

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 9664



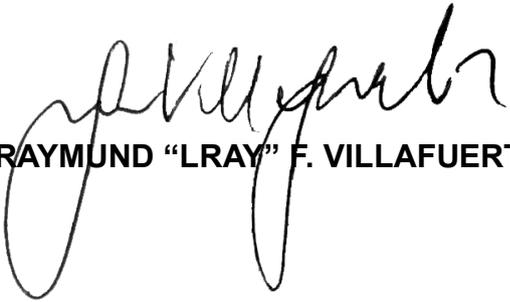
Introduced by **HON. LUIS RAYMUND "LRAY" F. VILLAFUERTE, JR.**

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

This proposed measure seeks to protect the welfare of BPO workers of our country by addressing the gaps in existing labor laws such as access to relevant information, protection from understaffing or overloading, additional benefits to promote safety, health and over-all well-being of employees, among others.

It is no secret that the BPO is one the country's economic drivers with over 1.2 million works. However, their working conditions are difficult because of impossibly high performance standards, inadequate restroom breaks and sudden changes in shift schedules. Their situation even became more difficult when the pandemic hit and there were employees who were still required to report on-site had to walk to and from their workplace due to the lack of access to public transportation during the ECQ.

This bill aims to institutionalize more equitable arrangements in order to provide protection to both labor and capital, and help the BPO thrive. In view of the foregoing, the passage of this measure is earnestly sought.


LUIS RAYMUND "LRAY" F. VILLAFUERTE, JR.

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

SECTION 1. *Short Title.* – This Act shall be known as the "BPO Workers' Welfare and Protection Act of 2021."

Sec. 2. *Declaration of Policy.* – The State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare. It is hereby declared the policy of the State to protect the rights and promote the welfare of workers in the Business Process Outsourcing (BPO) industry and to take appropriate steps to recognize such rights and welfare. The State recognizes the role of BPO workers in nation-building and that protecting and promoting their rights and welfare form an integral part of national development. The State shall strive to improve and promote their social and economic status, living and working conditions, terms of employment, professional growth and career development.

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

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

- a) Business Process Outsourcing (BPO) – is defined as the delegation of service-type business processes to a third-party service provider. It is generally divided into the following sectors: call centers, back-office services, data transcription, animation, software development, engineering development and game development. Most BPO companies engage in shift work to complete their 24-hourwork cycle;
- b) Call center – also known as contact center, refers to a central customer service operation where agents – whatever their designation – handle business-related telephone calls, and other ET-related non-voice activities, on behalf of a client;
- c) Health – shall connote a sound state of the body and mind of the workers, which

enables him or her to perform his job normally, in a state of well-being;

d) Safe or safety – shall refer to the physical or environmental conditions of work or employment, which substantially comply with the prescribed Standards, as defined below;

e) Work accident – shall mean an unplanned or unexpected occurrence that may or may not result in personal injury, property damage, work stoppage or interference, or any combination thereof, which arises out of and in the course of employment;

f) Work injury – shall mean any injury or occupational illness suffered by a person, which arises out of or in the course of employment;

g) Occupational illness – shall mean any illness caused by environmental factors, the exposure to which is characterized or peculiar to a particular process, trade or occupation, and to which an employee or worker is not ordinarily subjected to, or exposed to, outside of or away from such employment;

h) Workplace – means the office, premises or work site, where the workers are habitually employed and shall include the office or place where the workers, who have no fixed or definite work site, regularly report for assignment in the course of their employment;

i) Standards – shall mean the Occupational Safety and Health Standards and Regulations, as described in Section 29 hereof;

j) Authorized Representative – shall mean and include any employee or official of other government agencies empowered by the Secretary of Labor and Employment to enforce the provisions of the Standards;

k) Shift work – shall mean the employment practice designed to make use of the 24 hours of the day. Employees are given schedules which correspond to 24-hour work cycle. The term shift work includes both long-term night shifts and work schedules in which employees change or rotate shifts.

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

PART ONE: GENERAL EMPLOYMENT STANDARDS

Sec. 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 and provide that rights and benefits of BPO workers be accorded 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.

Sec. 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.

Sec. 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 such as to reasonably effect a sustained quality of service at all times 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 25% of the regular rate per hour.

Sec. 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.

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

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

Sec. 12. *Freedom from Interference or Coercion.* – It shall be unlawful for any person or company to commit any of the following acts of interference or coercion:

- (a) to interfere with, restrain or coerce employees in the exercise of their right to self-organization;
- (b) to require as condition of employment that BPO employees shall not join, form or assist in the formation of an organization, or to withdraw from one to which he belongs;
- (c) to contract out services or functions being performed by BPO employees who are union members when such will interfere with, restrain or coerce employees in the exercise of their rights to self-organization;
- (d) to discriminate in order to encourage or discourage membership in an organization;
- (e) to initiate, dominate, assist or otherwise interfere with the formation or administration of any labor organization, including the giving of financial or other support to it or its organizers or supporters;
- (f) to discriminate in regard, to wages, hours of work and other terms and conditions of employment in order to encourage or discourage membership in any labor organization;

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

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

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

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

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

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

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

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

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

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

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

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

(g) right to an independent and impartial tribunal;

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

(i) right to appeal to designated authorities; and

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

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

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

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

Sec. 19. *Overtime Work.* – Work may be performed beyond any BPO worker's required working hours provided that the employee is paid for the overtime work, an

additional compensation equivalent to his regular wage plus at least twenty-five percent (25%) thereof. Work performed beyond eight (8) hours on a holiday or rest day shall he paid an additional compensation equivalent to the rate of the first eight hours on a holiday or rest day plus at least thirty percent (30%) thereof.

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

Sec. 21. Rest & Meal Periods. – BPO workers shall be entitled to compensable rest periods and meal periods not less than what is provided for in the Labor Code and other existing laws. Employees shall have the right to brief restroom breaks, which shall not be shorter than five minutes for each two hour interval or a cumulative of at least 15-minute restroom break throughout the work shift. These restroom breaks shall be added on top of the two 15-minute breaks and lunch breaks. To comply with such, the BPO company shall devise a mechanism in order to ensure the implementation of regular restroom breaks among its workers without sacrificing the continuous flow or work among its employees.

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

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

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

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

Sec. 26. Health Program. – The company physician shall, in addition to his duties stated in the Labor Code, develop and implement a comprehensive occupational health program for the benefit of all employees.

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

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

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

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

Sec. 31. *Workplace Occupational Health and Safety.* – Each establishment shall formulate their own Workplace Occupational Health and Safety (WOHS) policy, which adheres at minimum to the Standards as defined in Section 29 of this Act. Any additional safety measures deemed appropriate to the nature of the localized work environment may also be included, pending approval by the Bureau. The policy must be reviewed annually by the employers, by the WOHSO, and by an Enforcement Officer or Authorized Representative.

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

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

Sec. 33. *Security of Tenure.* – No employee may be terminated except for just and authorized causes as provided under the Labor Code. In order to further protect BPO employees from being abused by legal provisions that allow floating status of

employees for not more than six months and other existing laws, “analogous causes” for termination of employment under the Labor Code shall comply with DO 147-15, series of 2015 issued by the DOLE, which provides that “[n]o act or omission shall be considered as analogous cause unless expressly specified in the company rules and regulations or policies.”

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

Sec. 34. Prohibition Against Elimination or Diminution of Benefits. – Nothing in this Act shall be construed to eliminate or diminish in any way existing benefits being enjoyed by BPO employees at the time of the effectivity of this Act, or benefits beyond the minimum standards set forth by this Act.

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

Sec. 35. Penal provisions. – Any person or company who violates the provisions of this Act shall be punished with a fine in the amount of not less than One Hundred Thousand Pesos (P100,000.00) and/or imprisonment of not less than two (2) months but not more than one (1) year, or both, at the discretion of the Court.

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

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

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

Approved,