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SENATE
S. No. 2604

RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Constitution, Article 13, Section 3, paragraphs 1 and 2 provide:

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.

“In all probability, work consists of an uninterrupted and endless sequence of similar conversations with customers she never meets. She has to concentrate hard on what is being said, jump from page to page on a screen, make sure that the details entered are accurate and that she has said the right things in a pleasant manner. The conversation ends and as she tidies up the loose ends, there is another voice in her headset. The pressure is intense because she knows her work is being measured, her speech monitored, and it often leaves her mentally, physically and emotionally exhausted.”¹ This is the typical call center agent experience. It is a mix of high pressure work, reversed work hours, above average paychecks, and a lifestyle that is *sui generis* to this profession.

The call center industry has been described as a sunshine industry in the Philippines owing in no small part to the boom that it has experienced in the past decade. News reports place the expected revenue of the Philippines from voice-based customer support and sales for 2010 at

¹ *An Assembly Line in the Head: Work and Employee Relations in the Call Center*, Taylor and Bain, Industrial Relations Journal, 30:2, p. 115 (1999).

\$5.7 billion. The Philippine \$9.5 billion² Business Process Outsourcing (BPO) industry will also overtake India's \$12.4 billion industry in five years. The Business Processing Association of the Philippines reported that their members employ around 400,000 workers.³ Even International Labor Organization (ILO) Chief Lawrence Jeff Johnson recommended that Philippine graduates who are waiting for opportunities abroad should fill the manpower shortage in the BPO sector, particularly in call centers and medical transcription areas.⁴

While the BPO sector gives us all of these benefits, there is a need to balance the legitimate business interests of BPO companies with the labor rights of employees. A recent study by the ILO showed the perils of working in call centers. A study found that 42.6 percent of BPO employees in the Philippines work the night shift. This work schedule is linked to health and occupational safety concerns. Problems like sleep disorders; fatigue; eye strain; neck, shoulder and back pains; and voice problems are typical for these workers. 47.7 percent of Filipino BPO workers the authors surveyed suffered from insomnia, while 54 percent suffered from fatigue. Call centers employees were also found to have relatively low autonomy. Their jobs are described as "typically involving heavy workloads backed by performance targets and tight rules and procedures enforced by electronic monitoring which are known to produce high levels of work-related stress. Some of these psychological stress-inducing factors were harassment from irate clients; excessive and tedious workload; performance demands; monotony; and regular night work."⁵

A Swedish study estimates that call center operators spend an average of 1,300-1,400 hours a year sitting at the computer taking calls. Since their work areas are often structured in an open-space plan, the resulting noise levels can be high. In 2003, researchers discovered that the average noise level was at a level that clearly disturbs concentration and can cause fatigue and headaches. Headphones utilized by operators are often not designed to block out the ambient noise. Moreover, suitable ergonomics for avoiding eye strain were found to be lacking.⁶

² <http://www.gmanews.tv/story/183453/bpo-industry-eyes-faster-sales-growth-this-year>

³ <http://newsinfo.inquirer.net/breakingnews/infotech/view/20091020-231204/RP-again-cited-as-top-outsourcing-site>

⁴ <http://www.gmanews.tv/story/204278/ilo-chief-tells-filipino-graduates-to-get-bpo-jobs>

⁵ <http://www.dole.gov.ph/secondpage.php?id=1277>, citing *Offshoring and Working Conditions in Remote Work*, by Jon Messenger.

⁶ <http://www.eurofound.europa.eu/ewco/2005/04/SE0504NU02.htm>

Another problem with the industry is the way it discourages unions.⁷ Several surveys and research in Europe showed that unions do matter in the call center industry. It is in the very nature of call center work where the protection of trade unions is very much called for. The Communication Workers Union (CWU), for example, is the biggest union for the telecoms industry in the United Kingdom with 215,000 members. The CWU “exists to protect, advance and serve the interests of its members throughout the communications industry.”⁸

This bill seeks to better protect the interests and welfare of the workers in the BPO industry. It is in the interest of the BPO companies themselves to protect their workers who are their most important resource. Lower attrition rates and the attraction of more capable workers leading to a stronger BPO industry is what this bill seeks to accomplish.

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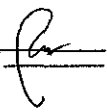
⁷ <http://www.mb.com.ph/articles/217612/solon-reveals-call-center-evils>

⁸ <http://www.cwu.org/about-us.html>



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1 AN ACT
2 PROVIDING FOR THE PROTECTION OF WORKERS
3 IN THE CALL CENTER INDUSTRY

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

4 SECTION 1. *Short Title.* – This Act shall be known as the “Magna Carta for Call Center
5 Workers Act of 2010.”

6 SECTION 2. *Declaration of Policy.* – (a) It is the policy of the State to afford full
7 protection to labor, local and overseas, organized and unorganized, and promote full employment
8 and equal employment opportunities for all.

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

14 (c) As a party to the International Labor Organization Convention concerning
15 Freedom of Association and Protection of the Right to Organize, the State affirms that workers,
16 without distinction whatsoever, shall have the right to establish and, subject only to the rules of
17 the organization concerned, to join organizations of their own choosing without previous
18 authorization.

19 SECTION 3. *Definition of Terms.* – As used in this Act, the term:

20 (a) “Business Process Outsourcing” or “BPO” refers to the transfer of an
21 organization’s non-core processes to a third-party who uses an information technology based

1 service delivery, and in turn manages the selected process based on defined and measurable
2 performance criteria;

3 (b) "Call center" is a type of BPO and refers to a centralized office for receiving and
4 transmitting requests by telephone or Internet. Call center operations include, but are not limited
5 to, the granting of incoming product support, information inquiries from consumers, and
6 outgoing calls for telemarketing, clientele, product services, and debt collection;

7 (c) "Call center employee" shall refer to any person employed by a call center either
8 in a temporary/probationary or permanent capacity;

9 (d) "Department" shall refer to the Department of Labor and Employment;

10 (e) "Secretary" shall refer to the Secretary of Labor and Employment;

11 SECTION 4. *Rights of Call Center Employees.* – Call center employees shall enjoy the
12 following rights:

13 (a) The right to organize and join labor organizations;

14 (b) The right to a safe and healthy working environment which will facilitate optimal
15 physical and mental health in relation to their work;

16 (c) Call center employees shall have at least a one (1) hour continuous meal break in
17 the middle of every eight (8) hour shift;

18 (d) The right to privacy of call center employees shall be respected. The monitoring
19 of personal phone calls shall not be allowed, and in the event that their official phone
20 conversations are monitored, they must be informed of this at all times prior to the start of the
21 monitoring process;

22 (e) For employees working in the night shift, they shall have the right to stay in a
23 comfortable resting area within the employer's premises until daybreak to ensure their safety;

24 (f) The right to be informed of the terms and conditions of their contract.

25 SECTION 5. *Duties of Employers in the Industry.* – It is the duty of call center companies
26 engaged in business in the Philippines to observe the following:

27 (a) Establish and maintain a safe and healthy working environment which will
28 facilitate optimal physical and mental health in relation to the work of call center employees;

1 (b) Monitoring software should not be used to unduly pressure employees and should
2 not impose an oppressive working environment;

3 (c) Employers should incorporate regular rest breaks and changes in activity for all
4 display screen equipment users;

5 (d) They are required to carry out risk assessments and to remove monotonous work
6 and work at a *pre-determined rate when designing tasks whenever possible*;

7 (e) All BPO companies shall inform their prospective recruits that they can have their
8 contract explained to them free of charge at the BPO Help Desk of the Department of Labor and
9 Employment;

10 SECTION 6. *BPO Help Desk*. – There shall be a BPO Help Desk at the national and
11 regional offices of the Department of Labor and Employment. It shall be equipped to advise
12 employees or prospective employees of BPO companies of the terms and conditions of their
13 employment when presented with a copy of the contract. It shall also inform employees of the
14 proper procedure in filing complaints for violation of this Act.

15 SECTION 7. *Grievance Mechanism*. – There shall be a mechanism in every company for
16 the adjustment and resolution of grievances arising from the interpretation and enforcement of
17 employment contracts and company personnel policies. This shall not require the prior existence
18 of a collective bargaining agreement for the mechanism to be put in place.

19 SECTION 8. *Jurisdiction*. – The Labor Arbiter shall have primary and exclusive
20 jurisdiction to hear and decide within thirty (30) calendar days after the submission of the case
21 by the parties for decision without extension, even in the absence of stenographic notes, cases
22 involving all workers in the BPO industry as provided for under Article 217 of the Labor Code.

23 SECTION 9. *Application to Other Sectors of the BPO Industry*. – The provisions of this
24 Act shall apply to other areas of the BPO industry whenever applicable.

25 SECTION 10. *Annual Report to Congress*. – The Secretary shall submit a report within
26 one year from the implementation of this Act, and every year thereafter, on the improvement in
27 the working conditions and attrition rate in the call center industry.

28 SECTION 11. *Implementing Rules and Regulations*. – The Secretary shall formulate and
29 disseminate the Implementing Rules and Regulations of this Act.

1 SECTION 12. *Separability Clause.* – If any provision or part hereof is held invalid or
2 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
3 valid and subsisting.

4 SECTION 13. *Repealing Clause.* – Any law, presidential decree or issuance, executive
5 order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent
6 with, the provisions of this Act is hereby repealed, modified, or amended accordingly.

7 SECTION 14. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
8 publication in at least two (2) newspapers of general circulation.

Approved,

/abg