforce the provisions of the Standards;

k) Shift work – shall mean the employment practice designed to make use of the 24 hours of the day. Employees are given schedules which correspond to 24-hourwork cycle. The term shift work includes both long-term night shifts and work schedules in which employees change or rotate shifts.

Sec. 5. *Construction in favor of labor.*– All doubts in the implementation and interpretation of the provisions of this Act, including its implementing rules and regulations, shall be resolved in favor of labor.

1 PART ONE: GENERAL EMPLOYMENT STANDARDS

2 Sec.6 *Standard of Treatment*. – The employer and the supervisors must, at all
3 times, treat the BPO worker in a just and humane manner and ensure that all the rights
4 and benefits of BPO workers are provided for and accorded to them as mandated by the
5 Labor Code. Abusive language, physical violence or any act which debases the dignity of
6 a person shall not be used against the employee.

7 Sec. 7. *Access to Relevant Information*. – The State shall ensure the BPO
8 companies allow their workers and employees access to:

9 (a) relevant information to make them understand their rights, benefits,
10 obligations, conditions and realities attending to their profession. BPO
11 companies shall not restrain their employees from organizing or attending
12 activities, such as, but are not limited to, workshops and symposia, that
13 seek to equip BPO workers with relevant information with regard to their
14 rights, welfare and conditions; and

15 (b) information on service level agreement between client and vendor,
16 especially when it affects working conditions and worker compensation
17 and benefits consistent with Sec.3, Article XIII of the Constitution.

18 Sec. 8. *Protection from Understaffing or Overloading*. – There shall be no
19 understaffing or overloading of BPO workers. The ratio of BPO worker to client quota or
20 quantitative targets shall be such as to reasonably effect a sustained quality of service at
21 all times without overworking the worker and over-extending his/her services beyond
22 what is stipulated in the employment contract, or what is allowed as the worker's
23 regular hours of work. The employer may request the employee to perform tasks beyond
24 the duties stipulated in the employment contract; *Provided*, That such tasks are duly
25 compensated by the employer with an additional pay of not less than twenty-five
26 percent (25%) of the regular rate per hour.

27 Sec. 9. *Regularization*. – All BPO workers allowed to work after the completion of
28 the sixth (6th) month period of employment as trainee or apprentice, or upon the
29 completion of a maximum probationary training period of six months, shall be
30 considered as regular employees.

31 Sec. 10. *Right to self-organization and the Right to Participate in Democratic*
32 *Exercises*. – All BPO workers shall have the right to self-organization and to form, join,
33 or assist labor organizations of their own choosing for purposes of collective bargaining.
34 In addition, BPO companies should exercise due diligence and actively provide venues
35 for workers to participate in the deliberation of issues and in the formulation of policies
36 that affect them.

37

38

1 Sec. 11. *Non-abridgment of the right of self-organization.* – It shall be unlawful
2 for any person or company to restrain, coerce, discriminate against or unduly interfere
3 with employees and workers in their exercise of the right to self-organization. Such right
4 shall include the right to form, join, or assist labor organizations for the purpose of
5 collective bargaining through representatives of their own choosing and to engage in
6 lawful concerted activities for the same purpose for their mutual aid and protection,
7 subject to the provisions of the Labor Code of the Philippines.

8 Sec. 12. *Freedom from Interference or Coercion.* - It shall be unlawful for any
9 person or company to commit any of the following acts of interference or coercion:

10 (a) to interfere with, restrain or coerce employees in the exercise of their right to
11 self-organization;

12 (b) to require as condition of employment that BPO employees shall not join,
13 form or assist in the formation of an organization, or to withdraw from one to
14 which he belongs;

15 (c) to contract out services or functions being performed by BPO employees who
16 are union members when such will interfere with, restrain or coerce employees in
17 the exercise of their rights to self-organization;

18 (d) to discriminate in order to encourage or discourage membership in an
19 organization;

20 (e) to initiate, dominate, assist or otherwise interfere with the formation or
21 administration of any labor organization, including the giving of financial or
22 other support to it or its organizers or supporters;

23 (f) to discriminate in regard, to wages, hours of work and other terms and
24 conditions of employment in order to encourage or discourage membership in
25 any labor organization;

26 (g) to prevent a BPO employee from carrying out his duties and functions in his
27 organization to penalize the employee for any unlawful action performed in that
28 capacity; and

29 (h) to perform acts calculated to diminish the independence and freedom of the
30 union or organization to direct its own affairs.

31 Sec. 13. *Freedom from Excessive Company Bond.* – It shall be unlawful for any
32 person or company to compel a BPO worker to commit to a company bond,
33 imposing an unreasonable or exorbitant fee to be paid by the employee upon
34 leaving the company before a specified length of time.

1 Sec. 14. *Right to Money Claims.* – The company may not, in any case, prevent a
2 BPO worker from receiving his/her rightful money claims arising from labor disputes.

3 Sec. 15. *Protection from Discrimination.* -BPO workers shall be protected from
4 discrimination by reason of ethnicity, gender, sexual orientation, age, race, color,
5 religion, political, or other opinion, national, social or geographical origin, disability,
6 property, birth, civil status, pregnancy, physical characteristics or disability, or other
7 status as established by human rights standards.

8 Sec. 16. *Safeguards in Administrative Proceedings.* - In any administrative
9 proceeding, a BPO worker shall have the –

10 (a) right to notice and hearing which includes the right of the party
11 interested or affected to present his own case and submit evidence in support
12 thereof;

13 (b) right to be informed of the nature and accusation against him/her;

14 (c) right to full access to evidence presented against him/her;

15 (d) right to cross-examine the witnesses against him/her;

16 (e) right to defend himself/herself for by a counsel of his/her choice;

17 (f) right to be given adequate time to prepare his/her case which shall, in
18 no case, be less than one (1) week;

19 (g) right to an independent and impartial tribunal;

20 (h)right to a decision rendered in such a manner that both parties can
21 know thevarious issues involved and the reasons for such decision

22 (i) right to appeal to designated authorities; and

23 (j) such other rights as will ensure fairness and impartiality during
24 proceedings.

25 Sec. 17. *Regular Hours of Work.* – Normal hours of work for BPO workers shall
26 not exceed eight (8) hours a day. Any work done by BPO beyond the regular hours shall
27 be duly compensated by the employer.

28 Sec. 18. *Hours worked.* - Hours worked shall include (a) all time during which an
29 employee is required to be on duty or to be at a prescribed workplace; and (b) all time
30 during which an employee is suffered or permitted to work.

31 Rest periods of short duration during working hours shall be counted as hours
32 worked.

33

34

35

1 Sec. 19. *Overtime Work.* – Work may be performed beyond any BPO
2 worker's required working hours provided that the employee is paid for the overtime
3 work, an additional compensation equivalent to his regular wage plus at least twenty-
4 five percent (25%) thereof. Work performed beyond eight (8) hours on a holiday or rest
5 day shall he paid an additional compensation equivalent to the rate of the first eight
6 hours on a holiday or rest day plus at least thirty percent (30%) thereof.

7 Sec. 20. *Night Shift Differential.* – BPO workers shall be paid a night shift
8 differential of not less than ten percent (10%) of his regular wage for each hour of work
9 performed between ten o'clock in the evening and six o'clock in the morning.

10 Sec. 21. *Rest & Meal Periods.* - BPO workers shall be entitled to compensable rest
11 periods and meal periods not less than what is provided for in the Labor Code and other
12 existing laws. Employees shall have the right to brief restroom breaks, which shall not
13 be shorter than five minutes for each two-hour interval or a cumulative of at least 15-
14 minute restroom break throughout the work shift. These restroom breaks shall be added
15 on top of the two 15-minute breaks and lunch breaks. To comply with such, the BPO
16 company shall devise a mechanism in order to ensure the implementation of regular
17 restroom breaks among its workers without sacrificing the continuous flow or work
18 among its employees.

19 Sec. 22. *Regular Working Days.* - All BPO workers shall render work for not
20 more than six (6) consecutive days per week. The employer shall determine and
21 schedule the weekly rest day of the BPO workers subject to collective bargaining
22 agreement and to such rules and regulations as the Secretary of Labor and Employment
23 may provide. However, the employer shall respect the preference of employees as to
24 their weekly rest day when such preference is based on religious grounds.

25 Sec. 23. *Work on Holidays.* - BPO workers may be required to work on days
26 designated as non-working holidays in the Philippines given the nature of their
27 profession; *Provided*, That the employer shall duly compensate the employee's work on
28 such days in accordance with existing laws with regard to holiday pay.

29 Sec. 24. *Leave benefits.* - BPO workers shall be entitled to all leave benefits and
30 privileges under existing laws, such as but not limited to maternity, paternity, vacation,
31 and sick leaves. *Provided*, That upon separation of the employee from service, they shall
32 be entitled to all accumulated leave credits with pay. No employee may be terminated
33 based solely on unapproved leaves without affording the employee due process in an
34 administrative proceeding.

35 Sec. 25. *Transportation benefits.* - In the absence of or lack of safe and adequate
36 public transportation services in BPO workers' places of work, they shall, at least
37
38

1 between 9:00 p.m. and 6:00 a.m., be entitled to safe transportation service,
2 which may include, but are not limited to shuttle services, to and from the place of work
3 to designated drop-off points, or to travel allowance which shall be provided by the
4 company in order to facilitate the safe commute of employees at vulnerable times at
5 night or early in the morning.

6 Sec. 26. *Health Program.* - The company physician shall, in addition to his duties
7 stated in the Labor Code, develop, and implement a comprehensive occupational health
8 program for the benefit of all employees.

9 Sec. 27. *Health Insurance.* - All employees are entitled to free full medical
10 examination upon commencement of employment, and annually during the tenure of
11 employment. The establishment is encouraged to provide full health insurance to the
12 employees, the coverage of which shall be agreed upon by the company and its
13 employees.

14 Sec. 28. *Work-related injuries, sickness and death compensation.* - All
15 employees shall be compensated for injuries, medical complications, illness, disability
16 and death arising from, and related to their work, in accordance with existing laws,
17 labor policies, guidelines or circulars, as the case may be. The Employees Compensation
18 Commission shall promptly process any claims for/by injured, disabled, deceased
19 employees or their dependents.

20 Sec. 29. *Occupational Health and Safety Standards and Regulations for BPO*
21 *Workers.* - Pursuant to its mandate, the Department of Labor and Employment
22 (DOLE) is tasked to establish Occupational Health and Safety Standards for BPO work
23 and other similar employment. It is imperative that the minimum provisions in the
24 Standards meet the International Labor Organizations (ILO) recommendations. The
25 Standards should be reviewed annually by the agencies, Workplace Occupational Health
26 and Safety Officer (WOHSO), and registered interested parties, and must include
27 provisions related to the Enforcement Officers and Authorized Representatives, as well
28 as the WOHSO as defined below.

29 Sec. 30. *Compliance with the Standards.* - The Standards shall be strictly
30 enforced in all establishments operating in the country. Compliance with the provisions
31 of the Standards shall be mandatory and subject to inspections by Enforcement Officers
32 and/or Authorized Representatives as shall be outlined in the Standards.

33 Sec. 31. *Workplace Occupational Health and Safety.* - Each establishment shall
34 formulate their own Workplace Occupational Health and Safety (WOHS) policy, which
35 adheres at minimum to the Standards as defined in Section 29 of this Act. Any
36 additional safety measures deemed appropriate to the nature of the localized work

37

38

environment may also be included, pending approval by the Bureau. The policy must be reviewed annually by the employers, by the WOHSO, and by an Enforcement Officer or Authorized Representative.

All employees shall be informed of the WOHS policy. Informational materials such as posters, brochures and similar devices shall be distributed to employees free of charge.

Sec; 32. *Workplace Occupational Health and Safety Officer.* – From among the employees, aWOHSO shall be elected for the purposes of consultation and in-house monitoring of the Standards. The WOHSO shall review the measures taken to ensure the health, safety, and welfare of the employees, investigate and attempt to resolve any matters that may constitute as a risk to health and safety at the place of work.

Sec. 33. *Security of Tenure.* – No employee may be terminated except for just and authorized causes as provided under the Labor Code. In order to further protect BPO employees from being abused by legal provisions that allow floating status of employees for not more than six months and other existing laws, “analogous causes” for termination of employment under the Labor Code shall comply with DO 147-15, series of 2015 issued by the DOLE, which provides that “[n]o act or omission shall be considered as analogous cause unless expressly specified in the company rules and regulations or policies.”

When putting workers in floating status, the company must not hire new employees who are tasked to perform the duties and responsibilities of the workers put in floating status, until all employees who shall be subject or are currently on floating status have been absorbed in vacancies in other or new accounts, provided that the workers are willing to be absorbed in other or new accounts available.

Sec. 34. *Prohibition Against Elimination or Diminution of Benefits.* –Nothing in this Act shall be construed to eliminate or diminish in any way existing benefits being enjoyed by BPO employees at the time of the effectivity of this Act, or benefits beyond the minimum standards set forth by this Act. All other rights of BPO employees provided under existing laws shall remain in full force and effect, and they shall have the right to avail of greater rights offered by existing laws, including those granted under this Act.

Sec. 35. *Penal provisions.*— Any person or company who violates the provisions of this Act shall be punished with a fine in the amount of not less than One Hundred Thousand Pesos (P 100,00.00) and/or imprisonment of not less than two (2) months but not more than one (1) year, or both, at the discretion of the Court.

Sec. 36. *Separability Clause.* – If, for any reason, any section or provision of this Act, or any portion thereof, or the application of such section, provision or portion, is

1 declared invalid or unconstitutional, the remainder of this Act or the application
2 of such section, provision, or portion thereof shall not be affected by such declaration.

3 Sec. 37. *Repealing Clause.* – All laws, decrees, letters of instructions, resolutions,
4 orders, rules and regulations or parts thereof which are inconsistent with the provisions
5 of this Act are hereby repealed, modified accordingly or amended accordingly.

6 Sec. 28. *Effectivity Clause.* – This Act shall take effect fifteen (15) days from its
7 publication in the Official Gazette or in at least two (2) national newspapers of general
8 circulation.

Approved,