

**Republic of the Philippines
House of Representatives
Quezon City**

Thirteenth Congress
First Regular Session

House Bill No. 3603



Introduced by Hon. Jose Lacson

AN ACT AMENDING REPUBLIC ACT 7722, ENTITLED "AN ACT CREATING THE COMMISSION ON HIGHER EDUCATION, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES", STRENGTHENING THE COMMISSION ON HIGHER EDUCATION (CHED), AND FOR OTHER PURPOSES

EXPLANATORY NOTE

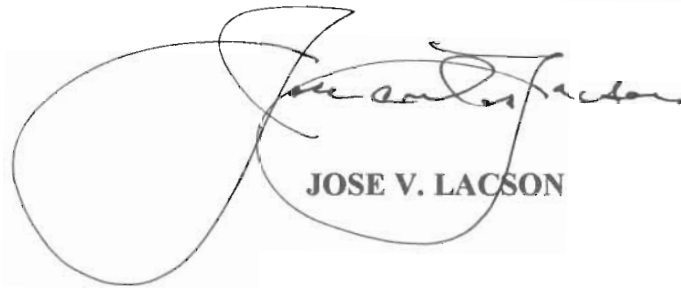
*By virtue of the passage of R.A. 7722 otherwise known as the **Higher Education Act of 1994**, the COMMISSION ON HIGHER EDUCATION (CHED) was created as an independent body, separate and distinct from the Department of Education, Culture and Sport (DECS) and attached to the Office of the President. Thus, the CHED is at the apex of the Philippine education system being the agency responsible for and has jurisdiction over both public and private higher education institutions of learning as well as degree-granting programs in post-secondary educational institutions.*

Considering the broad and difficult mandates of the Commission, it is felt that the authority and role of the CHED especially in relation to the various stakeholders of the higher education sector should be reinforced, rationalized and strengthened in order for the Commission to discharge properly and effectively its functions and mission in accordance with the intent and spirit of R.A. 7722 .

Moreover, the rationalized, powers and authority of the CHED can be given greater effectiveness if its composition, governance, and organization are further enhanced as provided herein. It is felt that after more than Ten (10) years of existence many changes have to be put in place in the management and administration of the Commission in order to respond to the demands and challenges of a rapidly transforming higher education sector both here and abroad. Indeed as the leader in higher education development and supervision in the country, the Commission must take on a new and more effective ways of approaching higher education for it to serve better the needs of the Filipino people for better quality of life

and at the same time to be globally-competitive and world-class provider of education services towards national development.

In view of the foregoing consideration, the early approval of the Bill is highly desired.

A handwritten signature in black ink, appearing to read "Jose V. Lacson", is written over a light gray rectangular background. The signature is fluid and cursive, with a large loop on the left side.

JOSE V. LACSON

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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 "Higher Education Act of 1994".

SEC. 2 *Declaration of Policy.* - The State shall protect, foster and promote the right of all citizens to affordable quality education at all levels and shall take appropriate steps to ensure that education shall be accessible to all. The State shall likewise ensure and protect academic freedom and shall promote its exercise and observance for the continuing intellectual growth, the advancement of learning and research, the development of responsible and effective leadership, the education of high-level and middle-level professionals, and the enrichment of our historical and cultural heritage.

State-supported institutions of higher learning shall gear their programs to national, regional or local development plans. Finally, all institutions of higher learning shall exemplify through their physical and natural surroundings the dignity and beauty of, as well as their pride in, the intellectual and scholarly life.

SEC. 3. This Section amends SEC. 3 of RA 7722 to read as follows:

" SEC. 3. *Creation of the Commission on Higher Education.* - In pursuance of the abovementioned policies, the Commission on Higher Education is hereby created, hereinafter referred to as the Commission.

The Commission shall be a collegial body independent and separate from the Department of Education (DepEd), and attached to the Office of the President for administrative purposes only. Its coverage shall be both public and private institutions of higher education offering degree programs as well the degree programs of post-secondary institutions including local government supported colleges and universities .

SEC. 4. This Section amends SEC. 4 of RA 7722 to read as follows:

“ SEC. 4. *Composition of the Commission Proper.* - The Commission proper shall be composed of five (5) members, three (3) of whom shall come from the academe and/or school associations, and the rest from business, industry and the professions, public or private. The Commissioners coming from the academic sector shall be academicians known for their high degree of professionalism, integrity and who have distinguished themselves as authorities in their chosen fields of learning. They shall be holders of doctoral degrees and have been actively engaged in higher education teaching and/or research for at least five (5) years.

On the other hand, the Commissioners from business, industry and the professions shall be distinguished/eminant persons and shall possess proven track record in their own fields of expertise. In addition, they shall possess good track record in the fields of management, policy-making or human resources development.

No commissioner should have been candidates for elective positions in the elections immediately preceding their appointment. The members of the Commission shall belong to different academic fields, professional aggregations, or industry/business sectors, in the public or private sectors.

The Commission shall concern itself with the formulation of relevant policies on higher education and shall act as a collegial body in all matters of policy affecting higher education development, provided, however, that matters of implementation and execution shall be the jurisdiction of executive offices under the Commission.

In no case shall any and all of the Commissioners appoint representatives to act on their behalf.

SEC. 5. This Section amends SEC. 5 of RA 7722 to read as follows:

“SEC. 5. *Term of Office.* - The President shall appoint the chairman and the commissioners for a term of five (4) years, without reappointment. The terms of the initial appointees shall be on staggered basis: the chairman shall hold office for a term of five (4) years, the next two (2) commissioners for three (3) years, and the last two (2) commissioners for two (2) years without prejudice to one reappointment.

The commission shall hold office until their successors shall have been appointed and qualified. Appointment to any vacancy shall only be for the unexpired term of the predecessor. In no case shall any commissioner be appointed or designated in a temporary or acting capacity.”

SEC. 6. *Rank and Emoluments.* The chairman and the commissioners shall have the rank of a Department Secretary and Undersecretary, respectively. They shall receive the compensation and other emoluments corresponding to those of a Department Secretary and Undersecretary, respectively, and shall be subject to the same disqualifications.

SEC. 7. This a new Section to read as follows:

“ Section 7. *Duties and Responsibilities of the Chairman.*- Subject to pertinent laws, the policies and rules adopted by the Commission, the Chairman shall:

- (1) Act as the Chief Executive Officer of the Commission;
- (2) Sign/issue appointments to subordinate officials and employees of the Commission in accordance with pertinent laws;
- (3) Delegate authority for the performance of any function to officials and employees of the Commission;
- (4) Approve and submit the budget of the Commission;
- (5) Submit to the Office of the President rules and regulations adopted by the Commission which require Presidential attention including annual and other periodic reports;
- (6) Perform such other functions as may be provided by law.”

SEC. 8. This is a new Section to read as follows:

“ Section 8. *Duties and Responsibilities of the Commissioners.*- In the spirit of collegiality, jointly with the Chairman, the Commissioners shall be responsible for the effective exercise of the policy-making and rule-making functions of the Commission. They shall likewise perform such other functions as may be delegated by the Commission, provided, however, that in no case shall the Commissioners perform line or executive functions. In case of the absence of the Chairman due to illness, incapacity or other serious cause, the most senior Commissioner shall perform the functions of the Chairman as Officer-in-Charge.”

SEC. 9. This amends Section 8 of RA 7722 to read as follows:

“SEC. 8. *Powers and Functions of the Commission.* - The Commission shall have the following powers and functions:

- a) formulate and implement development plans, policies, priorities and programs on higher education and research
- b) formulate and implement development plans, policies, priorities and programs on research;
- c) recommend to the executive and legislative branches, priorities and grants on higher education and research;
- d) set minimum standards for programs and institutions of higher learning for appropriate incentives as well as the imposition of sanctions such as, but not limited to, diminution of withdrawal of subsidy, recommendation on the downgrading or withdrawal of accreditation, program termination or school

closure; likewise, it shall have the exclusive authority to determine the minimum qualifications for faculty who can teach in higher education institutions;

- e) monitor and evaluate the performance of programs and institutions of higher learning, both private and public, including locally funded colleges and universities, for appropriate incentives as well as the imposition of sanctions such as, but not limited to, withdrawal of subsidy, downgrading and withdrawal of government recognition and authority to operate programs or school closure; Provided, That, the Commission shall have the exclusive/sole authority to conduct visitations to Higher Education Institutions (HEIs) for issuance of government authority to operate programs or courses for monitoring and evaluation purposes;
- f) identify, support and develop potential centers of excellence in program areas needed for the development of world-class scholarship, nation building and national development;
- g) allocate and subdivide the total budget of state universities and colleges in coordination with the Department of Budget and Management and recommend general guidelines for the use of their income based on a normative funding formula which shall be formulated by the Commission;
- h) rationalize programs and institutions of higher learning and set standards, policies and guidelines for the creation of new ones as well as the conversion or elevation of schools to institutions of higher learning, subject to budgetary limitations and geographic distribution of higher education institutions and the limitation on the number of institutions of higher learning in the province or region where creation, conversion or elevation is sought to be made;
- i) develop criteria for allocating additional resources such as research and program development grants, scholarships, and other similar programs: *Provided, That* these shall not detract from the fiscal autonomy already enjoyed by colleges and universities;
- j) direct or redirect purposive research by institutions of higher learning to meet the needs of agro-industrialization and development;
- k) devise and implement resource development schemes;
- l) administer the Higher Education Development Fund (HEDF), as described in Section 12 hereunder, which will promote the purposes of higher education in both private and public sectors;
- m) review the charters of institutions of higher learning and state universities and colleges including the chairmanship and membership of their governing bodies and recommend appropriate measures as basis of necessary action;
- n) conduct mediation, conciliation, settlement meetings or conferences, exercise appellate jurisdiction between higher education institutions and students, teachers, and staff involving academic issues only, in accordance with rules to be issued by the Commission for the purpose;

- o) promulgate such rules and regulations and exercise such other powers and functions as may be necessary to carry out effectively the purpose and objective of this Act; and
- p) perform such other functions as may be necessary for its effective operations and for the continued enhancement, growth or development of higher education.

Section 10 to read as follows:

“ SEC. 10. *The Secretariat.* The Commission shall organize a secretariat, which shall be headed by an executive officer with the title of Executive Director and assisted by a Deputy Executive Director.”

SEC. 11. This is a new Section to read as follows:

“ SEC. 11. *The Executive Director.* The Commission Secretariat shall be headed by an Executive Director who shall act as the Chief Operating Officer of the Commission., and assisted by a Deputy Executive Director . As such, the Executive Director, with the rank of Assistant Secretary, should possess a well-balanced experience and exposure in the technical areas of policies and standards development, management, public or private administration and policy as well as human resource development , among others. As Executive Director, he shall:

- (1) Execute and implement policies, standards, rules and regulations promulgated by the Commission;
- (2) Supervise and coordinate the programs of the central, regional, and other offices of the Commission and render periodic reports on their operations;
- (3) Direct and supervise the internal administration and day to day operations of the Commission;
- (4) Undertake personnel actions subject to and in accordance with existing laws, rules and regulations ;
- (5) Submit an annual budget of the Secretariat to the Commission for approval;
- (6) Delegate his authority, in whole or in part, in accordance with the rules and regulations of the Commission and in with existing laws;
- (7) Perform such other functions as may be authorized by law, regulations, and/or the Commission.

There shall be appointed a Deputy Executive Director who shall assist in coordinating the affairs of the Commission in terms of implementation and executive actions. In the absence of the Executive Director due to incapacity, illness or other causes, the Deputy Executive Director shall perform his/her function pursuant to existing laws.

SEC. 12. *The Higher Education Development Fund.* - A Higher Education Development Fund, hereinafter referred to as the Fund, is hereby established exclusively for the strengthening of higher education in the entire country. It shall be treated as a trust fund.

Furthermore, the Higher Education Development Fund shall be used also to assist developing institutions both public and private in accordance with assistance schemes and

/or criteria as prescribed by the Commission, taking into account urgency of needs and equity considerations.

- a) The Government's contribution to the fund shall be the following:
 - 1) the amount of five hundred million pesos (P500,000,000) as seed capital;
 - 2) the amount of fifty million pesos (P50,000,000) for the initial operation of the Commission;
 - 3) the equivalent of forty percent (40%) annual share on the total gross collections of the travel tax;
 - 4) the equivalent of thirty percent (30%) share of the collections from the Professional Registration Fee; and
 - 5) the equivalent of one percent (1%) of the gross sales of the lotto operation of the Philippine Charity Sweepstakes Office (PCSO).
- b) Starting Fiscal Year 1995 and every year thereafter, government financing Institutions identified and requested by the Commission may contribute to the Fund an amount equivalent to not less than three percent (3%) but not more than five (5%) percent of their unimpaired surplus realized during the immediately preceding year.
- c) The Fund shall have a private portion to be raised from donations, gifts, and other conveyances including materials, equipment, properties and services by gratuitous title.

SEC. 13. *Management and Administration of the Higher Education Development fund.* - The Fund shall be administered by the Commission. For sound and judicious management of the Fund, the Commission shall appoint a reputable government financial institution as portfolio manager of the Fund, subject to the following conditions:

As administrator of the Fund, the Commission shall prepare the necessary guidelines for its use, subject to the following conditions:

- a) No part of the seed capital of the Fund, including earnings thereof, shall be used to underwrite overhead expenses for administration;
- b) Unless otherwise stipulated by the private donor, only earnings of private contributions shall be used for administrative expenses;
- c) The Commission shall appoint and organize a separate staff, independent Administratively and budgetarily separate from the Commission Secretariat; and
- d) The Fund shall be utilized equitably according to regions and programs.

SEC. 14. *The Technical Panels.* - The Commission shall reconstitute and/or organize technical panels for different disciplines/program areas. They shall assist the Commission in

setting standards and in program and institution monitoring and evaluation. The technical panels shall be composed of senior specialists or academicians to be appointed by the Commission. They shall be directly under the office of the Chairman.

SEC. 15. *Guarantee of Academic Freedom.* - Nothing in this Act shall be construed as limiting the academic freedom of universities and colleges. In particular, no abridgment of curricular freedom of the individual educational institutions by the Commission shall be made except for; (a) minimum unit requirements for specific academic programs, (b) general education distribution requirements as may be determined by the Commission; and (c) specific professional subjects as may be stipulated by the various licensing entities. No academic or curricular restriction shall be made upon private educational institutions, which are not required for chartered state colleges and universities, provided, however, that program offerings of state universities and colleges (SUCs) shall follow and be approved in accordance with the minimum standards and requirements prescribed by the Commission.

SEC. 16. *Accreditation.* - The Commission shall provide incentives to institutions of higher learning, public and private, whose programs are accredited or whose needs are for accreditation purposes. The Commission shall likewise formulate guidelines for grants from the HEDF as incentives for accreditation.

SEC. 17. *Tax Exemptions.* - Any donation, contribution, bequest and grant which may be made to the Commission shall constitute as allowable deduction from the income of the donor for income tax purposes and shall be exempt from donor's tax, subject to such conditions as provided under the National Internal Revenue Code, as amended.

SEC. 18. *Authority.* The Commission shall exercise such authority as may be deemed necessary within its premises. Or areas of operation to effectively carry out its powers and functions to attain its objectives: *Provided,* That the Commission may seek the assistance of other government agencies for the proper implementation of this Act.

SEC. 19. This a new Section to read as follows:

SEC. 19. *Regional Operations.* The Commission shall establish regional offices in accordance with the Administrative code of 1987 and other pertinent laws and issuances relative to the establishment and operation of regional offices. The Regional Office shall be headed by a Regional Director and assisted by an Assistant Regional Director. In cases where field offices or sub-regional offices may be needed or appropriate, the Commission may establish such offices pursuant to existing guidelines and practice.

Section 19 to read as SEC. 21:

SEC. 21. *Appropriation.* The amount necessary for the operation of the Commission shall be provided for in the annual General Appropriations Act.

The amount of five hundred million pesos is hereby authorized to be appropriated for the seed capital of the fund. The additional amount of 50, 000,000 pesos is hereby authorized to be appropriated out of the funds in the National Treasury not otherwise appropriated or out of the Philippine Amusement and Gaming Corporation (PAGCOR) funds for the initial operation of the Commission.

SEC. 22 . *Implementing Rules and Regulations* . The Commission shall organize a Committee to be chaired by the Commission Chairman and composed of the following agencies to draft the implementing rules and regulations of RA 7722 as amended: COCOPEA, PASUC, Senate Committee on Education, Arts and Culture , the House Committee on Higher and Technical Education , the NEDA, the Association of Local Government Colleges and Universities. (ALCU).

The CHED Executive Director and the Deputy Executive Director shall co-chair the support secretariat which shall be manned by the various offices under the Commission . The support secretariat shall provide the necessary technical and administrative support to the Committee.

The Committee shall formulate the rules not later than three (3) months after the effectivity of this Act and within three (3) months after creation of the Committee.

SEC. 23. *Repealing Clause*. All laws, presidential decrees, executive orders, rules and regulations of parts thereof which are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 24. *Separability Clause*. If any part or provision of this Act shall be declared unconstitutional or invalid, other provisions hereof which are not affected thereby shall continue to be in full force and effect.

SEC. 25. *Effectivity*. - This Act shall take effect fifteen (15) days from publication in a newspaper of general circulation.

Approved,