

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS

House Bill No. 1279

Introduced by Hon. Emmanuel Joel J. Villanueva

EXPLANATORY NOTE

Like ignorance and environmental degradation, corruption is a great enemy of development. The Philippines' goal to become a strong republic with a strong economy, while maintaining stability, cannot be achieved if corruption is allowed to remain rampant.

Corruption in the country is perceived to have worsened as shown by a global survey released recently by the Transparency international (TI), an international coalition against corruption. Its 2002 survey showed that the Philippines is said to be the 11th most corrupt in a survey of one hundred two (102) nations. Moreover, in Transparency International's Corruption Perception Index (CPI) score which refers to perceptions on the degree of corruption as seen by business people and risk analysts, the Philippines' ranking slipped to No. 77 from a previous rank of no. 65 in 2001 and no. 54 in 1999 which means that it would be more costly to do business in the Philippines.

Not far behind in a World Bank report which revealed a "broad consensus that corruption in the public and private sectors in the Philippines is pervasive and deep-rooted, touching even the judiciary, the media and the military".

The World Bank has estimated that corruption losses are at least twenty percent (20%) of the national budget. While the Procurement Watch Inc. (PWI), a non-profit, non-partisan civil society organization, estimates that up to P21 billion a year is lost to corruption in government procurement of goods and services alone.

Indeed, the figures above show that the degree of corruption in our country has gone unchecked. It has depleted our resources available for

development, distorted access to services for poor communities, and undermined public confidence in the government's will and capacity to serve the poor.

To an outsider, it is as if graft and corrupt practices are low-risk and high-reward activity. It sends the wrong signal to the people – that there is nothing wrong in being corrupt. Wealth and power have become the prime measures of individual Filipino success. Corrupt people have not been punished even if the public knows them. Consequently, the energy of a number of people are attracted to government service in order to occupy positions that even at the lowest levels bear benefits. Similarly, large amounts of energy and resources are directed by the private sector for exchange transactions with government so that they can secure the best possible advantage for themselves.

Undeniably, all forms of corruption translate to financial, social, economic, political and diplomatic losses in spite of the existence of various anti-corruption laws, bodies and mechanisms.

Our neighbors, Singapore and Hong Kong, were able to curb corruption with independent anti-graft bodies and stricter anti-corruption laws. Our anti-graft bodies, most of which are presidential creations, lack the real independence that an anti-corruption body requires and they therefore just become part of the already bloated and corrupt bureaucracy. And of late, there has been no cohesive effort to conduct lifestyle checks on government officials. They are conducted by officials who should also be subjected to lifestyle checks.

In view of these, it is high time that we create a National Independent Commission Against Corruption (NICAC) which will implement and coordinate policies at the national level for the prevention, control and ultimately, elimination of graft and corrupt practices at all levels of the government, either perpetuated by public officers or private persons.

The bill seeks to create an unimpeachable anti-corruption agency with personnel that is carefully selected from the civil society and is subject to strict disciplinary codes and anticorruption checks.

Through the creation of NICAC, we hope that public office would once more mean public service. Immediate passage of this bill is therefore earnestly sought.


EMMANUEL JOEL J. VILLANUEVA

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AN ACT PROVIDING FOR THE CREATION OF THE
NATIONAL INDEPENDENT COMMISSION AGAINST CORRUPTION,
APPROPRIATING FUNDS THEREOF AND FOR OTHER PURPOSES

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

SECTION 1. *Title.* – This Act shall be known as the “National Independent Commission Against Corruption Act of 2004.”

SECTION 2. *Declaration of Policy.* – It is the declared policy of the State to maintain honesty and integrity in public service and to take effective and efficient measures in the battle against graft and corruption.

SECTION 3. *Organization.* – There is hereby created a National Independent Commission Against Corruption, hereinafter referred to as the Commission, to implement and to coordinate policy at the national level for the prevention, control and ultimately elimination of graft and corrupt practices at all levels in government perpetuated by public officers and private persons alike; *Provided that*, acts or omissions constituting graft and corrupt practices shall be as defined by Republic Act No. 3019, as amended, or as declared unlawful by other existing laws.

SECTION 4. *Powers and Functions of the Commission.* – The commission shall exercise the following powers:

- a. To formulate and implement a national anti-corruption framework, program strategies and a corresponding action agenda of the government in consultation with government agencies, private sector, and civil society organizations;

- b. To investigate as provided under Section 37, Chapter 9, Book I of the Administrative Code of 1987, *including* the power to summon witnesses, administer oaths, take testimony or evidence relevant to its investigation, and to issue compulsory process to produce documents, books, records and such other matters, in the performance of its functions;
- c. To initiate legal action in cases where a party refuses to take oaths, give testimony or produce documents for inspection, when thereunto lawfully required;
- d. To apply for the grant of immunity from prosecution to any person whose testimony, or whose possession of documents or other evidence, is necessary or convenient to determine the truth in any investigation conducted by it or under its authority;
- e. To endorse to the Office of the Ombudsman or the Department of Justice, as the case may be, for prosecution upon finding of prima facie case, any matter that the Commission, after investigation, upon complaint by any person or at its own instance, shall find to constitute graft and corrupt practices in case of the infractions by public officials and private groups or individuals;
- f. To verify the observance of the ceiling on electoral expenditure and the accuracy of the election campaign accounts, and assist in the investigation of palpable and massive electoral fraud and monitor the actions of the different boards of canvassers during elections in coordination with the Commission on Elections (COMELEC);
- g. To examine the execution of public contracts as to both tendering and results;
- h. To verify the award of public works and supply contracts and the assignment of operations by the public authorities if they are conducted properly and honestly;
- i. To undertake a comprehensive audit which shall be inclusive of lifestyle check on any public officer/employee;
- j. To serve lawfully issued warrants of arrest and/or search and seizure pursuant to its investigatory powers;
- k. To conduct sustained information and education drives aimed at preventing corruption and public misconduct;

1. To organize specialized training of staff members of the Commission and representatives of private sector and civil society in the prevention, investigation, and prosecution of graft and corrupt practices;

SECTION 5. Offenses Covered. – For purposes of this law, the Commission shall have jurisdiction to investigate possible violations of any of the following:

- a. Republic Act No. 3019, as amended, otherwise known as the “Anti-Graft and Corrupt Practices Act”;
- b. Republic Act No. 1379 on the “Law on Forfeiture of Ill-Gotten Wealth”;
- c. Republic Act No. 6713, otherwise known as the “Code of Conduct and Ethical Standards for Public Officials and Employees”;
- d. Section 46 (b), Book V, Subtitle A, Chapter 6 of Executive Order No. 292, series of 1987, otherwise known as the “Administrative Code of 1987”;
- e. Any provision under Title Seven of the Revised Penal Code on Crimes committed by Public Officers;
- f. Rules and regulations duly promulgated by a competent authority to implement relevant law, executive orders, rules or regulations.

SECTION 6. Composition of the Commission. The Commission shall be headed by a Chairperson, who shall be assisted by three (3) Commissioners. The Chairperson and Commissioners shall all serve on a full-time basis.

- a. Each shall be selected and appointed by the President, without the requirement of confirmation, *Provided, however,* That reappointment shall follow the nomination process outlined in this Section.
- b. The Chairperson and the Commissioners shall include at least one (1) lawyer and accountant and member of the academe who is in the field of public administration. Each shall be selected and appointed by the President from a pool of candidates to be nominated by peak professional organizations of accountants and lawyers and by the University or College Administration for the Chairperson or Commissioner/s that shall come from the academe, respectively, which must have been in existence for at least ten (10) years. A “peak professional organization” refers to an organization duly recognized by members as representative of, and having the largest active membership in their profession. The mechanics of the nomination

process shall be provided for in the Implementing Rules and Regulations for this Act.

- c. The Chairperson and Commissioners must be a citizen of the Philippines, at least thirty-five (35) years of age, known and recognized for moral uprightness and patriotism, of unquestionable integrity, and a recognized expert in law, accounting and public administration. They must not have been candidates for any elective national or local office in the immediately preceding election whether regular or special.
- d. The Chairperson shall serve for five years and renewable every two (2) years thereafter. The Commissioners to be appointed shall serve for three (3) years and renewable every two (2) years thereafter.
- e. The President may remove any member of the Commission for any of the following reasons:
 - i. The member suffers from physical or mental incapacity that renders him or her incapable of properly discharging the duties and responsibilities of the Commission and such incapacity has lasted for more than six (6) months;
 - ii. The member has committed acts or operations that are shown *prima facie* to be fraudulent or illegal or manifestly opposed to the aims and interests of the Commission;
 - iii. The member ceases to possess the qualifications required in the law or the IRR;

Each vacancy shall be filled not later than fifteen (15) days after it occurs. An appointment to fill the vacancy created by the death, resignation or removal of any member of the Commission shall only be for the unexpired period of such Chairperson or Commissioner/s' term.

- f. The chair and the Commissioners shall not hold any other public office or employment during their tenure.

In no case shall any member of the Commission appoint representatives to act on his behalf.

- g. The President shall fix the compensation of the Chairperson and the Commissioners based on an objective classification system at a sum commensurate to the importance and responsibilities attached to the position and shall be exempt from the Salary Standardization Law.

SECTION 7. *The Secretariat.* – The Commission shall be assisted by a Secretariat which shall first be organized upon the appointment of the executive Director.

The Secretariat shall likewise be composed of individuals of known moral probity and dedication to public service.

- a. The Executive Director. The Executive Director shall be appointed by the Chairperson with the concurrence of the Commissioners. The Executive Director shall attend the Commission's deliberations, monitor the implementation of the programs thereof, and manage the day-to-day operations thereof.
- b. Functions of the Secretariat. The Secretariat shall provide technical and administrative support to the Commission and oversee all the operational activities of the Commission.
- c. The Commission shall prepare the salary schedule of the Secretariat in consultation with the Department of Budget and Management.

SECTION 8. *Organizational Structure.* Three departments shall be created to carry out policies and decisions of the Commission: the Operations Department, the Corruption Prevention Department and the Community Relations Department.

- a. The Operations Department shall carry out the investigation and endorsement to the proper agency of cases investigated for the prosecution of offenses;
- b. The Corruption Prevention Department shall carry out assessment of other organizations' breakpoints where corruption practices would be most likely. It examines the practices and procedures of government departments and public bodies and makes recommendations on how opportunities for corruption can be eliminated or reduced.
- c. The Community Relations Department shall gather support and information from the public and work toward the change of public attitudes regarding corruption.

SECTION 9. *Transparency and Availability of Records.* – The Commission shall maintain and preserve its records, documents and papers, and shall make the same available to the public except when disclosure will pose serious damage to the Commission's case or when a party would be deprived of his/her right to a fair and impartial adjudication.

SECTION 10. *Implementing Rules and Regulations and Standard Forms.* – Within ninety (90) days from the approval of this Act, the Commission with the assistance but without any additional remuneration, of the head of the Development Academy of the Philippines, the chair of the Civil Service Commission, the chair of the Commission on Audit, the Ombudsman and a representative from the Sandiganbayan shall promulgate the Implementing Rules and Regulations of this Act.

SECTION 11. *Restrictions.* – No writ of injunction shall be issued by any court to delay an investigation being conducted by the Commission.

SECTION 12. *Total Support of Other Government Units.* – The Commission may require any government agency to make available their offices, personnel and facilities to attain the objectives of this law.

SECTION 13. *Malicious Prosecution.* – Any complaint found to have been initiated with malice shall be dealt with in accordance with law.

SECTION 14. *Franking Privilege.* – All official mail matters and telegrams of the Commission addressed for delivery within the Philippines shall be received, transmitted, and delivered free of charge: provided, that such mail matters when addressed to private persons or non-government offices shall not exceed one hundred twenty grams (120). All mail matters and telegrams sent through government telegraph facilities containing complaints to the Commission shall be transmitted free of charge, provided that the telegram shall contain not more than one hundred fifty (150) words.

SECTION 15. *Annual Report.* – The Commission shall, on or before June 30 in each year, or by such later date as the President may allow, submit to the President a report of the activities the Commission has undertaken in the previous year. The Commission shall also make available a copy of the report to the general public.

SECTION 16. *Welfare Fund.* – There shall be established a fund to be known as the “National Independent Commission Against Corruption Welfare Fund”. The fund shall be consisted of donations and voluntary contributions as may be made thereto. The said fund shall be in control of the Chairperson and utilized for purposes as specified in the IRR.

SECTION 17. *Appropriation.* – The Commission shall have an initial budget of four hundred million pesos (P400,000,000.00) which shall include the budget appropriated for the agencies that will be integrated. Any additional funding requirement shall be determined in coordination with the Department of Budget and Management. Appropriations for the succeeding years shall be incorporated in the budget proposal for the fiscal year.

SECTION 18. *Separability Clause.* – If any provision of this Act is declared unconstitutional, the other provisions not affected thereby shall continue to be in full force and effect.

SECTION 19. *Effectivity Clause.* – This Act shall take effect fifteen (15) days following its publication in the Official Gazette or two (2) newspapers of general circulation.

Approved.