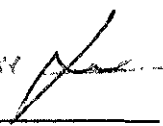


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SENATE

P.S. Res. No. 11

RECEIVED BY 

INTRODUCED BY **SENATOR VICENTE C. SOTTO III**

RESOLUTION

URGING THE SENATE COMMITTEE ON LABOR AND EMPLOYMENT TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE EFFICACY OF THE EXISTING STATUTES AND IMPLEMENTING RULES OF THE LABOR CODE OF THE PHILIPPINES IN LIGHT OF THE EXISTING PRACTICE OF ENGAGING EMPLOYEES TO 'FIXED TERM CONTRACTS' TO POSITIONS WHICH ARE USUALLY NECESSARY AND DESIRABLE TO THE USUAL TRADE OR BUSINESS OF THE EMPLOYERS IN ORDER TO AVOID ATTAINMENT OF REGULAR STATUS.

Whereas, Article XIII Section 3 of the Philippine Constitution states that, "The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all";

Whereas, the Labor Code, its Implementing Rules and Regulations, and relevant Labor Laws provides for the criterias for a VALID "Fixed Term Contracts" which does not contravene the provisions on security of tenure;

Whereas, the Supreme Court has laid down the following rules to be followed with regards to "fixed term contracts" that the fixed period of employment was knowingly and voluntarily agreed upon by the parties without any force, duress, or improper pressure being brought to bear upon the employee and absent any other circumstances vitiating his consent, or it satisfactorily appears that the employer and the employee dealt with each other on more or less equal terms with no moral dominance exercised by the former or the latter¹;

Whereas, employers are motivated to employ non-regular workers so as to cut costs and to have a buffer to market fluctuations, thus giving them numerical flexibility. At the same time, it enables them to take advantage of labor surpluses in lower-skill categories by allowing them to recycle entry level pay and avoid the carrying costs of employing regular workers, such as seniority pay²;

Whereas, at present, workers under 'valid' short term contracts do not receive any benefits accorded to regular employees especially with regards to security of tenure, thus, defeating public policy;

Whereas, there are reports that such 'fixed term contracts' are particularly being used in the engagement of "mall employees" or factory workers, and the like;

Whereas, in order to get perspective of employers using these types of contract and balance their interest with the employees;

RESOLVED, as it is hereby resolved, to urge the Senate Committee on Labor and

1 Caparoso vs. Court of Appeals, *et al.*, G.R. No. 155505, February 15, 2007 citing Pure Foods Corp. v. NLRC, 347 Phil 434, 443 (1997).

2 Bitonio, Benedicto, ILO Asia Pacific-Working Paper Series: Labour market governance in the Philippines: issues and institutions, August 2008, from <http://www.ilo.org/public/english/region/asro/manila/downloads/wp16.pdf> [last viewed on 20 June 2010].

Employment to conduct an investigation, in aid of legislation, on the efficacy of the existing statutes and rules and regulations with the end in view of harmonizing the provisions of existing laws and temper it with the right to security of tenure to provide maximum protection to employees under these fixed term contracts.

Adopted,



VICENTE C. SOTTO III
Senator