

Contractual ban 'unconstitutional'

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The Employers Confederation of the Philippines (Ecop) is contesting at least three provisions in the consolidated Senate bill seeking to address labor contracting because they were “problematic and unconstitutional.”

Jose Roland Moya, Ecop director general, on Tuesday said that should Senate Bill No. 1826, or the proposed “Act Strengthening Workers’ Right to Security of Tenure,” be passed in its current form, it would abolish all forms of contracting and leave behind a “destructive impact on business, investment, creation of wealth and jobs.”

Management prerogative

Moya pointed to Section 2 of the bill which seeks to amend the Labor Code’s Article No. 106 that he said unfairly tags employers as violators if they tapped workers through job contractors.

“All forms of business invariably involves the exercise of management prerogative,” Moya said.

“Jurisprudence has reiterated time and again that the exercise of management prerogative is not subject to interference as long as it is done in good faith,” he added.

“To abolish all forms of contracting is a clear violation of the Constitution, jurisprudence and existing laws,” he said.

Freedom of contract

Another section of the Senate bill, sponsored by Sen. Joel Villanueva, that Ecop found to be “problematic” was one seeking to amend the Labor Code’s Article No. 295 making all employees regular, including project and seasonal employees, except those who are on probation.

The same provision also bans fixed-term employment.

“Prohibiting fixed-period employment violates the freedom of contract of parties who knowingly, willingly and without any moral pressure, give their consent to the execution of the contract guaranteed by the Constitution,” Moya said.

He added that Ecop was also against a proposed fine of P5 million to be imposed on erring employers.

Violation

Moya said the steep fine was a violation of Section 19 of the Constitution’s Bill of Rights, which prohibits the imposition of excessive fines.

In April, President Duterte urged Congress to pass a law that would put an end to labor contracting, which he promised during his campaign.

The consolidated bill in the Senate included those being supported by Senators Villanueva, Aquilino Pimentel III, Bam Aquino, Risa Hontiveros, Miguel Zubiri, JV Ejercito, Grace Poe and Loren Legarda.