

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

Twentieth Congress
First Regular Session

House Bill No. 1851



Introduced by AKBAYAN Representatives Percival Cendaña, Atty. Jose Manuel “Chel” Diokno, and Dadah Kiram Ismula and Dinagat Islands Representative Kaka Bag-ao

Prefatory Statement

The impact of the COVID-19 pandemic on the labor market was devastating. 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 will 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 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.

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.

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

Contractualization is not only 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.

This proposed legislation has the following features:

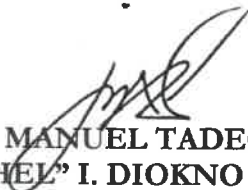
- Establishes a prohibition against contracting or subcontracting, except where a determination has been made by the National Tripartite Industrial Peace Council (NTIPC) that a specific activity may be legitimately contracted or subcontracted out;
- Imposes solidary liability on the employer for violations committed by the contractor or sub-contractor;
- Prohibits fixed-term employment contracts;
- Requires that all employees, except those under valid written probationary contracts, are deemed regular, including project and seasonal employees;
- Imposes penalties in the form of fine and imprisonment for violations

This bill recognizes 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.



PERCIVAL V. CENDAÑA
Akbayan Representative



JOSE MANUEL TADEO
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Akbayan Representative



DADAN MIRAM ISMULA
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KAKA J. BAGAO
Dinagat Islands Representative

⁵ Article II, Section 18. 1987 Philippine Constitution.

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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 Contracting
2 Law”.

3
4 **SEC. 2.** Article 106 is hereby deleted and replaced as follows:
5

6 **“ART. 106. Prohibition Against Contracting or Subcontracting** - CONTRACTING,
7 WHERE A PERSON OR ENTITY FARMS OUT THE PERFORMANCE OF ITS BUSINESS
8 OR ANY PART THEREOF TO ANOTHER, IS HEREBY STRICTLY PROHIBITED
9 EXCEPT AS PROVIDED IN THE FOLLOWING PARAGRAPH.
10

11 THE SECRETARY OF LABOR AND EMPLOYMENT MAY, UPON THE UNANIMOUS
12 RECOMMENDATION OF THE NATIONAL TRIPARTITE INDUSTRIAL PEACE
13 COUNCIL (NTIPC) UNDER ART. 290 (C) OF THE LABOR CODE, AS AMENDED,
14 DETERMINE BY APPROPRIATE REGULATIONS SPECIFIC ACTIVITIES WHICH
15 MAY BE CONTRACTED OUT.
16

17 NATURAL OR JURIDICAL PERSONS ENGAGED IN ANY ARRANGEMENT ACTING
18 AS PRINCIPALS IN VIOLATION OF THE PROHIBITION AGAINST CONTRACTING
19 OR SUBCONTRACTING SHALL AUTOMATICALLY BE CONSIDERED THE
20 WORKER’S DIRECT EMPLOYER AND THE LATTER SHALL BE DEEMED AS DIRECT
21 EMPLOYEES FOR ALL PURPOSES INCLUDING MEMBERSHIP IN THE

1 APPROPRIATE BARGAINING UNIT. NATURAL OR JURIDICAL PERSONS ACTING
2 AS CONTRACTORS IN VIOLATION OF THE PROHIBITION AGAINST
3 CONTRACTING OR SUBCONTRACTING SHALL BE CONSIDERED MERELY AS AN
4 AGENT OF THE EMPLOYER.”

5
6 **SEC. 3.** Article 108 of the Labor Code is hereby deleted and replaced to read as follows:
7

8 **“ART. 108. CONDITIONS ON CONTRACTING. –** CONTRACTING ALLOWED
9 UNDER THE PRECEDING ARTICLE SHALL BE DONE ONLY IF THE NATURAL OR
10 JURIDICAL PERSON ACTING AS CONTRACTOR OBTAINS A LICENSE FROM THE
11 DEPARTMENT OF LABOR AND EMPLOYMENT AND ONLY IF IT PERFORMS A JOB,
12 WORK OR SERVICE IDENTIFIED BY THE SECRETARY OF LABOR AND
13 EMPLOYMENT UPON THE UNANIMOUS RECOMMENDATION OF THE NATIONAL
14 TRIPARTITE INDUSTRIAL PEACE COUNCIL (NTIPC) UNDER ART. 290 (C) OF THE
15 LABOR CODE.
16

17 SUCH LICENSE SHALL BE ISSUED AND MAINTAINED ONLY IF THE APPLICANT
18 FULFILLS ALL OF THE FOLLOWING:
19

20 (A) HAS A PAID-UP CAPITAL OR NET WORTH OF AT LEAST FIFTY MILLION
21 PESOS (P50,000,000.00), WHICH MAY BE INCREASED BY THE SECRETARY OF
22 LABOR AND EMPLOYMENT AS DEEMED APPROPRIATE THROUGH TRIPARTITE
23 CONSULTATION;
24

25 (B) HAS A CORE OF REGULAR EMPLOYEES CONSISTING OF COMPETENT
26 PROFESSIONALS OR SKILLED WORKERS ESPECIALLY TRAINED TO PERFORM
27 THE JOB, WORK OR SERVICE TO BE CONTRACTED OUT;
28

29 (C) HAS INVESTMENT IN THE FORM OF EQUIPMENT, MACHINERIES OR
30 TOOLS WHICH ARE REASONABLY NECESSARY TO PERFORM OR COMPLETE THE
31 JOB, WORK, OR SERVICE TO BE CONTRACTED OUT;
32

33 (D) EXERCISES EXCLUSIVE CONTROL OVER THE PERFORMANCE AND
34 COMPLETION OF THE JOB, WORK, OR SERVICE CONTRACTED OUT;
35

36 (E) OBTAINS CERTIFICATION OF COMPLIANCE WITH LABOR AND SOCIAL
37 WELFARE LAWS INCLUDING PROOF OF PAYMENT OF SOCIAL SECURITY,
38 PHILIPPINE HEALTH INSURANCE CORPORATION, AND HOME DEVELOPMENT
39 MUTUAL FUND (PAG-IBIG) CONTRIBUTIONS; AND
40

41 (F) PAYS A LICENSE FEE, WHICH SHALL NOT BE LOWER THAN FIVE
42 HUNDRED THOUSAND PESOS (P500,000.00).
43

44 THE LICENSE SHALL BE VALID FOR A PERIOD OF ONE (1) YEAR AND MAY BE
45 RENEWED UPON COMPLIANCE WITH THE REQUIREMENTS PRESCRIBED ABOVE
46 AND OTHER REQUIREMENTS AS MAY BE DETERMINED BY THE DEPARTMENT
47 OF LABOR AND EMPLOYMENT, PROVIDED THAT THE JOB, WORK, OR SERVICE
48 TO BE PERFORMED CONTINUES TO BE DETERMINED BY THE SECRETARY OF
49 LABOR AND EMPLOYMENT AS VALID FOR CONTRACTING BASED ON THE
50 UNANIMOUS RECOMMENDATION OF THE NATIONAL TRIPARTITE INDUSTRIAL

1 PEACE COUNCIL (NTIPC).

2
3 IN ALL CASES, THE JOB CONTRACTOR SHALL DEMONSTRATE THAT IT HAS
4 FINANCIAL CAPACITY TO CARRY ON ITS BUSINESS BASED ON FACTORS SUCH
5 AS, BUT NOT LIMITED, TO THE NUMBER OF ITS EMPLOYEES AND THE NATURE
6 OF ITS BUSINESS.

7
8 ANY LEGITIMATE LABOR ORGANIZATION SHALL BE ENTITLED TO OBTAIN
9 COPIES OF LICENSES ISSUED TO JOB CONTRACTORS AND ANY AND ALL
10 SUBMISSIONS MADE IN CONNECTION WITH SUCH LICENSE.

11
12 FOR THIS PURPOSE, THE SECRETARY OF LABOR AND EMPLOYMENT, IN
13 CONSULTATION WITH THE NATIONAL TRIPARTITE INDUSTRIAL PEACE
14 COUNCIL (NTIPC), SHALL ISSUE THE APPROPRIATE REGULATIONS FOR THE
15 LICENSING, RENEWAL, SUSPENSION, AND REVOCATION OF LICENSES OF
16 CONTRACTORS.

17
18 IN NO CASE SHALL PRIVATE RECRUITMENT AND PLACEMENT AGENCIES (PRPA)
19 OR PRIVATE EMPLOYMENT AGENCIES (PEA) UNDER ARTICLE 25 OF THE LABOR
20 CODE, AS AMENDED, BE ALLOWED TO ENGAGE IN CONTRACTING."

21
22 **SEC. 5.** Article 294 of the Labor Code is hereby amended as follows:

23
24 **"ART. 294. Security of Tenure.** – [In case or regular employment, the employer shall not
25 terminate] [t]The services of an employee, IRRESPECTIVE OF EMPLOYMENT STATUS
26 OR POSITION, SHALL NOT BE TERMINATED except for a just cause or when authorized
27 by this Title. An employee who is unjustly dismissed from work shall be entitled to
28 reinstatement without loss of seniority rights and other privileges and to his/HER full
29 backwages, inclusive of allowances, and to his/HER other benefits or their monetary equivalent
30 computed from the time his/HER compensation was withheld from him/HER up to the time of
31 his/HER actual reinstatement.

32
33 IN ALL CASES WHERE EMPLOYMENT IS TERMINATED, THE EMPLOYER SHALL
34 HAVE THE BURDEN OF PROVING THAT THE TERMINATION LEGAL, THAT IS,
35 SUPPORTED BY LEGAL CAUSE AND THAT PROCEDURAL DUE PROCESS WAS
36 OBSERVED."

37
38 **SEC. 6.** Article 295 is hereby deleted and replaced to read as follows:

39
40 **"ARTICLE 295. STATUS OF EMPLOYMENT.** – "AN EMPLOYER-EMPLOYEE
41 RELATIONSHIP EXISTS WHEN A WORKER IS ENGAGED TO RENDER WORK OR
42 SERVICE UNDER THE CONTROL OR SUPERVISION OF THE EMPLOYER, NOT
43 ONLY AS TO THE END TO BE ACHIEVED, BUT ALSO THE MANNER, MEANS AND
44 METHODS IN REACHING THE END.

45
46 EXCEPT THOSE UNDER VALID WRITTEN PROBATIONARY CONTRACTS, ALL
47 EMPLOYEES ARE DEEMED REGULAR INCLUDING PROJECT AND SEASONAL
48 EMPLOYEES, AND SHALL, IN CASE OF RANK-AND-FILE OR SUPERVISORS, BE
49 TREATED AS PART OF THE APPROPRIATE BARGAINING UNIT FOR PURPOSES OF
50 THE EXERCISE OF THE CONSTITUTIONAL RIGHT TO SELF-ORGANISATION AND

1 COLLECTIVE BARGAINING, AND SHALL BE ENTITLED TO ALL THE BENEFITS
2 UNDER A COLLECTIVE BARGAINING AGREEMENT (CBA), IF ANY.

3
4 PROJECT AND SEASONAL EMPLOYEES ARE REGULAR FOR THE DURATION OF
5 THE PROJECT OR SEASON, AS THE CASE MAY BE. FOR THIS PURPOSE, PROJECT
6 EMPLOYMENT REFERS TO EMPLOYMENT IN AN EXISTING PROJECT OR
7 UNDERTAKING THE COMPLETION OR TERMINATION OF WHICH HAS BEEN
8 DETERMINED AND MADE KNOWN TO THE EMPLOYEE AT THE TIME OF
9 ENGAGEMENT. SEASONAL EMPLOYMENT REFERS TO EMPLOYMENT BASED ON
10 THE EXISTENCE OF A SEASON IN AGRICULTURAL WORK AS DETERMINED BY
11 THE DEPARTMENT OF LABOR AND EMPLOYMENT UPON THE UNANIMOUS
12 RECOMMENDATION OF THE NATIONAL TRIPARTITE INDUSTRIAL PEACE
13 COUNCIL (NTIPC). WORKERS UNDER PROJECT AND SEASONAL EMPLOYMENT
14 ARE ENTITLED TO THE RIGHT OF FIRST REFUSAL TO THE TASK, WORK, OR
15 PROJECT IN WHICH THEY ARE EMPLOYED.

16
17 ALL OTHER FORMS OF NON-REGULAR EMPLOYMENT ARE PROHIBITED.
18 PROVISIONS IN EMPLOYMENT CONTRACTS PROVIDING FOR A FIXED TERM OR
19 DEFINITE PERIOD OF EMPLOYMENT ARE VOID FOR BEING CONTRARY TO
20 PUBLIC POLICY. WORKERS UNDER SUCH ARRANGEMENTS ARE DEEMED
21 REGULAR EMPLOYEES RECKONED FROM THE FIRST DAY OF EMPLOYMENT
22 AND SHALL, IN CASE OF RANK-AND-FILE OR SUPERVISORS, BE TREATED AS
23 PART OF THE APPROPRIATE BARGAINING UNIT FOR PURPOSES OF THE
24 EXERCISE OF THE CONSTITUTIONAL RIGHT TO SELF-ORGANISATION AND
25 COLLECTIVE BARGAINING, AND SHALL BE ENTITLED TO ALL THE BENEFITS
26 UNDER A COLLECTIVE BARGAINING AGREEMENT (CBA), IF ANY.”

27
28 SEC. 7. Article 296 is hereby amended to read as follows:
29

30 “**Art. 296. Probationary employment.** – Probationary employment shall not exceed six (6)
31 months from the [date the employee started working, unless it is covered by an apprenticeship
32 agreement stipulating a longer period. The services of an employee who has been engaged on
33 a probationary basis may be terminated for a just cause or when he fails to qualify as a regular
34 employee in accordance with reasonable standards made known by the employer to the
35 employee at the time of his engagement. An employee who is allowed to work after a
36 probationary period shall be considered a regular employee.] FIRST DAY OF SERVICE
37 REGARDLESS OF THE NATURE OF WORK TO BE PERFORMED PROVIDED THAT,
38 THE PROBATIONARY PERIOD OF SCHOOL TEACHING PERSONNEL IN PRIMARY
39 AND SECONDARY EDUCATION SHALL NOT EXCEED ONE (1) ACADEMIC YEAR
40 AND THE PROBATIONARY PERIOD OF SCHOOL TEACHING PERSONNEL IN
41 HIGHER EDUCATION SHALL NOT EXCEED ONE (1) SEMESTER.

42
43 The services of an employee who has been engaged on a probationary basis may be terminated
44 for a just cause or when he fails to qualify as a regular employee in accordance with reasonable
45 standards WHICH SHALL BE made known by the employer to the employee IN WRITING
46 at the time of his engagement. An employee who is allowed to work after a probationary
47 period shall be considered a regular employee.

48
49 EXCEPT WHEN THE TERMINATION IS FOR JUST CAUSE, A PROBATIONARY
50 EMPLOYEE WHO HAS RENDERED AT LEAST ONE (1) MONTH OF SERVICE IS

1 ENTITLED TO A TERMINATION PAY OF ONE (1) MONTH SALARY.”

2
3 **SEC. 8.** Insert a new Article 303-A to read as follows:

4
5 **“ARTICLE 303-A. PENALTIES. – (A) THE DEPARTMENT OF LABOR AND**
6 **EMPLOYMENT SHALL IMPOSE THE FOLLOWING PENALTIES:**

- 7
8 1. FOR EVERY PERSON OR ENTITY ENGAGED IN ANY ACTIVITY IN
9 VIOLATION OF THE PROHIBITION AGAINST CONTRACTING OR
10 SUBCONTRACTING, A FINE OF AT LEAST FIFTY THOUSAND PESOS (PHP
11 50,000.00) ASSESSED PER EMPLOYEE ENGAGED UNDER A PROHIBITED
12 CONTRACTING ARRANGEMENT.
13
14 2. FOR EVERY PERSON WHO OR ENTITY WHICH MISCLASSIFIES AN
15 EMPLOYEE’S STATUS OF EMPLOYMENT IN DEROGATION OF THE
16 EMPLOYEE’S SECURITY OF TENURE, A FINE OF AT LEAST FIFTY
17 THOUSAND PESOS (PHP 50,000.00) ASSESSED PER MISCLASSIFIED
18 EMPLOYEE.
19
20 3. FOR EVERY PERSON OR ENTITY ENGAGED IN ANY ACTIVITY IN
21 VIOLATION OF THE PROHIBITION AGAINST FIXED TERM EMPLOYMENT,
22 A FINE OF AT LEAST ONE HUNDRED THOUSAND PESOS (PHP 100,000.00)
23 ASSESSED PER EMPLOYEE ENGAGED UNDER SUCH PROHIBITED
24 ARRANGEMENTS.
25
26 4. FOR EVERY PERSON OR ENTITY ENGAGED IN ANY ACTIVITY IN
27 VIOLATION OF THE PROVISION ON PROBATIONARY EMPLOYMENT, A
28 FINE OF AT LEAST ONE HUNDRED THOUSAND PESOS (PHP 100,000.00)
29 ASSESSED PER EMPLOYEE ENGAGED UNDER SUCH PROHIBITED
30 ARRANGEMENTS.
31

32
33 THESE PENALTIES SHALL BE IMPOSED WITHOUT PREJUDICE TO OTHER
34 DAMAGES AND PENALTIES THAT MAY BE IMPOSED UNDER THIS CODE AND
35 OTHER LAWS AND REGULATIONS.
36

37 (B) IMPRISONMENT OF NOT LESS THAN TWELVE (12) YEARS AND ONE (1) DAY
38 BUT NOT MORE THAN TWENTY (20) YEARS SHALL BE IMPOSED UPON ANY
39 PERSON FOUND GUILTY OF COMMITTING ANY OF THE FOLLOWING:

- 40 1. ENGAGING IN ANY ACTIVITY IN VIOLATION OF THE
41 PROHIBITION AGAINST CONTRACTING OR
42 SUBCONTRACTING;
43 2. MISCLASSIFYING AN EMPLOYEE’S STATUS OF
44 EMPLOYMENT IN DEROGATION OF THE EMPLOYEE’S
45 SECURITY OF TENURE;
46 3. VIOLATING THE PROVISION ON PROBATIONARY
47 EMPLOYMENT; OR
48 4. OTHER THAN THOSE ALLOWED IN ARTICLE 295 OF THIS
49 CODE, USING FIXED TERM EMPLOYMENT IN ENGAGING
50 WORKERS.

1
2 IN ANY OF THE FOREGOING CASES IN PARAGRAPH (B), THE PENALTY OF LIFE
3 IMPRISONMENT SHALL BE IMPOSED IF THE ACT COMMITTED PERTAINS TO AT
4 LEAST THREE (3) WORKERS.
5

6 **SEC. 9. *Separability Clause.*** - If any provision or part hereof is held invalid or
7 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
8 valid.
9

10 **SEC. 10. *Repealing Clause.*** - All acts, executive orders, administrative orders,
11 proclamations, rules and regulations or parts thereof inconsistent with any of the provisions of
12 this Act are hereby repealed or modified accordingly.
13

14 **SEC. 11. *Effectivity.*** - This Act shall take effect fifteen (15) days after publication in
15 the Official Gazette or two (2) newspapers of general circulation.
16
17

18 Approved,