


FOURTEENTH CONGRESS OF THE REPUBLIC }
OF THE PHILIPPINES }
First Regular Session }

7 JUN 30 P4:48

SENATE

RECEIVED BY: 

S.B. NO. 263

Introduced by Senator Francis N. Pangilinan

EXPLANATORY NOTE


Section 1 of Article XI of the Constitution provides "*Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice 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 in number. While the Office is being overwhelmed with complaint of corruption by government officials, including high ranking officers, nevertheless, resolutions continue to elude the people. 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 just so considerably insignificant *vis-à-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.

To give meaning to the mandate of the Ombudsman 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, there is a need to equip the Office with enough competent lawyers to promptly handle complaints 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 appropriation 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 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.

Thus, the passage of this bill is earnestly requested.


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 TO ASSIST HIM
2 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 ATTORNEY,
20 COUNSEL, OR A PERSON LICENSED TO PRACTICE LAW'

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

25 (III) ANY LAWYER WHO IS NOT EMPLOYED IN ANY GOVERNMENT
26 AGENCY AND NOT PAID OUT OF PUBLIC 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 FOR THE ACCOUNT OF THE OFFICE
7 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 APPEARING 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,