

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. **8189**



Introduced by **KABATAAN PARTY-LIST Representative Raoul Dannel A. Manuel,**
ACT TEACHERS PARTY-LIST Representative France L. Castro,
and **GABRIELA WOMEN'S PARTY Representative Arlene D. Brosas**

EXPLANATORY NOTE

The Philippines has the second biggest business process outsourcing (BPO) industry in the world according to the International Labor Organization (ILO). It brought in an estimated revenue of \$28 billion and employed roughly 1.6 million workers in 2021. In the absence of genuine national industries, we praise this industry for the apparent and immediate employment opportunities it grants many of our people. In the light of the foregoing, we need to ensure the rights and welfare of those who have chosen to rely on this "sunshine industry," thus, we now re-file the BPO Workers Welfare & Protection Bill under the 19th Congress.

There have been several consultations made among stakeholders including BPO managers, call center agents, and parents of BPO workers since the 14th Congress. Numerous concerns about the working conditions in many of the companies in this industry have been raised. This include not having regular breaks and enough restroom breaks as well as health and psychological risks attendant to the nature of their work.

The ILO study on the BPO industry in 2010 said that while the BPO industry provide relatively "good quality jobs," key changes in the BPO industry policies and practices need to be pushed to improve work conditions. The study reported that 48 percent of BPO workers suffer from insomnia while 54 percent from fatigue. Of which 456 percent cited that harassment from rate clients are among the causes of work-related stress among workers, 41 percent from excessive and tedious workload, 37.4 percent from performance demands 337 percent from monotony and 33.4 percent from regular night work. The ILO study also noted high workforce attrition of staff turnover rates which needs to be addressed.

Several issues have been uncovered after several consultations in the BPO industry:

1. *Race-to-the-bottom wages.* Wage rates in BPO companies have been decreasing largely as a result of regionalized wage rates. BPO companies in IT-hubs outside Metro Manila offer new hires with near-poverty wage as low as P5,500 a month in the

Bicol region. Even in the National Capital Region, basic salaries can be as low as P12,500 a month and workers have to rely on incentives to increase take home pay. In addition, regular increases in salaries have been nominal or sometimes non-existent.

2. *Lack of security of tenure.* BPO workers do not enjoy security of tenure even if they have served their companies for many years. When clients pull-out, BPO workers are placed on "floating status" meaning they are still employed with no pay for as long as six months even if the companies continue to hire new agents for other clients. Because of this scheme, many BPO workers are forced to resign and transfer to other BPO companies. BPO companies also follow a systematic attrition scheme wherein workers who are unable to keep up with the performance metrics are "managed-out". The shift to automation and digitalization is also reported to aggravate these attacks on job security of workers as various reports pegged that job losses in the BPO industry as much as 24% of the whole industry.
3. *Highly intensified labor flexibilization* constantly threatens and attacks workers' exercise of rights. Workers are prevented from taking regular breaks (including lunch time) due to long queues of incoming calls. Workers are imposed to take mandatory overtime, multiple job assignments, and are subjected to very oppressive metrics (performance scorecards) schemes that are often unattainable.
4. *Health and safety risks and hazards.* Last December 23, 2017, 37 call centers workers of Survey Sampling International got trapped and killed in a fire in NCCC mall in Davao City. This demonstrates the gravity of safety and health hazards the BPO workers face each day. Many BPO companies are lax with OSH standards especially with emergency drills as it will affect company operations. Additionally, BPO workers also face many health problems rooted to the nature of their work. Common health problems include throat problems, cardio and respiratory ailments, ulcers (because of deferred breaks), headaches among others. BPO workers' safety is always on the line when workers to go work during wee hours of the night.
5. *The right to organize is severely curtailed.* The right to organize and form unions guaranteed both by national and international laws is suppressed by many BPO companies and big industry groups. Some BPO companies would discourage or forbid workers upon employment from joining any union or organization. In some companies, they would even include clauses that prohibit workers to form or join unions. In addition, those workers who are brave enough to organize and or fight for their right to organize face various forms of harassment and discrimination from the management.
6. *Other exploitative and oppressive practices as a result of self-regulation.* Clients of BPO companies exercise power over workers even if the clients themselves do not have an employee-employer relationship. Such has impact on conditions at work because clients dictate performance scores, incentive schemes, and even job security of workers. But since clients are based in other countries and the BPO

industry has been asserting its self-regulatory powers despite the absence of independent unions, workers have no effective means of redress to make clients and BPO firms liable for workers' rights violations.

The bill seeks to promote and protect the rights of our fellow Filipinos, many of them belonging to the youth sector, who flock to BPO companies for immediate employment.

The bill reasserts the prescribed labor standards set forth in the Labor Code and institutionalizes additional benefits that would hopefully address specific work related problems and issues peculiar to the nature of BPO work. Salient proposals of the bill include:

1. Added protection to the right of security of tenure of BPO workers, prohibition of floating while hiring and regularization of all BPO workers upon the completion of a maximum probationary training period of six months;
2. Standard national entry level wage based on family living wage for all BPO workers
3. Entitlement to medical benefits upon entry in the BPO company and not merely upon regularization;
4. Right to Self-association to engage in Collective Bargaining and to participate in democratic exercises and decision making, especially on company policies that affect rights at work.

The BPO Workers Welfare and Protection bill was originally filed under the 14th Congress and re-filed under the 15th, 16th and 17th Congresses by then Kabataan Party-list Representatives Raymond Palatino, Terry Ridon and Sarah Elago, respectively. It is now our fervent hope that the 19th Congress will see through the immediate passage of this important piece of legislation.



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AN ACT
ENSURING THE WELFARE AND PROTECTION OF BUSINESS PROCESS
OUTSOURCING (BPO) WORKERS AND THE RECOGNITION OF THEIR RIGHTS AS
PROVIDED FOR IN THE LABOR CODE OF THE PHILIPPINES

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 "BPO Workers' Welfare and Protection Act" also known as "The Magna Carta for BPO Workers"

SECTION 2. *Declaration of Policy.* - It is hereby declared the policy of the State to protect the rights, and promote the welfare of workers in the Business Process Outsourcing (BPO) industry and to take appropriate steps to recognize such rights and welfare. The State recognizes the role of BPO workers in nation-building and that protecting and promoting their rights and welfare form an integral part of national development. The State shall strive to improve and promote their social and economic status, living and working conditions, terms of employment, right to freedom of association, professional growth and career development.

SECTION 3. *Coverage.* - This Act shall cover all employees and workers engaged in the Business Processing Outsourcing industry.

SECTION 4. *Standard of Treatment.* - The employer and supervisors must, at all times, treat the BPO worker in a just and humane manner and ensure and provide that the rights and benefits of BPO workers be accorded them as mandated by Presidential Decree 442, otherwise known as the Philippine Labor Code. Abusive language, physical violence or any act which debases the dignity of a person shall not be used against the employee.

SECTION 5. *Access to Relevant Information.* - The State shall ensure that BPO companies allow their workers and employees access to:

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

(b) to access information on service level agreement between client and vendor, especially when it affects working conditions and worker compensation and benefits; as consistent with Article 13 Section 3 of the 1987 Philippine Constitution.

SECTION 6. *Protection from Understaffing or Overloading.* - There shall be no understaffing or overloading of BPO workers. The ratio of BPO worker to client quota or quantitative targets shall be such as to reasonably effect a sustained quality of service at all times without overworking the worker and over-extending his/her services beyond what is stipulated in the employment contract, or what is allowed as the worker's regular hours of work. The employer may request the employee to perform tasks beyond the duties stipulated in the employment contract, *Provided*, that the employee consents and; *Provided*, that such tasks are duly compensated by the employer with an additional pay of not less than 30% of the regular rate per hour.

SECTION 7. *Regularization of all BPO workers.* They shall be considered regular employees within the six month training period as trainee or apprentice, or upon completion of a maximum probationary training period of six months or less.

SECTION 8. *Right to Self-organization to Engage in Collective Bargaining and to participate in Democratic Exercises.* - It shall be unlawful for any person or company to restrict the right of BPO workers to join, organize, or assist organizations and to collective bargaining. In addition, BPO companies should exercise due diligence and actively provide venues for workers to participate in the deliberation of issues and in the formulation of policies that affect them.

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

- (a) to require as a condition of employment that BPO employees shall not join, form or assist in the formation of an organization or union
- (b) to discriminate in order to encourage or discourage membership in an organization or union
- (c) to prevent a BPO employee from carrying out his duties and functions in his organization or union to penalize the employee for any lawful action performed in that capacity
- (d) to perform acts calculated to diminish the independence and freedom of the union or organization to direct its own affairs.
- (e) to perform acts of company retaliation, be it directly or indirectly, against employees raising grievances.

SECTION 10. *Freedom from Company Bond.* - It shall be unlawful for any person or company to compel a BPO worker to commit to a company bond, imposing an exorbitant fee to be paid by the employee upon leaving the company before a specified length of time with justified reason..

SECTION 11. *Right to Money Claims.* - The company may not in any case, prevent a BPO worker from receiving his/her rightful money claims arising from labor disputes.

SECTION 12. *Protection from Discrimination.* - BPO workers shall be protected from discrimination by reason of sex, sexual orientation, age, political or religious beliefs, civil status, physical characteristics or disability, or ethnicity

SECTION 13. *Safeguards in Administrative Proceedings.* - In any administrative proceeding, a BPO worker shall have:

- (a) the right to be informed of the charges;
- (b) the right to full access on evidence against him/her;
- (c) the right to defend himself/herself or by a counsel of his/her choice;
- (d) the right to be given adequate time to prepare his/her case, which shall in no case be less than one week;
- (e) the right to appeal to designated authorities; and
- (f) such other rights that will ensure fairness and impartiality during proceedings.

SECTION 14. *Regular Hours of Work.* - Normal hours of work for BPO workers shall not exceed eight (8) hours a day Any work done by BPO employees beyond the regular hours of work shall be duly compensated by the employer regardless if the worker is working on site or from home..

SECTION 15. *Wages and Benefits.* - BPO workers shall be entitled to the following wages and benefits:

- (a) BPO workers shall receive an entry-level wage of not less than Thirty One Thousand Pesos (P31,000)
- (b) BPO workers shall be entitled to an Automatic Wage Increase with (1) upskilling/cross skilling and (2) promotions
- (c) BPO workers shall receive a Mandatory Hazard Pay for any but not limited to the following: mental health check-ups, dangers of working night shift, long term health effects of working in BPO, and etc, which shall amount to 30% of their monthly salary.
- (d) BPO workers shall receive a wage subsidy of One Hundred Pesos (P100) per day for working during national emergencies.

SECTION 16. *Overtime Work.* - BPO workers who work beyond his/her required working hours in cases provided for in the Labor Code, Provided, That the employee is paid for the overtime work with an additional compensation equivalent to not less than his regular wage plus twenty-five percent (25%).

SECTION 17. *Night Shift Differential.* - BPO workers shall be paid a night shift differential of not less than ten percent (10%) of his regular wage for each hour of work performed between ten o'clock in the evening and six o'clock in the morning.

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

SECTION 19. *Regular Working Days.* - All BPO workers shall render work for not more than five (5) consecutive days per week. Interval between shifts should not be less than 12 hours regardless of overtime work. While the specific day of the week set aside as rest day may be stipulated in the employment contract, the same may be changed for another day of the week upon the mutual agreement of the employer and the employee; Provided, that the employer shall respect the preference of the employee for his/her weekly rest day when said preference is based on religious grounds.

SECTION 20. *Work on Holidays.* - BPO workers have the right to refuse to work on days designated as non-working holidays. And the employer shall duly compensate the employee's work on such days in accordance with existing laws with regard to holiday pay. Given the nature of the industry, the company shall devise a mechanism in order to ensure that workers are able to exercise this right without prejudice to workers' performance assessment and evaluation.

SECTION 21. *Leave Benefits.* - BPO workers shall be entitled to all leave benefits and privileges, such as but not limited to maternity, paternity, vacation and sick leaves, as provided for under existing laws: Provided, That upon separation of the employee from service, they shall be entitled to all accumulated leave credits with pay. No employee shall be terminated based solely on unapproved leaves without affording the employee due process in an administrative proceeding.

SECTION 22. *Transportation Benefits.* - In the absence of or in the lack of safe and adequate public transportation services in BPO workers' places of work, they shall be entitled to safe transportation service, which may include but are not limited to shuttle services or travel allowance for Transport Network Vehicle Service (TNVS)--safer--or commute, to and from the place of work to designated drop-off points, to be provided by the company in order to facilitate the safe commute of employees at vulnerable times at night or early in the morning.

SECTION 23. *Better Working Conditions.* To improve the working conditions of the BPO Workers, the company should:

- (a) The company shall ensure an expanded and standardized unemployment insurance plan and benefits, including floating employees and employees with active cases in NLRC for illegal and constructive dismissal.
- (b) The company shall prohibit any practice of mandatory overtime, delayed breaks, shortened workweek, multiple job assignments without additional compensation, and other forms of unregulated adjustments on working conditions.
- (c) The company should allow employee representation in the OSH committee through election as stipulated by the Department of Labor and Employment.
- (d) The company should be held accountable for meeting the logistical and operational needs of work-from-home employees; including but not limited to the internet, basic utilities, tools and equipment. Employees should not be penalized for failing to comply.
- (e) The company shall maintain the employees' job security in the threat of employment loss due to digitization and automation, and ensure continuous personnel training and upskilling.

SECTION 24. *Safe Spaces Act.* - The company shall ensure their compliance and adherence to the provisions and principles of the Safe Spaces Act or Republic Act No. 11313.

- (a) The company should form a safe space employees committee to ensure the company's compliance and to enhance its lawful implementation in the BPO industry.

SECTION 25. *Medical Examination and Medical and Health Benefits.* - Apart from PHILHEALTH, BPO workers shall be entitled other medical and health benefits which include:

- (a) Medical examination free of charge upon entry in the BPO company and not merely upon regularization, and every year thereafter during his/her tenure of employment.
- (b) An HMO or Medical and Health insurance benefits upon employment with minimum coverage of PhP 250,000.00; this shall cover basic laboratory tests, dental procedures, and hospitalization. They shall also be compensated for injuries and medical complications arising from and related to their work in accordance with existing laws, labor policies, guidelines or circulars as the case may be.
- (c) The company shall also have a resident psychologists available 24/7 as the nature of the BPO employees' work are constantly exposed to highly stressful environment (e.g. demeaning treatment of customers, high pressure to meet performance targets, exposure to obscene and violent content, especially for content moderators).

(d) Annual psychiatric and psychological evaluation which may be included in the annual physical examination as stipulated in Section 22 (a) of this Act. When needed, professional psychological or psychiatric intervention should also be provided for free that may be covered by HMO or Medical and Health insurance as stipulated in Section 22 (b) of this Act.

(e) The company shall ensure that an annual medical/dental/optical reimbursement of One Hundred and Fifty Thousand Pesos (P150,000) shall also be awarded to BPO industry workers.

(f) The company shall further ensure the provision of Mandatory Standardized Death and Accident benefits amounting to Two Million Pesos (P2,000,000)

(g) The company shall provide medical kits for both On-Site and Work from Home employees at times of national emergency which consist of the following:

- (1) On-Site employees shall receive a company-provided Personal Protective Equipment (PPE) and hygiene kits
- (2) Work from Home employees shall receive healthcare kits and medicine
- (3) Additional health and medical packages to employees shall be ensured in accordance to public health condition

SECTION 26. *Workplace Policy on Occupational Safety and Health and during Natural Disasters or Danger.* - An occupational safety and health policy shall be formulated by each BPO establishment addressing the safety and health concerns in BPO workplaces and worksites, in accordance with the Occupational Safety and Health Standards (OSHS) and other related OSH issuances. Each BPO company shall enforce a proper business continuity plan that prioritizes the safety, security, and well-being of employees in times of disasters, calamities, and other acts of God.

(a) OSH Standards must be enforced and inspected by the concerned and authorized bodies of the government and prohibit any acts of self-regulated OSH Standards inspection.

(b) The company shall institutionalize OSH committees with genuine and sufficient representation from the employee sector.

SECTION 27. *Security of Tenure.* - No employee can be terminated except for just cause as may be provided by the Labor Code and to protect them from being abused by legal provisions that allows floating status of employees for not more than six months and other existing laws and after due process in an administrative proceeding as provided for in this Act. When putting workers in floating status, the company must not hire new employees until all employees who shall be subject or are currently in 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.

SECTION 28. *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 effectivity of this Act, or benefits beyond the minimum standards set forth by this Act.

SECTION 29. Penal Provision. - Any person or company who violates the provisions of this Act shall be punished with a fine of not less than One Hundred Thousand Pesos (P100,000) 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.

SECTION 30. Separability Clause. - If any provision of this Act is declared unconstitutional or invalid, the remainder thereof not affected thereby shall continue to be in full force and effect.

SECTION 31. Repealing Clause. - All laws, ordinances, rules and regulations, other issuances or parts thereof which are inconsistent with this law are hereby repealed or modified accordingly.

SECTION 32. Effectivity - This Act shall take effect fifteen (15) days after its publication in at least two newspapers of general circulation.

Approved,