



SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Second Regular Session)

'14 JUL -7 A10 :06

SENATE

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Senate Bill No. 2298

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

AN ACT
PROVIDING FOR THE INCREASE IN THE RATE AND CHANGING OF THE
TIME WINDOW OF THE NIGHT SHIFT DIFFERENTIAL, AS PROVIDED BY
THE LABOR CODE OF THE PHILIPPINES

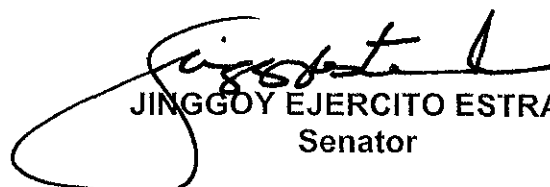
EXPLANATORY NOTE

Section 3, Article XIII of the 1987 Constitution mandates the State to afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all. Likewise, labor shall be entitled to security of tenure, humane conditions of work, and a living wage.

The Business Process Outsourcing (BPO) industry in the country has grown dramatically in the past several years, employing almost a million workers. In 2012, ITO-BPO in the Philippines generated more than \$13 billion in revenues, an increase of \$2 billion from the \$11 billion in 2011. The Business Processing Association of the Philippines (BPAP) projects that revenues of the said industry will hit \$13 billion in 2013 and have 926,000 full-time employees. The call center sector comprises 80% of the total BPO industry in the country. [Wikipedia]

Considering the contribution of BPOs to the economy and the increasing number of BPO workers, this measure seeks to promote the interests and welfare of night shift workers, including employees in the BPO sector by increasing the night shift differential rate from ten percent (10%) to fifteen percent (15%), as provided for in the Labor Code of the Philippines. Night shift workers have peculiar work program and arrangement which may adversely affect the health condition of the employees. With the additional benefits to night shift workers, it is hoped that it will lessen the financial and emotional stress of the employees.

The immediate passage of this bill is earnestly sought.


JINGGOY EJERCITO ESTRADA
Senator

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

1 **SECTION 1.** *Short Title.* – This Act shall be known as the “**Night Workers’**
2 **Additional Compensation Act of 2014**”.

3
4
5 **SEC. 2.** *Declaration of Principles and Policies:*

6
7 (a) The State, in light of the ever growing demands of modern businesses and
8 industries for round-the-clock supply of labor, recognizes the rights of
9 employees to be properly compensated for hours worked, which by the
10 ordinary and natural course of things, are supposed to be time spent for
11 rest and recreation. Cognizant of this, the legislature, exercising its
12 wisdom as entrusted by the people, hereby declare that additional
13 compensation shall be granted in exchange for the foregone health and
14 wellness benefits of following the ordinary and natural biological rhythm of
15 the human body;

16
17 (b) The State, in the exercise of its duty to safeguard the safety and welfare of
18 the people and mindful of the growing threat of criminal activities carried
19 out at the cover of the dead hours of night, hereby declare, through the
20 wisdom of the people entrusted upon their representatives, do hereby
21 declare that additional compensation shall be granted to nighttime
22 workers;

23
24 (c) The State, through the wisdom of the people as exercised by their
25 legislature, takes notice of the business practice of treating nighttime
26 workers as a separate and distinct class or category of worker within a
27 business entity, thereby avoiding the payment of the mandatory night time
28 differential to said nighttime workers which should have been in the first
29 place be over and above the regular wage of their daytime counterparts, in
30 the performance of highly similar duties and duties;

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32

1 **SEC. 3.** *In the interests of tempering laissez faire with welfare economics, Article*
2 *86 of Presidential Decree No. 442, as amended, entitled "A DECREE*
3 *INSTITUTING A LABOR CODE THEREBY REVISING AND CONSOLIDATING*
4 *LABOR AND SOCIAL LAWS TO AFFORD PROTECTION TO LABOR,*
5 *PROMOTE EMPLOYMENT AND HUMAN RESOURCES DEVELOPMENT AND*
6 *INSURE INDUSTRIAL PEACE BASED ON SOCIAL JUSTICE," otherwise known*
7 *as "THE LABOR CODE OF THE PHILIPPINES," is hereby amended to read as*
8 *follows:*
9

10 Art. 86. Night shift differential. Every employee in the shall be paid a night
11 shift differential of not less than fifteen percent (15%) of his regular wage
12 for each hour of work performed between eight o' clock in the evening and
13 four o' clock in the morning.
14

15 Employees working within said window, performing the same work, duties
16 and functions as employees working outside said window, shall be
17 deemed to have the regular wage equal to that of the latter, regardless of
18 different titles, designation, or other nomenclature of position between the
19 two. The night shift differential shall be computed over and above said
20 regular wage.
21

22
23 **SEC. 4.** *Exemptions.* – The Department of Labor and Employment shall
24 promulgate the necessary rules and regulations for employers to apply for an
25 exemption from said increase in the night shift differential, PROVIDED, that such
26 exemption, if granted, shall not be exempted from the previous differential of ten
27 percent (10%).
28

29
30 **SEC. 5.** The proper government agencies are hereby directed to implement this
31 Act.
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33 **SEC. 6.** *Effectivity Clause.* – This Act shall take effect after fifteen (15) days
34 following its complete publication in two (2) newspapers of general circulation.
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40 *Approved,*