



Senate
Office of the Secretary

NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

23 MAY 23 P5:47

RECEIVED BY: _____

SENATE
S. No. 2235

Introduced by Senator MANUEL "LITO" M. LAPID

AN ACT
ENSURING THE WELFARE AND PROTECTION OF BUSINESS PROCESS
OUTSOURCING (BPO) WORKERS IN THE PHILIPPINES

EXPLANATORY NOTE

The Business Process Outsourcing (BPO) sector in the Philippines has witnessed impressive and remarkable growth in the past two decades, establishing itself as a prominent sector on a global scale. The Philippines has emerged as a global leader in the BPO sector, renowned for its skilled workforce, cost competitiveness, English proficiency, and hospitable culture.

The Philippines offers a large pool of educated and talented professionals, particularly in the fields of information technology, engineering, and business administration. Further, The Philippines has gained worldwide recognition for its high English proficiency levels, making it an attractive choice for voice-based services, such as customer support and telemarketing. Additionally, lower labor costs in the country compared to developed countries enable businesses to save on their operational expenses.

The Philippines was reported to hold about 10-15% share in the global BPO market¹. The Philippine BPO industry contributes approximately \$30 billion to the

¹ <https://www.nexford.org/insights/the-future-of-bpos-in-the-philippines-and-growth-opportunities#:~:text=The%20Philippine%20BPO%20industry%20contributes,of%20the%20global%20BPO%20market.>

economy every year², equivalent to about 9% of the Philippines' GDP³. In 2019, the BPO sector provided employment opportunities to over 1.3 million Filipinos, and such figure continues to grow at an annual rate of 8-10%. Given that in the Philippines, opportunities are scarce especially with the outbreak of the COVID-19 pandemic, the BPO sector has played a crucial role in the society by offering much-needed employment, driving economic growth.

However, since its establishment in the country, the laws governing the BPO industry have not adequately adapted to meet its increasing demands, leading to various challenges. As a result, BPO employees find themselves at the mercy of a results-oriented industry.

This situation exposes them to high levels of stress due to heavy workloads and stringent performance standards. They also face insufficient breaks and sudden changes in shift schedules. In an intensely competitive work environment, the health and safety of BPO employees have been compromised due to unrealistic expectations. Consequently, the Philippines has experienced a turnover rate of 30-40%, which is higher than in any other countries⁴.

Thus, this bill seeks to institutionalize practicable and equitable arrangements to provide protection to both labor and capital in the BPO sector, which include setting of the standard of treatment of BPO workers – requiring employers and supervisors to always treat them in a just and humane manner and ensure that their rights and benefits that are mandated by law are given to them.

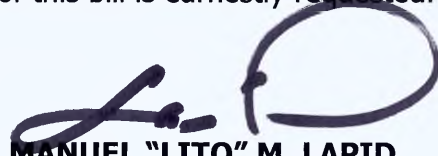
This bill mandates that BPO workers are given access to relevant information that will allow them to understand their rights, benefits, obligations, conditions, and realities attending their profession. This also aims to protect BPO workers from understaffing and overloading, among others.

² Id.

³ <https://www.theportugalnews.com/news/2023-02-03/9-of-the-philippines-gdp-comes-from-business-process-outsourcing-bruntwork-shares-some-reasons-why-the-location-is-so-popular/74457#:~:text=9%25%20of%20the%20Philippines%27%20GDP%20comes%20from%20business%20process%20outsourcing.>

⁴ <https://www.usource.me/philippines-bpo-employment-statistics-2022/#:~:text=Turnover%20and%20Retention%20Rate,and%20keep%20long%20term%20employees.>

In view of the foregoing, early passage of this bill is earnestly requested.

A handwritten signature in dark ink, consisting of a stylized 'L' followed by a large, circular flourish.

MANUEL "LITO" M. LAPID

Senator

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1 **AN ACT**
2 **ENSURING THE WELFARE AND PROTECTION OF BUSINESS PROCESS**
3 **OUTSOURCING (BPO) WORKERS IN THE PHILIPPINES**

*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 "BPO Workers'
5 Welfare and Protection Act of 2023."

6 **SECTION 2. Declaration of Policy.** – The State affirms labor as a primary social
7 economic force. Article XIII, Section 3 of the 1987 Constitution provides that the State
8 shall afford full protection to labor, local and overseas, organized and unorganized,
9 and promote full employment and equal employment opportunities for all. It shall
10 guarantee the rights of all workers to self-organization, collective bargaining and
11 negotiations, and peaceful concerted activities, including the right to strike in
12 accordance with law. They shall be entitled to security of tenure, humane conditions
13 of work, and a living wage. They shall also participate in policy and decision-making
14 processes affecting their rights and benefits as may be provided by law.

15 It shall protect and safeguard the rights of the workers and promote and
16 advance their welfare. It is the policy of the State to protect the rights and promote
17 the welfare of workers in the Business Process Outsourcing (BPO) industry and to
18 adopt appropriate steps to recognize and uphold such rights and welfare. It shall also
19 establish and enforce progressively higher standards and take all reasonably

1 practicable and equitable measures to ensure health and safety at the workplace,
2 taking into consideration technological changes and work practice developments and
3 adapting to their physiological and psychological needs.

4 Moreover, the State acknowledges the role and contribution of BPO workers in
5 the development of the nation and regards the protection and advancement of their
6 rights and welfare as an essential aspect of national progress. The State is committed
7 to enhance, improve, and support their social and economic status, as well as their
8 living and working conditions, terms of employment, professional advancement, and
9 career development.

10 **SECTION 3. Coverage.** – This Act shall cover all employees and workers
11 engaged in the BPO industry.

12 **SECTION 4. Definition of Terms.** – For purposes of this Act, the following
13 terms shall be understood as follows:

- 14 a. Authorized Representative – shall mean and include any employee or
15 official of other government agencies empowered by the Secretary of
16 Labor and Employment to enforce the provisions of the Standards;
- 17 b. Business Process Outsourcing (BPO) – is defined as the delegation of
18 service-type business processes to a third-party service provider. It is
19 generally divided into the following sectors: call centers, back-office
20 services, data transcription, animation, software development,
21 engineering development and game development. Most BPO companies
22 engage in shift work to complete their 24-hour work cycle;
- 23 c. Call center – also known as contact center, refers to a central customer
24 service operations where agents – whatever their designation – handle
25 business-related telephone calls, and other IT-related non-voice
26 activities, on behalf of a client;
- 27 d. Health – shall connote a sound state of the body and mind of the workers
28 which enables him or her to perform his job normally, in a state of well-
29 being;

- 1 e. Occupational illness - shall mean any illness caused by environmental
2 factors, the exposure to which is characterized or peculiar to a particular
3 process, trade or occupation, and to which an employee or worker is not
4 ordinarily subjected to, or exposed to, outside of or away from such
5 employment;
- 6 f. Safe or safety – shall refer to the physical or environmental conditions
7 of work or employment, which substantially comply with the prescribed
8 Standards, as defined below;
- 9 g. Standards – shall mean the Occupational Safety and Health Standards
10 and Regulations, as described in Section 29 hereof;
- 11 h. Shift work – shall mean the employment practice designed to make use
12 of the 24 hours of the day. Employees are given schedules which
13 correspond to 24-hourwork cycle. The term shift work includes both
14 long-term night shifts and work schedules in which employees change
15 or rotate shifts.
- 16 i. Work accident – shall mean an unplanned or unexpected occurrence that
17 may or may not result in personal injury, property damage, work
18 stoppage or interference, or any combination thereof, which arises out
19 of and in the course of employment;
- 20 j. Work injury – shall mean any injury or occupational illness suffered by a
21 person, which arises out of or in the course of employment;
- 22 k. Workplace – means the office, premises or work site, where the workers
23 are habitually employed and shall include the office or place where the
24 workers, who have no fixed or definite work site, regularly report for
25 assignment in the course of their employment;

26 **SECTION 5.** *Construction in favor of labor.* – All doubts in the implementation
27 and interpretation of the provisions of this Act, including its implementing rules and
28 regulations, shall be resolved in favor of labor.

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PART ONE: GENERAL EMPLOYMENT STANDARDS

SECTION 6. *Standard of Treatment.* – The employer and the supervisors must, at all times, treat the BPO worker in a just and humane manner and ensure that all the rights and benefits of BPO workers are provided for and accorded to them as mandated by the Labor Code. Abusive language, physical violence or any act which debases the dignity of a person shall not be used against the employee.

SECTION 7. *Access to Relevant Information.* – The State shall ensure the BPO companies allow their workers and employees access to:

(a) relevant information to make them understand their rights, benefits, obligations, conditions, and realities attending to their profession. BPO companies shall not restrain their employees from organizing or attending activities, such as, but are not limited to, workshops and symposia, that seek to equip BPO workers with relevant information with regard to their rights, welfare and conditions; and

(b) information on service level agreement between client and vendor, especially when it affects working conditions and worker compensation and benefits consistent with Sec.3, Article XIII of the Constitution.

SECTION 8. *Protection from Understaffing or Overloading.* – There shall be no understaffing or overloading of BPO workers. The ratio of BPO worker to client quota or quantitative targets shall be always such as to reasonably effect a sustained quality of service without overworking the worker and over-extending his/her services beyond what is stipulated in the employment contract, or what is allowed as the worker’s regular hours of work. The employer may request the employee to perform tasks beyond the duties stipulated in the employment contract; Provided, That such tasks are duly compensated by the employer with an additional pay of not less than twenty-five percent (25%) of the regular rate per hour.

SECTION 9. *Regularization.* – All BPO workers allowed to work after the completion of the sixth (6th) month period of employment as trainee or apprentice, or upon the completion of a maximum probationary training period of six months, shall be considered as regular employees.

1 **SECTION 10.** *Right to self-organization and the Right to Participate in*
2 *Democratic Exercises.* – All BPO workers shall have the right to self-organization and
3 to form, join, or assist labor organizations of their own choosing for purposes of
4 collective bargaining. In addition, BPO companies should exercise due diligence and
5 actively provide venues for workers to participate in the deliberation of issues and in
6 the formulation of policies that affect them.

7 **SECTION 11.** *Non-abridgment of the Right of Self-organization.* – It shall be
8 unlawful for any person or company to restrain, coerce, discriminate against or unduly
9 interfere with employees and workers in their exercise of the right to self-organization.
10 Such right shall include the right to form, join, or assist labor organizations for the
11 purpose of collective bargaining through representatives of their own choosing and to
12 engage in lawful concerted activities for the same purpose for their mutual aid and
13 protection, subject to the provisions of the Labor Code of the Philippines.

14 **SECTION 12.** *Freedom from Interference or Coercion.* - It shall be unlawful
15 for any person or company to commit any of the following acts of interference or
16 coercion:

17 (a) to interfere with, restrain or coerce employees in the exercise of their right
18 to self-organization;

19 (b) to require as condition of employment that BPO employees shall not join,
20 form or assist in the formation of an organization, or to withdraw from one to which
21 he belongs;

22 (c) to contract out services or functions being performed by BPO employees
23 who are union members when such will interfere with, restrain or coerce employees
24 in the exercise of their rights to self-organization;

25 (d) to discriminate in order to encourage or discourage membership in an
26 organization;

27 (e) to initiate, dominate, assist or otherwise interfere with the formation or
28 administration of any labor organization, including the giving of financial or other
29 support to it or its organizers or supporters;

1 (f) to discriminate in regard, to wages, hours of work and other terms and
2 conditions of employment in order to encourage or discourage membership in any
3 labor organization;

4 (g) to prevent a BPO employee from carrying out his duties and functions in his
5 organization to penalize the employee for any unlawful action performed in that
6 capacity; and

7 (h) to perform acts calculated to diminish the independence and freedom of
8 the union or organization to direct its own affairs.

9 **SECTION 13. *Freedom from Excessive Company Bond.*** – It shall be unlawful
10 for any person or company to compel a BPO worker to commit to a company bond,
11 imposing an unreasonable or exorbitant fee to be paid by the employee upon leaving
12 the company before a specified length of time.

13 **SECTION 14. *Right to Money Claims.*** – The company may not, in any case,
14 prevent a BPO worker from receiving his/her rightful money claims arising from labor
15 disputes.

16 **SECTION 15. *Protection from Discrimination.*** - BPO workers shall be protected
17 from discrimination by reason of ethnicity, gender, sexual orientation, age, race, color,
18 religion, political, or other opinion, national, social or geographical origin, disability,
19 property, birth, civil status, pregnancy, physical characteristics or disability, or other
20 status as established by human rights standards.

21 **SECTION 16. *Safeguards in Administrative Proceedings.*** - In any
22 administrative proceeding, a BPO worker shall have the –

23 (a) right to notice and hearing which includes the right of the party interested
24 or affected to present his own case and submit evidence in support thereof;

25 (b) right to be informed of the nature and accusation against him/her;

26 (c) right to full access to evidence presented against him/her;

27 (d) right to cross-examine the witnesses against him/her;

1 (e) right to defend himself/herself for by a counsel of his/her choice;

2 (f) right to be given adequate time to prepare his/her case which shall, in no
3 case, be less than one (1) week;

4 (g) right to an independent and impartial tribunal;

5 (h) right to a decision rendered in such a manner that both parties can know
6 the various issues involved and the reasons for such decision

7 (i) right to appeal to designated authorities; and

8 (j) such other rights as will ensure fairness and impartiality during proceedings.

9 **SECTION 17. *Regular Hours of Work.*** – Normal hours of work for BPO workers
10 shall not exceed eight (8) hours a day. Any work done by BPO beyond the regular
11 hours shall be duly compensated by the employer.

12 **SECTION 18. *Hours worked.*** - Hours worked shall include (a) all time during
13 which an employee is required to be on duty or to be at a prescribed workplace; and
14 (b) all time during which an employee is suffered or permitted to work.

15 Rest periods of short duration during working hours shall be counted as hours
16 worked.

17 **SECTION 19. *Overtime Work.*** – Work may be performed beyond any BPO
18 worker's required working hours provided that the employee is paid for the overtime
19 work, an additional compensation equivalent to his regular wage plus at least twenty-
20 five percent (25%) thereof. Work performed beyond eight (8) hours on a holiday or
21 rest day shall he paid an additional compensation equivalent to the rate of the first
22 eight hours on a holiday or rest day plus at least thirty percent (30%) thereof.

23 **SECTION 20. *Night Shift Differential.*** – BPO workers shall be paid a night shift
24 differential of not less than ten percent (10%) of his regular wage for each hour of
25 work performed between ten o'clock in the evening and six o'clock in the morning.

26 **SECTION 21. *Rest and Meal Periods.*** - BPO workers shall be entitled to
27 compensable rest periods and meal periods not less than what is provided for in the
28 Labor Code and other existing laws. Employees shall have the right to brief restroom

1 breaks, which shall not be shorter than five minutes for each two-hour interval or a
2 cumulative of at least 15-minute restroom break throughout the work shift. These
3 restroom breaks shall be added on top of the two 15-minute breaks and lunch breaks.
4 To comply with such, the BPO company shall devise a mechanism in order to ensure
5 the implementation of regular restroom breaks among its workers without sacrificing
6 the continuous flow or work among its employees.

7 **SECTION 22. *Regular Working Days.*** - All BPO workers shall render work for
8 not more than six (6) consecutive days per week. The employer shall determine and
9 schedule the weekly rest day of the BPO workers subject to collective bargaining
10 agreement and to such rules and regulations as the Secretary of Labor and
11 Employment may provide. However, the employer shall respect the preference of
12 employees as to their weekly rest day when such preference is based on religious
13 grounds.

14 **SECTION 23. *Work on Holidays.*** - BPO workers may be required to work on
15 days designated as non-working holidays in the Philippines given the nature of their
16 profession; Provided, That the employer shall duly compensate the employee's work
17 on such days in accordance with existing laws with regard to holiday pay.

18 **SECTION 24. *Leave benefits.*** - BPO workers shall be entitled to all leave
19 benefits and privileges under existing laws, such as but not limited to maternity,
20 paternity, vacation, and sick leaves. Provided, That upon separation of the employee
21 from service, they shall be entitled to all accumulated leave credits with pay. No
22 employee may be terminated based solely on unapproved leaves without affording
23 the employee due process in an administrative proceeding.

24 **SECTION 25. *Transportation benefits.*** - In the absence of or lack of safe and
25 adequate public transportation services in BPO workers' places of work, they shall, at
26 least between 9:00 p.m. and 6:00 a.m., be entitled to safe transportation service,
27 which may include, but are not limited to shuttle services, to and from the place of
28 work to designated drop-off points, or to travel allowance which shall be provided by
29 the company in order to facilitate the safe commute of employees at vulnerable times
30 at night or early in the morning.

1 **SECTION 26. *Health Program.*** - The company physician shall, in addition to
2 his duties stated in the Labor Code, develop, and implement a comprehensive
3 occupational health program for the benefit of all employees.

4 **SECTION 27. *Health Insurance.*** - All employees are entitled to free full medical
5 examination upon commencement of employment, and annually during the tenure of
6 employment. The establishment is encouraged to provide full health insurance to the
7 employees, the coverage of which shall be agreed upon by the company and its
8 employees.

9 **SECTION 28. *Work-related injuries, sickness and death compensation.*** – All
10 employees shall be compensated for injuries, medical complications, illness, disability
11 and death arising from, and related to their work, in accordance with existing laws,
12 labor policies, guidelines or circulars, as the case may be. The Employees
13 Compensation Commission shall promptly process any claims for/by injured, disabled,
14 deceased employees or their dependents.

15 **SECTION 29. *Occupational Health and Safety Standards and Regulations for***
16 *BPO Workers.* – Pursuant to its mandate, the Department of Labor and Employment
17 (DOLE) is tasked to establish Occupational Health and Safety Standards for BPO work
18 and other similar employment. It is imperative that the minimum provisions in the
19 Standards meet the International Labor Organizations (ILO) recommendations. The
20 Standards should be reviewed annually by the agencies, Workplace Occupational
21 Health and Safety Officer (WOHSO), and registered interested parties, and must
22 include provisions related to the Enforcement Officers and Authorized Representatives,
23 as well as the WOHSO as defined below.

24 **SECTION 30. *Compliance with the Standards.*** - The Standards shall be strictly
25 enforced in all establishments operating in the country. Compliance with the provisions
26 of the Standards shall be mandatory and subject to inspections by Enforcement
27 Officers and/or Authorized Representatives as shall be outlined in the Standards.

28 **SECTION 31. *Workplace Occupational Health and Safety.*** - Each
29 establishment shall formulate their own Workplace Occupational Health and Safety

1 (WOHS) policy, which adheres at minimum to the Standards as defined in Section 29
2 of this Act. Any additional safety measures deemed appropriate to the nature of the
3 localized work environment may also be included, pending approval by the Bureau.
4 The policy must be reviewed annually by the employers, by the WOHSO, and by an
5 Enforcement Officer or Authorized Representative.

6 All employees shall be informed of the WOHS policy. Informational materials
7 such as posters, brochures and similar devices shall be distributed to employees free
8 of charge.

9 **SECTION 32.** *Workplace Occupational Health and Safety Officer.* – From
10 among the employees, a WOHSO shall be elected for the purposes of consultation and
11 in-house monitoring of the Standards. The WOHSO shall review the measures taken
12 to ensure the health, safety, and welfare of the employees, investigate and attempt
13 to resolve any matters that may constitute as a risk to health and safety at the place
14 of work.

15 **SECTION 33.** *Security of Tenure.* -- No employee may be terminated except
16 for just and authorized causes as provided under the Labor Code. In order to further
17 protect BPO employees from being abused by legal provisions that allow floating status
18 of employees for not more than six months and other existing laws, no act or omission
19 shall be considered as analogous cause unless expressly specified in the company
20 rules and regulations or policies."

21 When putting workers in floating status, the company must not hire new
22 employees who are tasked to perform the duties and responsibilities of the workers
23 put in floating status, until all employees who shall be subject or are currently on
24 floating status have been absorbed in vacancies in other or new accounts, provided
25 that the workers are willing to be absorbed in other or new accounts available.

26 **SECTION 34.** *Prohibition Against Elimination or Diminution of Benefits.* –
27 Nothing in this Act shall be construed to eliminate or diminish in any way existing
28 benefits being enjoyed by BPO employees at the time of the effectivity of this Act, or
29 benefits beyond the minimum standards set forth by this Act. All other rights of BPO

1 employees provided under existing laws shall remain in full force and effect, and they
2 shall have the right to avail of greater rights offered by existing laws, including those
3 granted under this Act.

4 **SECTION 35. *Penal provisions.*** -- Any person or company who violates the
5 provisions of this Act shall be punished with a fine in the amount of not less than One
6 Hundred Thousand Pesos (P 100,000) and/or imprisonment of not less than two (2)
7 months but not more than one (1) year, or both, at the discretion of the Court.

8 **SECTION 36. *Separability Clause.*** – If, for any reason, any section or provision
9 of this Act, or any portion thereof, or the application of such section, provision or
10 portion, is declared invalid or unconstitutional, the remainder of this Act or the
11 application of such section, provision, or portion thereof shall not be affected by such
12 declaration.

13 **SECTION 37. *Repealing Clause.*** – All laws, decrees, letters of instructions,
14 resolutions, orders, rules and regulations or parts thereof which are inconsistent with
15 the provisions of this Act are hereby repealed, modified accordingly or amended
16 accordingly.

17 **SECTION 38. *Effectivity Clause.*** – This Act shall take effect fifteen (15) days
18 from its publication in the Official Gazette or in at least two (2) national newspapers
19 of general circulation.

20 *Approved,*