

SBN 1826: “SECURITY OF TENURE” BILL

On 22 May 2019, the Senate approved on third and final reading Senate Bill No. 1826, with amendments. The proposal, known as the “Security of Tenure”, continues to recognize contractualization arrangements but has tightened the definition of labor-only contracting (LOC) and clarified ambiguities in existing laws.

The Senate approved version will be tackled in a bicameral conference to consolidate with the House approved version, HBN 6908.

The following are the key features of the approved and final version of SBN 1826:

- The approved version **tightened the definition of what constitutes Labor-Only Contracting (LOC) by changing “and” to “or” in the list of conditions.** At present, LOC happens when a Job Contractor has no substantial capital/investment and equipment AND when the workers are performing work directly related to the Contractee’s business, or when the Contractee has direct supervision over the worker. In the approved version, LOC occurs when ANY of the three situations mentioned above exists.
- The Senate is proposing to **establish tripartite industry councils that will determine roles that can be contracted out to a job contractor.** This essentially removes a company’s right to choose to outsource any operations it deems suitable. Only in the absence of such industry council will the DOLE Secretary determine the standard criteria. At present, the DOLE Secretary is tasked to make the appropriate distinctions between LOC and Job Contracting and to determine who among the parties involved shall be considered the employer. Through the councils, government, employee representatives, and industry bodies will be responsible in identifying what is core work and which

tasks may be outsourced.

- To clarify one of the most contentious points in the discussion, the approved Senate bill **has excluded both Project and Seasonal employees in the treatment of regular workers.** The original intention was to make project and seasonal workers the priority hires when the company needs more workers, but this was dropped in the final version. Both project and seasonal employees will, however, enjoy the same rights as regular employees in terms of payment of minimum wage and social protection benefits, among others, for the duration of their employment.
- The bill **mandates all Contractors to obtain a license from DOLE to engage in job contracting.** To be qualified, Job Contractors must meet the following requirements:
 - a. Have an independent business, separate and distinct from the Contractee;
 - b. Have paid-up capital of at least P5,000,0000, subject to increase determined by the tripartite consultation;
 - c. Be an expert or specialist in the job, work or service being contracted (specialization established by showing, among others, core of competent professionals or skills workers trained to carry out the job);
 - d. Be an employer with regular employees and have equipment, machineries and tools necessary to perform and complete the job contracted out;
 - e. Exercise control over the performance and completion of the job, work, or service contracted out;
 - f. Certification of compliance with labor and social welfare laws including proof of payment of SSS, PhilHealth, and PAG-IBIG contributions; and
 - g. Payment of license fee not lower than P100,000.
- Finally, SB 1826 **imposes a P5,000,000 fine against any Labor-only Contractor.** In addition, it grants the DOLE Secretary power to preventively or permanently close the operations of any Labor-only Contractor.

Total Employees in Precarious Work, 2017

Total employees in precarious work (000)	7,194
Men	4,884
Women	2,310
By sector	
Agriculture	1,379
Industry	2,609
Services	3,206

Source: Philippine Statistics Authority, OpenStat website

Note: Employees in precarious work are defined as wage and salary workers whose nature of employment is short-term, casual or those who worked for different employers on day-to-day or week-to-week basis.

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