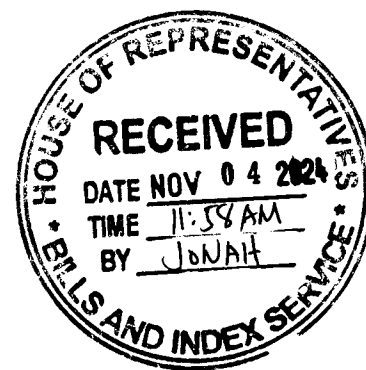


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
Third Regular Session

HOUSE BILL NO. 11007



Introduced by
Akbayan Representative Percival Cendaña

Prefatory Statement

The impact of the COVID-19 pandemic on the labor market was devastating to say the least. It sharply reversed previous economic gains, wiping out 1.7 Million wage and salary jobs in the 12 months to January 2021. Consequently, employment in the informal sector rose by about 435,000.¹ Not only was there a spike in the unemployment rate, there was a reported fall in labor force participation and a large swell in the fraction of workers who are currently employed but are absent from work.²

In order to rebound, the country needs to strengthen active labor market programs. This entails supporting workers achieve income stability, through wage and hiring subsidies, workplace skills funding schemes and industry-led apprenticeship programs, among others.³ However, these programs would not have long-term impact in a highly contractualized employment system such as ours.

Contractualization or commonly referred to as 'endo' (end of contract), the illegal practice of hiring fixed-term employees usually for a period of 5 months or less, and continuously renewing their contracts to avoid giving them the benefits of regular

¹ Bird, et. al. *Philippines' COVID-19 Employment Challenge: Labor Market Programs to the Rescue*. <https://blogs.adb.org/blog/philippines-covid-19-employment-challenge-labor-market-programs-to-rescue>. 4 June 2021

² International Labour Organization. *COVID-19 Labour Market Impact in the Philippines: Assessment and National Policy Responses*. 2020.

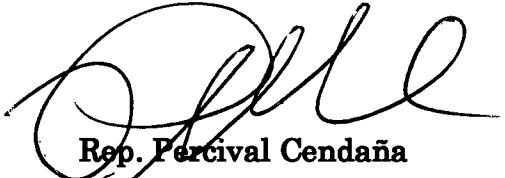
³ Bird, et. al.

employment represents around 27-45 percent of total employment in the country.⁴ These employees are suffering from poor working conditions, and are not given benefits, such as options for a retirement fund, housing loans, healthcare insurance, and other social protection measures. They are also unable to exercise their Constitutional right to self-organization, collective bargaining and negotiations, and right to concerted activities including the right to strike.

Contractualization is not only been abusive to laborers, it is also damaging to an economy trying to recover from the pandemic. Without income stability, the labor market economy would struggle to register growth.

In this proposed legislation, fixed term employment, contracting arrangement and other schemes are going to be prohibited. Our Labor Code shall be amended accordingly. This is in recognition of the State policy enshrined in our 1987 Philippine Constitution—“[t]he State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare.”⁵

The passage of this bill is a reminder that the strength of the Filipino worker is the strength of our economy. The end to “endo” is hereby earnestly sought.



Rep. Percival Cendaña
Akbayan Partylist

⁴ Purugganan, Joseph. *Precarious Road Ahead: The Continuing Struggle of Workers against Contractualization in the Philippines*. Focus on the Global South Dispatch. May 18, 2022

⁵ Article II, Section 18. 1987 Philippine Constitution.

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
Third Regular Session

HOUSE BILL NO. 11007

Introduced by
Akbayan Representative Percival Cendaña

AN ACT
AGAINST THE PRACTICE OF "ENDO" AND CONTRACTING, AMENDING FOR
THIS PURPOSE ARTICLES 106 TO 109, 294 TO 296 OF AND ADDING A NEW
PROVISION TO PRESIDENTIAL DECREE NO. 442, OTHERWISE KNOWN AS
THE LABOR CODE OF THE PHILIPPINES, AS AMENDED

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 "Anti-ENDO and
2 Contracting Law".

3 **SEC. 2. *Article 106 is hereby deleted and replaced as follows:***

4
5 "ART. 106. Prohibition Against Contracting or Subcontracting - CONTRACTING,
6 WHERE A PERSON OR ENTITY FARMS OUT THE PERFORMANCE OF ITS
7 BUSINESS OR ANY PART THEREOF TO ANOTHER, IS HEREBY STRICTLY
8 PROHIBITED EXCEPT AS PROVIDED IN THE FOLLOWING PARAGRAPH.

9 THE SECRETARY OF LABOR AND EMPLOYMENT MAY, BASED ON THE
10 UNANIMOUS RECOMMENDATION OF THE NATIONAL TRIPARTITE
11 INDUSTRIAL PEACE COUNCIL (NTTPC) UNDER ART. 290 (C) OF THE LABOR
12 CODE, AS AMENDED, DETERMINE BY APPROPRIATE REGULATIONS
13 SPECIFIC ACTIVITIES WHICH MAY BE CONTRACTED OUT.

14 NATURAL OR JURIDICAL PERSONS ENGAGED IN ANY ARRANGEMENT
15 ACTING AS PRINCIPALS IN VIOLATION OF THE PROHIBITION AGAINST
16 CONTRACTING OR SUBCONTRACTING SHALL AUTOMATICALLY BE

1 CONSIDERED THE WORKER'S DIRECT EMPLOYER AND THE LATTER SHALL
2 BE DEEMED AS DIRECT EMPLOYEES FOR ALL PURPOSES. NATURAL OR
3 JURIDICAL PERSONS ACTING AS CONTRACTORS IN VIOLATION OF THE
4 PROHIBITION AGAINST CONTRACTING OR SUBCONTRACTING SHALL BE
5 CONSIDERED MERELY AS AN AGENT OF THE EMPLOYER.

6 **SEC. 3. *Articles 107 is hereby deleted and replaced to read as follows:***

7
8 ART. 107. CONDITIONS ON CONTRACTING. - CONTRACTING ALLOWED
9 UNDER THE PRECEDING ARTICLE SHALL BE DONE ONLY IF THE NATURAL
10 OR JURIDICAL PERSON ACTING AS CONTRACTOR OBTAINS A LICENSE
11 FROM THE DEPARTMENT OF LABOR AND EMPLOYMENT AND ONLY IF IT
12 PERFORMS A JOB, WORK OR SERVICE IDENTIFIED BY THE SECRETARY OF
13 LABOR AND EMPLOYMENT, BASED ON THE UNANIMOUS
14 RECOMMENDATION OF THE NATIONAL TRIPARTITE INDUSTRIAL PEACE
15 COUNCIL (NTIPC) UNDER ART. 290 (C) OF THE LABOR CODE.

16 SUCH LICENSE SHALL BE ISSUED AND MAINTAINED ONLY IF THE
17 APPLICANT FULFILLS ALL OF THE FOLLOWING:

18 (A) HAS A PAID-UP CAPITAL OR NET WORTH OF AT LEAST FIFTY MILLION
19 PESOS (P50,000,000.00), WHICH MAY BE INCREASED BY THE SECRETARY OF
20 LABOR AND EMPLOYMENT AS DEEMED APPROPRIATE THROUGH
21 TRIPARTITE CONSULTATION;

22 (B) HAS A CORE OF REGULAR EMPLOYEES CONSISTING OF COMPETENT
23 PROFESSIONALS OR SKILLED WORKERS ESPECIALLY TRAINED TO
24 PERFORM THE JOB, WORK OR SERVICE TO BE CONTRACTED OUT;

25 (C) HAS INVESTMENT IN THE FORM OF EQUIPMENT, MACHINERIES OR
26 TOOLS WHICH ARE REASONABLY NECESSARY TO PERFORM OR COMPLETE
27 THE JOB, WORK, OR SERVICE TO BE CONTRACTED OUT;

28 (D) EXERCISES EXCLUSIVE CONTROL OVER THE PERFORMANCE AND
29 COMPLETION OF THE JOB, WORK, OR SERVICE CONTRACTED OUT;

30 (E) OBTAINS CERTIFICATION OF COMPLIANCE WITH LABOR AND SOCIAL
31 WELFARE LAWS INCLUDING PROOF OF PAYMENT OF SOCIAL SECURITY,
32 PHILIPPINE HEALTH INSURANCE CORPORATION, AND HOME
33 DEVELOPMENT MUTUAL FUND (PAG- IBIG) CONTRIBUTIONS; AND

34 (F) PAYS A LICENSE FEE, WHICH SHALL NOT BE LOWER THAN FIVE
35 HUNDRED THOUSAND PESOS (P500,000.00).

1
2 THE LICENSE SHALL BE VALID FOR A PERIOD OF ONE (1) YEAR AND MAY
3 BE RENEWED UPON COMPLIANCE WITH THE REQUIREMENTS
4 PRESCRIBED ABOVE AND OTHER REQUIREMENTS AS MAY BE
5 DETERMINED BY THE DEPARTMENT OF LABOR AND EMPLOYMENT
6 PROVIDED THAT THE JOB, WORK, OR SERVICE TO BE PERFORMED
7 CONTINUES TO BE DETERMINED BY THE SECRETARY OF LABOR AND
8 EMPLOYMENT AS VALID FOR CONTRACTING BASED ON THE UNANIMOUS
9 RECOMMENDATION OF THE NATIONAL TRIPARTITE INDUSTRIAL PEACE
10 COUNCIL (NTIPC).

11 IN ALL CASES, THE JOB CONTRACTOR SHALL DEMONSTRATE THAT IT HAS
12 FINANCIAL CAPACITY TO CARRY ON ITS BUSINESS BASED ON FACTORS
13 SUCH AS, BUT NOT LIMITED, TO THE NUMBER OF ITS EMPLOYEES AND
14 THE NATURE OF ITS BUSINESS. ANY LEGITIMATE LABOR ORGANIZATION
15 SHALL HAVE ACCESS TO COPIES OF LICENSES ISSUED TO JOB
16 CONTRACTORS AND ANY AND ALL SUBMISSIONS MADE IN CONNECTION
17 WITH SUCH LICENSE.

18 FOR THIS PURPOSE, THE SECRETARY OF LABOR AND EMPLOYMENT, IN
19 CONSULTATION WITH THE NATIONAL TRIPARTITE INDUSTRIAL PEACE
20 COUNCIL (NTIPC), SHALL ISSUE

21 THE APPROPRIATE REGULATIONS FOR THE LICENSING, RENEWAL,
22 SUSPENSION, AND REVOCATION OF LICENSES OF CONTRACTORS.
23 IN NO CASE SHALL PRIVATE RECRUITMENT AND PLACEMENT AGENQES
24 (PRPA) OR PRIVATE EMPLOYMENT AGENCIES (PEA) UNDER ARTICLE 25 OF
25 THE LABOR CODE, AS AMENDED, BE ALLOWED TO ENGAGE IN
26 CONTRACTING."

27 **SEC. 4. *Articles 108 of the labor Code is hereby deleted.***

28 **SEC. 5. *Article 294 of the Labor Code Is hereby amended as follows:***
29

30 "ART. 294. Security of Tenure. - ~~[In~~ case or regular employment, the employer shall
31 not terminate] [t]The services of an employee, IRRESPECTIVE OF EMPLOYMENT
32 STATUS OR POSITION, SHALL NOT BE TERMINATED except for a just cause or
33 when authorized by this Title. An employee who is unjustly dismissed from work shall
34 be entitled to reinstatement without loss of seniority rights and other privileges and
35 to his/her full backwages, inclusive of allowances, and to his/her other benefits or
36 their monetary equivalent computed from the time his/her compensation was
37 withheld from him/her up to the time of his/her actual reinstatement.

1 THE EMPLOYER SHALL HAVE THE BURDEN OF PROVING THAT THE
2 TERMINATION IS WITH CAUSE AND DUE PROCESS.

3 **SEC. 6. *Article 295 is hereby deleted and replaced to read as follows:***

4 "ARTICLE 295. STATUS OF EMPLOYMENT. - EXCEPT THOSE UNDER VALID
5 WRITTEN PROBATIONARY CONTRACTS, ALL EMPLOYEES ARE DEEMED
6 REGULAR INCLUDING PROJECT AND SEASONAL EMPLOYEES, AND SHALL,
7 IN CASE OF RANK-AND- FILE OR SUPERVISORS, BE TREATED AS PART OF
8 THE APPROPRIATE BARGAINING UNIT FOR PURPOSES OF THE EXERCISE
9 OF THE CONSTITUTIONAL RIGHT TO SELF- ORGANISATION AND
10 COLLECTIVE BARGAINING, AND SHALL BE ENTITLED TO ALL THE
11 BENEFITS UNDER THE EXISTING CBA, IF ANY.

12 PROJECT AND SEASONAL EMPLOYEES ARE REGULAR FOR THE DURATION
13 OF THE PROJECT OR SEASON, AS THE CASE MAY BE. FOR THIS PURPOSE,
14 PROJECT EMPLOYMENT IS EMPLOYMENT IN AN EXISTING PROJECT OR
15 UNDERTAKING THE COMPLETION OR TERMINATION OF WHICH HAS BEEN
16 DETERMINED AND MADE KNOWN TO THE EMPLOYEE AT THE TIME OF THE
17 ENGAGEMENT. SEASONAL EMPLOYMENT IS BASED ON THE EXISTENCE OF
18 A SEASON IN AGRICULTURAL WORK AS DETERMINED BY THE
19 DEPARTMENT OF LABOR AND EMPLOYMENT AND BASED ON THE
20 UNANIMOUS RECOMMENDATION OF THE NATIONAL TRIPARTITE
21 INDUSTRIAL PEACE COUNCIL (NTIPC). WORKERS UNDER PROJECT AND
22 SEASONAL EMPLOYMENT ARE ENTITLED TO THE RIGHT OF FIRST
23 REFUSAL TO THE TASK, WORK, OR PROJECT WHICH IS THE SUBJECT
24 MATTER OF THEIR EMPLOYMENT.

25 ALL OTHER FORMS OF DISCONTINUOUS EMPLOYMENT ARE PROHIBITED.
26 CLAUSES IN EMPLOYMENT CONTRACTS PROVIDING FOR A FIXED TERM OR
27 DEFINITE PERIOD OF EMPLOYMENT ARE VOID FOR BEING CONTRARY TO
28 PUBLIC POLICY. WORKERS UNDER SUCH ARRANGEMENTS ARE DEEMED
29 REGULAR EMPLOYEES RECKONED FROM THE FIRST DAY OF
30 EMPLOYMENT AND SHALL, IN CASE OF RANK-AND-FILE OR SUPERVISORS,
31 BE TREATED AS PART OF THE APPROPRIATE BARGAINING UNIT FOR
32 PURPOSES OF THE EXERCISE OF THE CONSTITUTIONAL RIGHT TO SELF-
33 ORGANISATION AND COLLECTIVE BARGAINING, AND SHALL BE ENTITLED
34 TO ALL THE BENEFITS UNDER THE EXISTING CBA, IF ANY.

35 FOR THE AVOIDANCE OF DOUBT, AN EMPLOYER-EMPLOYEE
36 RELATIONSHIP EXISTS WHEN THE WORKER IS ENGAGED TO RENDER
37 WORK OR SERVICE UNDER THE CONTROL OR SUPERVISION OF THE
38 EMPLOYER, NOT ONLY AS TO THE END TO BE ACHIEVED, BUT ALSO THE
39 MANNER, MEANS AND METHOD IN REACHING THE END."

1 **SEC. 7. *Article 296 is hereby amended to read as follows:***
2

3 "Art. 296. *Probationary employment* - Probationary employment shall not exceed six
4 (6) months from the [date the employee started working, unless it is covered by an
5 apprenticeship agreement stipulating a longer period. The services of an employee
6 who has been engaged on a probationary basis may be terminated for a just cause or
7 when he fails to qualify as a regular employee in accordance with reasonable
8 standards made known by the employer to the employee at the time of his
9 engagement. An employee who is allowed to work after a probationary period shall
10 be considered a regular employee.] FIRST DAY OF SERVICE REGARDLESS OF
11 THE NATURE OF WORK TO BE PERFORMED PROVIDED THAT, THE
12 PROBATIONARY PERIOD OF SCHOOL TEACHING PERSONNEL IN PRIMARY
13 AND SECONDARY EDUCATION SHALL NOT EXCEED ONE (1) ACADEMIC
14 YEAR AND THE PROBATIONARY PERIOD OF SCHOOL TEACHING
15 PERSONNEL IN HIGHER EDUCATION SHALL NOT EXCEED ONE (1)
16 SEMESTER.

17 The services of an employee who has been engaged on a probationary basis may be
18 terminated for a just cause or when he fails to qualify as a regular employee in
19 accordance with reasonable standards WHICH SHALL BE made known by the
20 employer to the employee IN WRITING at the time of his engagement. An employee
21 who is allowed to work after a probationary period shall be considered a regular
22 employee. EXCEPT WHEN THE TERMINATION IS FOR JUST CAUSE, A
23 PROBATIONARY EMPLOYEE WHO HAS RENDERED AT LEAST ONE (1)
24 MONTH OF SERVICE IS ENTITLED TO A TERMINATION PAY OF ONE-HALF
25 (1/2) MONTH SALARY."

26 **SEC. 8. *Insert a new Article 303-A to read as follows:***

27 "ARTICLE 303-A. PENALTIES. - (A) THE DEPARTMENT OF LABOR AND
28 EMPLOYMENT SHALL IMPOSE THE FOLLOWING PENALTIES:

- 29 1. FOR EVERY PERSON OR ENTITY ENGAGED IN ANY ACTIVITY IN
30 VIOLATION OF THE PROHIBITION AGAINST CONTRACTING OR
31 SUBCONTRACTING, A FINE OF AT LEAST FIFTY THOUSAND PESOS
32 (PHP 50,000.00) ASSESSED PER EMPLOYEE ENGAGED UNDER A
33 PROHIBITED CONTRACTING ARRANGEMENT.
- 34 2. FOR EVERY PERSON WHO OR ENTITY WHICH MISCLASSIFIES AN
35 EMPLOYEE'S STATUS OF EMPLOYMENT IN DEROGATION OF THE
36 EMPLOYEE'S SECURITY OF TENURE, A FINE OF AT LEAST FIFTY
37 THOUSAND PESOS (PHP 50,000.00) ASSESSED PER MISCLASSIFIED
38 EMPLOYEE.
- 39 3. FOR EVERY PERSON OR ENTITY ENGAGED IN ANY ACTIVITY IN
40 VIOLATION OF THE PROHIBITION AGAINST FIXED TERM

1 EMPLOYMENT, A FINE OF AT LEAST ONE HUNDRED THOUSAND
2 PESOS (PHP 100,000.00) ASSESSED PER EMPLOYEE ENGAGED UNDER
3 SUCH PROHIBITED ARRANGEMENTS.

- 4 4. FOR EVERY PERSON OR ENTITY ENGAGED IN ANY ACTIVITY IN
5 VIOLATION OF THE PROVISION ON PROBATIONARY EMPLOYMENT, A
6 FINE OF AT LEAST ONE HUNDRED THOUSAND PESOS (PHP 100,000.00)
7 ASSESSED PER EMPLOYEE ENGAGED UNDER SUCH PROHIBITED
8 ARRANGEMENTS.
9

10 THESE PENALTIES SHALL BE IMPOSED WITHOUT PREJUDICE TO
11 OTHER DAMAGES AND PENALTIES THAT MAY BE IMPOSED UNDER THIS
12 CODE AND OTHER LAWS AND REGULATIONS.

13
14 (B) IMPRISONMENT OF NOT LESS THAN TWELVE (12) YEARS AND ONE (1)
15 DAY BUT NOT MORE THAN TWENTY (20) YEARS SHALL BE IMPOSED
16 UPON ANY PERSON FOUND GUILTY OF COMMITTING ANY OF THE
17 FOLLOWING:

- 18 1. ENGAGING IN ANY ACTIVITY IN VIOLATION OF THE PROHIBITION
19 AGAINST CONTRACTING OR SUBCONTRACTING;
20 2. MISCLASSIFYING AN EMPLOYEE'S STATUS OF EMPLOYMENT IN
21 DEROGATION OF THE EMPLOYEE'S SECURITY OF TENURE;
22 3. VIOLATING THE PROVISION ON PROBATIONARY EMPLOYMENT; OR
23 4. OTHER THAN THOSE ALLOWED IN ARTICLE 295 OF THIS CODE,
24 USING FIXED TERM EMPLOYMENT IN ENGAGING WORKERS.

25 IN ANY OF THE FOREGOING CASES IN PARAGRAPH (B), THE PENALTY OF
26 LIFE IMPRISONMENT SHALL BE IMPOSED IF THE ACT COMMITTED
27 PERTAINS TO AT LEAST THREE (3) WORKERS.

28 **SEC. 9. *Separability Clause.*** – If any section or provision of this Act is held
29 unconstitutional or invalid, the remaining sections or provisions with the provisions
30 not affected thereby shall continue to be in full force and effect.

31 **SEC. 10. *Repealing Clause.*** – All laws, decrees, executive orders, rules and
32 regulations, issuance or parts thereof inconsistent with this Act are hereby repealed
33 or modified accordingly.

34 **SEC. 11. *Effectivity.*** - This Act shall take effect fifteen (15) days after publication in
35 the Official Gazette or two (2) newspapers of general circulation.

Approved,