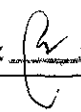


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SENATE  
S.B. NO. 2174

RECEIVED BY: 

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Introduced by Senator Francis N. Pangilinan.

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### EXPLANATORY NOTE

Section 1 of Article XI of the Constitution provides that "Public office is a public trust. Public Officer and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency, act with patriotism and lead modest lives." Pursuant thereto, the fundamental law of the land gives the Office of the Ombudsman the calling and badge to protect the people from the abuse and misuse of government power for personal aggrandizement. Accordingly, Republic Act No. 6770, otherwise known as the Ombudsman Act of 1989, was enacted on November 17, 1989.

Further, to give meaning to the above-stated constitutional appellation, the Office of the Ombudsman is charged with five major functions, to wit: Public Assistance, Graft Prevention, Investigation, Prosecution and Administrative Adjudication.

However, despite the foregoing command, graft and corruption in the government continue to escalate. While the Office is being overwhelmed with complaints of corruption against government officials, including high ranking officers, nevertheless, resolutions of the cases seem to be delayed needlessly. This is not to put the blame on the lackluster performance of the lawyers in the Office of the Ombudsman. The number of lawyers in the Office is considerably insignificant vis-a-vis the number of cases pending before the institution. This is not to mention the saddle of having to contend with the fancied, prominent and high caliber lawyers the accused hire to handle their cases.

The mandate of the Ombudsman is to serve as protector of the people and promoter of integrity and efficiency and high ethical standards in public service through prompt investigation of complaints and aggressive prosecution of cases filed against erring officials and employees. Therefore, there is a need to equip the Office with additional lawyers to handle the numerous complaints it is lodged with and enforce the appropriate administrative, civil and criminal liability in accordance with its mandate. Sadly however, the budget constraint of the government renders improbable the increasing of appropriations to cover the ideal number of lawyers to handle the cases pending before the Office. Thus, this bill aims to authorize the Ombudsman to hire private lawyers to assist the Office of the Ombudsman in handling the cases before it. Unless the shortage of lawyers in the Office of the Ombudsman is resolved, aversion of corruption in the government and efficiency in the government service will be highly improbable.

Hence, the passage of the bill is earnestly sought.

  
FRANCIS N. PANGILINAN

SENATE

**S.B. NO. 2174**

10 JUL 27 P5:06

Introduced by Senator Francis N. Pangilinan

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AN ACT

**AMENDING SECTION 31 OF REPUBLIC ACT NO. 6770, OTHERWISE KNOWN AS THE "OMBUDSMAN ACT OF 1989", AS AMENDED ALLOWING PRIVATE LAWYERS TO ACT AS PROSECUTORS ON BEHALF OF THE OMBUDSMAN**

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

1           **SECTION 1.** Section 31 of Republic Act No. 6770 is hereby further amended to read as follows:

2           "SEC, 31, *Designation of Investigators and Prosecutors.* - The Ombudsman  
3           may utilize the personnel of his office and/or designate or deputize any fiscal, state  
4           prosecutor or lawyer in the government services to act as special investigator or  
5           prosecutor to assist in the investigation and prosecution of certain cases. **THE**  
6           **OMBUDSMAN MAY ALSO DESIGNATE PRIVATE LAWYERS TO ACT AS**  
7           **INVESTIGATORS AND/OR PROSECUTORS TO ASSIST IN THE PROSECUTION OF**  
8           **CASES DECIDED HEREUNDER.** Those designated and deputized to assist him herein  
9           provided shall be under his supervision and control.

10           The Ombudsman and his investigators and prosecutors, whether regular  
11           members of his staff or designated by him as herein provided, shall have authority to  
12           administer oaths, to issue *subpoena* and *subpoena duces tecum*, to summon and compel  
13           witnesses to appear and testify under oath before them and/or bring books, documents  
14           and other things under their control, and to secure the attendance or presence of any  
15           absent or recalcitrant witnesses through application before the Sandiganbayan or before  
16           any inferior court having jurisdiction of the place where the witnesses or evidence is  
17           found.

1           "THE OMBUDSMAN MAY DESIGNATE PRIVATE LAWYERS  
2 TO ASSIST HIM IN THE PROSECUTION OF CASES IN THE FOLLOWING INSTANCES:

3           (A) CASES INVOLVING FORMER PRESIDENTS OF THE PHILIPPINES,  
4 FORMER VICE PRESIDENTS OF THE PHILIPPINES, INCUMBENT AND  
5 FORMER MEMBERS OF THE CABINET AND INCUMBENT AND  
6 FORMER UNDERSECRETARIES APPOINTED IN THE EXECUTIVE  
7 BRANCH;

8           (B) CASES REQUIRING SPECIALIZED AND EXPERT KNOWLEDGE AND  
9 TRAINING OF THE LAW;

10          (C) CASES WHERE THE PRIVATE LAWYER DEPUTIZED BY THE  
11 OMBUDSMAN IS ALSO THE COMPLAINANT IN THE FILING OF THE  
12 ORIGINAL COMPLAINT LODGED WITH THE OMBUDSMAN. WHERE  
13 THE COMPLAINANT IS NOT A LAWYER, THE OMBUDSMAN MAY  
14 ALSO DESIGNATE OR DEPUTIZE THE PRIVATE LAWYER/S HIRED  
15 AND ENGAGED BY THE SAID COMPLAINANT.

16           SEC. 31-A. *DEFINITION OF PRIVATE LAWYERS*, - FOR PURPOSES OF  
17 THIS ACT, THE TERM PRIVATE LAWYER SHALL MEAN OR BE UNDERSTOOD AS  
18 FOLLOWS:

19           (A) (I) ANY PERSON LEARNED IN THE LAW AS AN  
20 ATTORNEY, COUNSEL, OR A PERSON LICENSED TO  
21 PRACTICE LAW

22           (ii) ANY PERSON WHO PROSECUTES OR DEFEND CAUSES IN  
23 COURTS OF RECORD OR OTHER JUDICIAL TRIBUNAL,  
24 OR WHOSE BUSINESS IS TO GIVE LEGAL ADVICE  
25 OR ASSISTANCE IN RELATION TO ANY CAUSE OR  
26 MATTER; OR

27           (III) ANY LAWYER WHO IS NOT EMPLOYED IN ANY  
28 GOVERNMENT AGENCY AND NOT PAID OUT OF PUBLIC  
29 FUNDS; AND

1 (B) WITH AT LEAST FIVE (5) YEARS OF ACTIVE LITIGATION PRACTICE  
2 OR EXPERIENCE.

3 "SEC. 31-B. *NATURE OF SERVICES.* - THE SERVICES RENDERED BY THE  
4 PRIVATE LAWYERS UNDER AND PURSUANT TO THIS ACT SHALL BE *PRO BONO*  
5 AND ON A PURELY VOLUNTARY BASIS EXCEPT THAT INCIDENTAL, NECESSARY  
6 AND OUT-OF-POCKET EXPENSES SHALL BE CHARGED AGAINST THE ACCOUNT  
7 OF THE OFFICE OF THE OMBUDSMAN.

8 "SEC. 31-C. *PROHIBITION ON APPEARANCE.* - PRIVATE LAWYER'S  
9 DESIGNATED BY THE OMBUDSMAN UNDER AND PURSUANT TO THIS ACT AND  
10 THE FIRMS TO WHICH THEY BELONG SHALL, IN CASES WHERE ACTUAL OR  
11 POTENTIAL CONFLICT OF INTEREST ARISES, BE BARRED FROM APPERARING AS  
12 COUNSEL OR AGENT OF THE OMBUDSMAN, AND FROM TRANSACTING BUSINESS  
13 DIRECTLY OR INDIRECTLY WITH THE SAID OFFICE, WHILE THEY ARE DEPUTIZED  
14 TO ASSIST THE OMBUDSMAN."

15 **SEC. 2. *Separability Clause.*** - If any provision of this Act is declared invalid or unconstitutional,  
16 the remainder of this Act or any provisions not affected thereby shall remain in force and effect.

17 **SEC. 3. *Repealing Clause.*** - All laws, decrees, ordinances, rules and regulations, executive or  
18 administrative orders, and other presidential issuance inconsistent with this Act, are hereby repealed,  
19 amended or modified accordingly.

20 **SEC. 4. *Effectivity.*** - This Act shall take effect fifteen (15) days after its complete publication in at  
21 least two (2) newspapers of *general* circulation.

Approved,