

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 9342



Introduced by Representative CAMILLE A. VILLAR

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

Explanatory Note

It is a declared policy of the State to affirm "labor as a primary social economic force. It shall protect the rights of workers and promote their welfare" (Article II, Section 18 of the 1987 Philippine Constitution).

Also, labor rights are rooted in the Constitution, with drafters dedicating a full provision, setting forth rules and laws that are beneficial to labor, as related to in Article XIII, Section 3, to wit:

"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.

It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law.

The State shall promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in

settling disputes, including conciliation, and shall enforce their mutual compliance therewith to foster industrial peace.

The State shall regulate the relations between workers and employers, recognizing the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns on investments, and to expansion and growth.”

Since the early 2000s, the Philippines has become the world’s top outsourcing destination. Manila, Cebu and Iloilo, as well as smaller cities and municipalities in the countryside, provide ample infrastructure for the economically thriving business process outsourcing (BPO) industry, which provides support services to global companies engaged in financial and legal services, health care, retail, technology and communications, among many others.

The IT and Business Process Association of the Philippines, the enabling group for the information technology and business process management industry in the country, said workforce could reach 1.7 million and revenue hit \$35.9 billion¹ (or P2 trillion at current rates) this year. The organization also notes that the IT-BPO industry is a prime economic driver for the Philippines and may soon equal—or even overtake—the remittances of overseas Filipino workers as the largest source of income for the economy.

To attract more investments in the sector and to keep the country’s status as a top outsourcing destination for global companies, the Philippine government offers a wide range of privileges to BPO companies, such as tax perks, incentives, as well as simplified import/export procedures, among others.

German database company Statista projects that revenues in the BPO market could reach up to \$620 million in 2023, and expected to grow by 9.14% annually, resulting in a market volume of \$960 million by 2028².

With the importance of the BPO industry in the Philippine economy, it is but fitting to establish standards to ensure the safety, well-being and rights of employees working in the BPO sector. BPO workers, who are often working night shift hours and sacrificing their health and time for their families, need protections like occupational health and safety, work-life balance, fair compensation, anti-discrimination, medical and health benefits, transportation perks, and right to self-organization.

¹ Venzon, C. 28 Feb. 2023. “Philippine BPO industry beats 2022 targets with hybrid work setup.” Nikkei Asia. <https://asia.nikkei.com/Business/Companies/Philippine-BPO-industry-beats-2022-targets-with-hybrid-work-setup>

² <https://www.statista.com/outlook/tmo/it-services/business-process-outsourcing/philippines>

Under the measure, it shall also be unlawful to compel a worker to commit to a company bond and impose an unreasonable or exorbitant fee to be paid by the employee upon leaving the company before a specified length of time. They shall be protected from discrimination by reason of ethnicity, gender, sexual orientation, age, race, color, religion, political, or other opinion, national, social or geographical origin, disability, property, birth, civil status, pregnancy, physical characteristics or disability, or other status as established by human rights standards.

It is imperative to treat the BPO worker in a just and humane manner and ensure that all the rights and benefits of BPO workers are provided for and accorded to them as mandated by the Labor Code. Abusive language, physical violence or any act which debases the dignity of a person shall not be used against the employee

Approval of this measure is earnestly requested.

Camille Villar
CAMILLE A. VILLAR

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

SECTION 1. Short Title. - This Act shall be known as the "BPO Workers' Welfare and Protection Act of 2023."

SECTION 2. Declaration of Policy. - The State affirms labor as a primary social economic force. Article XIII, Section 3 of the 1987 Constitution provides that the State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equal employment opportunities for all. It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law.

It shall protect and safeguard the rights of the workers and promote and advance their welfare. It is the policy of the State to protect the rights and promote the welfare of workers in the Business Process Outsourcing (BPO) industry and to adopt appropriate steps to recognize and uphold such rights and welfare. It shall also establish and enforce progressively higher standards and take all reasonably practicable and equitable measures to ensure health and safety at the workplace, taking into consideration technological changes and work practice developments and adapting to their physiological and psychological needs.

Moreover, the State acknowledges the role and contribution of BPO workers in the development of the nation and regards the protection and advancement of their rights and welfare as an essential aspect of national progress. The State is committed to enhance, improve, and support their social and economic status, as well as their living and working conditions, terms of employment, professional advancement, and career development.

SECTION 3. Coverage. - This Act shall cover all employees and workers engaged in the BPO industry.

SECTION 4. Definition of Terms. ~ For purposes of this Act, the following terms shall be understood as follows:

- a. 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;
- b. Business Process Outsourcing (BPO) - is defined as the delegation of service-type business processes to a third-party service provider. It is generally divided into the following sectors: call centers, back-office services, data transcription, animation, software development, engineering development end game development. Most BPO companies engage in shift work to complete their 24-hour work cycle;
- c. 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;
- d. 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;
- e. 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;
- f. Safe or safety - shall refer to the physical or environmental conditions of work or employment, which substantially comply with the prescribed Standards, as defined below;
- g. Standards - shall mean the Occupational Safety and Health Standards and Regulations, as described in Section 29 hereof;

- h. 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.
- i. 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;
- j. Work injury - shall mean any injury or occupational illness suffered by a person, which arises out of or in the course of employment;
- k. 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;

SECTION 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.

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

SECTION 7. *Access to Relevant Information.* - The State shall ensure the 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 their 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; and

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

SECTION 8. *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 always such as to reasonably effect a sustained quality of service 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 such tasks are duly compensated by the employer with an additional pay of not less than twenty-five percent (25%) of the regular rate per hour.

SECTION 9. *Regularization.* - All BPO workers 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 months, shall be considered as regular employees.

SECTION 10. *Right to self-organization and the Right to Participate in Democratic Exercises.* - All BPO workers shall have the right to self-organization and to form, join, or assist labor organizations of their own choosing for purposes of 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 11. *Non-abridgment of the Right of Self-organization.* - It shall be unlawful for any person or company to restrain, coerce, discriminate against or unduly interfere with employees and workers in their exercise of the right to self-organization. Such right shall include the right to form, join, or assist labor organizations for the purpose of collective bargaining through representatives of their own choosing and to engage in lawful concerted activities for the same purpose for their mutual aid and protection, subject to the provisions of the Labor Code of the Philippines.

SECTION 12. *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 interfere with, restrain or coerce employees in the exercise of their right to self-organization;

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

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

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

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

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

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

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

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

SECTION 14. *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 15. *Protection from Discrimination.* - BPO workers shall be protected from discrimination by reason of ethnicity, gender, sexual orientation, age, race, color, religion, political, or other opinion, national, social or geographical origin, disability, property, birth, civil status, pregnancy, physical characteristics or disability, or other status as established by human rights standards.

SECTION 16. *Safeguards in Administrative Proceedings.* - In any administrative proceeding, a BPO worker shall have the -

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

- (b) right to be informed of the nature and accusation against him/her;
- (c) right to full access to evidence presented against him/her;
- (d) right to cross-examine the witnesses against him/her;
- (e) right to defend himself/hereof for by a counsel of his/her choice;
- (f) right to be given adequate time to prepare his/her case which shall, in no case, be less than one (1) week;
- (g) right to an independent and impartial tribunal;
- (h) right to a decision rendered in such a manner that both parties can know the various issues involved and the reasons for such decision;
- (i) right to appeal to designated authorities; and
- (j) such other rights as will ensure fairness and impartiality during proceedings.

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

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

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

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

SECTION 20. *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 21. *Rest and 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 break 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 or work among its employees.

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

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

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

SECTION 25. *Transportation benefits.* - In the absence of or lack of safe and adequate public transportation services in BPO workers' places of work, they shall, at least between 9:00 p.m. and 6:00 a.m., be entitled to safe transportation service, which may include, but are not limited to shuttle services, to and from the place of work to designated drop-off points, or to travel allowance which shall 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 26. *Health Program.* - The company physician shall, in addition to his duties stated in the Labor Code, develop, and implement a comprehensive occupational health program for the benefit of all employees.

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

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

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

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

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

SECTION 32. *Workplace Occupational Health and Safety Officer.* - From among the employees, a WOHSO 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.

SECTION 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, no 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.

SECTION 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.

SECTION 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 (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 36. *Separability Cause.* - 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 declared invalid or unconstitutional, the remainder of this Act or the application of such section, provision, or portion thereof shall not be affected by such declaration.

SECTION 37. *Repealing Cause.* - All laws, decrees, letters of Instructions, resolutions, orders, rules and regulations or parts thereof which are inconsistent with the provisions of this Act are hereby repealed, modified accordingly or amended accordingly.

SECTION 38. *Effectivity Cause.* - This Act shall take effect fifteen (15) days from its publication in the Official Gazette or in at least two (2) national newspapers of general circulation.

Approved,