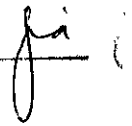


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SENATE

Senate Bill No. 128

BY: 

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

Article XIII, Section 3 of the Philippine 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."

The business process outsourcing (BPO) industry has been described as a sunshine industry in the Philippines. It is one of the fastest growing and dynamic industries in the world now with an estimated global market worth of almost US\$200 billion. In Asia, the Philippines emerged as one of the major players in the BPO industry and this is expected to continue and grow in the coming years considering the country's financial attractiveness, low telecom costs, cheap cost of labor, the quality of Filipino workforce who are highly-skilled and English-proficient as well as a large pool of suitable labor at the entry level.


Accordingly, the BPO industry has also become the Philippines' largest job provider in the private sector. Per the Business Processing Association of the Philippines (BPAP), the BPO industry has generated more than US\$11 billion in revenue and more than 700,000 in employment in 2011.

But while the BPO sector gives us all of these benefits, there is an urgent need to balance the legitimate business interests of BPO industries with the labor rights of employees.

Of late, there have been persistent reports of violations by several BPO industries of laws and regulations on minimum wage, working hours, service incentives and benefits, employment facilities, freedom of association, among others. Other

pressing concerns have likewise come to light regarding health, security threats and harassments experienced by BPO workers specially night-shift workers.

In view of the foregoing, approval of this bill is earnestly sought.



JINGGOY EJERCITO ESTRADA
Senator



'13 JUL -1 P1 :54

SENATE

Senate Bill No. 128

RECEIVED BY: *ji*

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

AN ACT
PROVIDING FOR THE PROTECTION OF WORKERS IN THE BUSINESS PROCESS
OUTSOURCING (BPO) INDUSTRY

*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 "*Magna Carta for BPO Workers Act of 2013*".

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

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

SEC. 3. Definition of Terms. - As used in this Act, the term:

- (a) "Business Process Outsourcing" or "BPO" refers to the transfer of an organization's non-core processes to a third-party who uses an information technology based service delivery, and in turn manages the selected process based on defined and measurable performance criteria;
- (b) "Call center" is a type of BPO and refers to a centralized office for receiving and transmitting requests by telephone or Internet. Call center operations include, but are not limited to, the granting of incoming product support, information inquiries from consumers, and outgoing calls for telemarketing, clientele, product services, and debt collection;

- (c) "BPO worker/employee" shall refer to any person employed in a BPO industry either in a temporary/probationary or permanent capacity;
- (d) "Department" shall refer to the Department of Labor and Employment;
- (e) "Secretary" shall refer to the Secretary of Labor and Employment;

SEC. 4. *Rights of BPO Workers / Employees.* – BPO workers / employees shall enjoy the following rights:

- (a) The right to organize and join labor organizations;
- (b) The right to a safe and healthy working environment which will facilitate optimal physical and mental health in relation to their work;
- (c) BPO workers / employees shall have at least a one (1) hour continuous meal break in the middle of every eight (8) hour shift;
- (d) The right to privacy of BPO workers / employees shall be respected. The monitoring of personal phone calls shall not be allowed, and in the event that their official phone conversations are monitored, they must be informed of this at all times prior to the start of the monitoring process;
- (e) For workers / employees working in the night shift, they shall have the right to stay in a comfortable resting area within the employer's premises until daybreak to ensure their safety;
- (f) The right to be informed of the terms and conditions of their contract.

SEC. 5. *Duties of Employers in the Industry.* - It is the duty of BPO companies engaged in business in the Philippines to observe the following:

- (a) Establish and maintain a safe and healthy working environment which will facilitate optimal physical and mental health in relation to the work of workers / employees;
- (b) Monitoring software should not be used to unduly pressure employees and should not impose an oppressive working environment;
- (c) Employers should incorporate regular rest breaks and changes in activity for all display screen equipment users;
- (d) They are required to carry out risk assessments and to remove monotonous work and work at a pre-determined rate when designing tasks whenever possible;
- (e) All BPO companies shall inform their prospective recruits that they can have their contract explained to them free of charge at the BPO Help Desk of the Department of Labor and Employment;

SEC. 6. *BPO Help Desk.* - There shall be a BPO Help Desk at the national and regional offices of the Department of Labor and Employment. It shall be equipped to advise employees or prospective employees of BPO companies of the terms and

conditions of their employment when presented with a copy of the contract. It shall also inform employees of the proper procedure in filing complaints for violation of this Act.

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

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

SEC. 9. *Application to Other Sectors of the BPO Industry.* - The provisions of this Act shall apply to other areas of the BPO industry whenever applicable.

SEC. 10. *Annual Report to Congress.* - The Secretary shall submit a report within one year from the implementation of this Act, and every year thereafter, on the improvement in the working conditions and attrition rate in the BPO industry.

SEC. 11. *Implementing Rules and Regulations.* - The Secretary shall formulate and disseminate the Implementing Rules and Regulations of this Act.

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

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

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

Approved,