

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

H. B. No. 712

HOUSE OF REPRESENTATIVES	
RECEIVED	
DATE:	30 JUN 2016
TIME:	11:29 AM
BY:	<i>[Signature]</i>
REGISTRATION UNIT BILLS AND INDEX SERVICE	

Introduced by **HONORABLE BELLAFLOR J. ANGARA-CASTILLO**

EXPLANATORY NOTE

Innovation and fast-paced technological progress has constantly redefined jobs and work arrangements such as contracting and subcontracting. This has given rise to the mushrooming of forms of employment engagement that were not adequately captured by the provisions of the Labor Code of the Philippines, as amended, which is tailored for the manufacturing industries work arrangement. Gaps in the entitlement of labor standard benefits, exercise of labor rights, blurring of employer-employee relationship, and lack of security of tenure are burning issues that is prevalent to the above-mentioned work arrangements.

This bill proposes the following: (1) clearly defining legitimate contractor or subcontractor as an employer engaged in providing job, work or services to another business; (2) recognizing industry peculiarities through industry tripartite-determined functions or standards on contracting and subcontracting; (3) in the absence of industry-tripartite standards, application of the general standards as determined by DOLE Secretary, after consultation with the TIPC; (4) prohibiting labor-only contracting; (5) licensing of contractors and subcontractors; (6) mandatory posting of bond to answer for the wages and other monetary benefits due the employees in case the contractor fails to pay the same; (7) coverage of the cooperatives as employers in contracting or subcontracting; and (8) reiteration of solidary liability in case of a finding of labor-only contracting.

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

[Signature]
BELLAFLOR J. ANGARA-CASTILLO
Representative
Lone District, Province of Aurora

Introduced by HONORABLE BELLAFLOR J. ANGARA-CASTILLO

AN ACT SPECIFYING THE REQUIREMENTS OF LEGITIMATE CONTRACTING/SUBCONTRACTING AMENDING FOR THIS PURPOSE ARTICLES 106 TO 109 OF PRESIDENTIAL DECREE NO. 442, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES, AS AMENDED, AND FOR OTHER PURPOSES

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

1 **SECTION 1.** Article 106 of Presidential Decree No. 442, otherwise known as the Labor
2 Code of the Philippines, as amended, is hereby further amended to read as follows:

3
4 **“Art. 106. Contractor or subcontractor.** Whenever a principal employer enters into
5 a contract with another person for the performance of the former’s work, the
6 employees of the contractor and of the latter’s subcontractor, if any, shall be paid in
7 accordance with the provisions of this Act.

8
9 For this purpose, legitimate contractor or subcontractor must:

- 10
11 1. Be licensed with the Department of Labor and Employment;
12 2. Have substantial capitalization of at least Three million pesos (₱3,000,000.00) or
13 in an amount as maybe determined through tripartite consultation;
14 3. Have equipment, machineries and tools necessary to perform or complete the
15 job, work or service contracted out; and
16 4. Exercise control over the performance or completion of the job, work or service
17 contracted out.

18
19 The Secretary of Labor and Employment, by appropriate regulations, shall determine
20 functions that can be subcontracted based on the recommendation by appropriate
21 industry tripartite council. In the absence of industry-specific tripartite standards on
22 contracting/subcontracting, the Secretary of Labor and Employment shall determine
23 the standards through the issuance of appropriate regulations after consultation with
24 the national tripartite industrial peace council.

25
26 In the event that the contractor or subcontractor fails to pay the wages and other
27 wage-related benefits including social welfare benefits, the principal employer shall
28 be jointly and severally liable with his/her contractor or subcontractor to such
29 employees to the extent of the work performed under the contract, in the same
30 manner and extent that he/she is liable to employees directly employed by him/her.

31
32 Labor-only contracting is prohibited. There is “labor-only” contracting where the
33 person supplying workers to a principal does not have substantial capital and
34 investment in the form of tools, equipment, machineries, work premises, among
35 others, or the workers recruited and placed are under the control and supervision of
36 the principal employer. In such cases, the person or intermediary shall be
37 considered merely as an agent of the principal employer who shall be responsible to

1 the workers in the same manner and extent as if the latter were directly employed by
2 him.”

3
4 **SEC. 2.** Article 107 of the same Code is hereby amended to read as follows:
5

6 “**Art. 107. PRINCIPAL EMPLOYER.** The provisions of the immediately preceding
7 article shall apply to any person, partnership, association or corporation which
8 contracts with an independent contractor for the performance of any work, task, job
9 or project.”
10

11 **SEC. 3.** A new article is hereby inserted in the same Code to read as follows:
12

13 “**Art. 107-A. Licensing of job contractors.** The secretary of Labor and Employment
14 through the Regional Offices shall issue qualified applicants the job contractor’s
15 license in accordance with guidelines prescribed for the purpose. The applicant must
16 be a Filipino citizen or a corporation of which one hundred percent (100%) of
17 authorized and voting capital is owned and controlled by Filipino citizens, a
18 partnership, craft union or any other entity. Such contractor shall, likewise, comply
19 with the requirements of other governmental authorities.
20

21 Unlicensed contractors or subcontractors shall be deemed engaged in labor-only
22 contracting. The principal employer shall be considered the direct employer of all
23 employees under the contracting/subcontracting agreement.
24

25 The Secretary of Labor and Employment may impose a fine against unlicensed
26 contractors or subcontractors in an amount to be determined through consultation
27 with the national tripartite industrial peace council.”
28

29 **SEC. 4.** Article 108 of the same Code is hereby amended to read as follows:
30

31 “**Art. 108. Mandatory posting of bond.** The contractor or subcontractor shall furnish
32 a bond to the principal employer in an amount that is equal to the cost of labor under
33 the contract between the contractor or subcontractor and its employees. The bond
34 shall answer for the wages and other monetary benefits due the employees in case
35 the contractor or subcontractor fails to pay the same.”
36

37 **SECTION 5.** A new article is hereby inserted in the same Code to read as follows:
38

39 “**Art. 108-A. Applicability to cooperatives.** The provisions of this Act shall apply to
40 cooperatives engaged in contracting or subcontracting arrangements. Cooperatives
41 are deemed employers and their employees, members or non-members, shall be
42 entitled to the following rights and privileges accorded to contractor’s or
43 subcontractor’s employees:
44

- 45 1. Minimum wage;
- 46 2. Safe and healthful working conditions;
- 47 3. Labor standards such as but not limited to service incentive leave, rest days,
48 overtime pay, holiday pay,
- 49 4. Thirteenth month pay and separation pay as may be provided in the service
50 agreement or under the Labor Code;
- 51 5. Retirement benefits under the Social Services Law or retirement plans of the
52 contractor, if there is any;
- 53 6. Social security and welfare benefits;
- 54 7. Self-organization, collective bargaining, and peaceful concerted activities; and
55 8. Security of tenure.”
56

57 **SEC. 6.** Article 109 of the same Code is hereby amended to read as follows:
58

1 **“Art. 109. Solidary liability.** The provisions of existing laws to the contrary
2 notwithstanding, the principal employer shall be held solidarily liable with his/her
3 contractor or subcontractor for the unpaid wages, labor standards benefits, and other
4 social welfare benefits to the workers if there is a finding of labor-only contracting.
5

6 **SEC. 7. Implementing Rules and Regulations.** – The Secretary of Labor and Employment
7 shall promulgate the necessary rules and regulations to implement the provisions of this Act
8 within one hundred twenty (120) days from its effectivity.
9

10 **SEC. 8. Sunset Provision.** – After every five (5) years from the effectivity of this Act, there
11 shall be an automatic review to be conducted by the Tripartite Industrial Peace Council. For
12 purposes of this Act, automatic review shall mean the programmed and systematic
13 evaluation by the Council of the accomplishments and impact of this Act, as well as the
14 performance and accomplishments of the Department of Labor and Employment and other
15 implementing agencies, for purposes of and in aid of legislation.
16

17 **SEC. 9. Repealing Clause.** – Presidential Decree No. 442, as amended, otherwise known
18 as the "Labor Code of the Philippines", and all other acts, laws, presidential issuances, rules
19 and regulations inconsistent herewith are hereby repealed, amended or modified
20 accordingly.
21

22 **SEC. 10. Separability Clause.** – If any provision of this Act is declared unconstitutional or
23 invalid, the other provisions not affected thereby shall remain in full force and effect.
24

25 **Sec. 11. Effectivity Clause.** – This Act shall take effect fifteen (15) days after its publication
26 in the Official Gazette or in at least two (2) newspapers of general circulation.
27

28 Approved,