

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

**THIRTEENTH CONGRESS
First Regular Session**

HOUSE BILL NO. 4449



Introduced by Rep. Teodoro A. Casiño

EXPLANATORY NOTE

According to the latest Commission on Higher Education (CHED) report, 15,37% of 1,321 higher education institutions applied for an increase in tuition fee this year while last school year, 381 or 29% applied for tuition fee increases. The figures are staggering especially since in the face of unabated sky-rocketing prices of commodities, private schools are consistently, listed among the country's top 1,000 corporations.

While it is true that there are some private schools, especially those catering to the poorest regions in the country, whose profits were dismal, they are more an exemption to the rule. The seeming profitability of private education institutions is further bared by the fact that the country's big name in the corporate world, such as Lucio Tan and the Yuchengcos, went out of their main line of business to establish or buy private education institutions. Hence, in the past 14 years alone, 595 private Higher Education Institutions have been established.

In the Philippines, schools in the NCR have the largest tuition rate per unit averaging P614.54 per unit as of 2003. This means that a student with a 21-unit load has to shell out at least P12,905.34 in tuition fees alone. Since then, tuition fees have already been increased by as much as 15% per year. On top of this, every student has to pay miscellaneous and other fees that averaged P2,297.64 as of 2003.

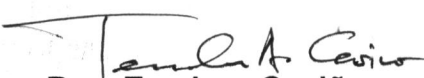
The 1987 Constitution clearly states that education should be given the highest budgetary priority. Section 1 of Article XIV of the 1987 Constitution likewise states that

"The state shall protect and promote the right of all citizens to quality education at all levels and shall take appropriate steps to make such education possible."

Under Section 4, the Constitution states clearly that, *"The state recognizes the complementary roles of public and private institutions in the educational system and shall exercise reasonable supervision and regulation of all educational institutions."*

The time has come for the state to exercise its regulatory powers to curtail the unabated increase of tuition fees. This Act amends Batas Pambansa Blg. 232, specifically the infamous Sec. 42 which de facto deregulated the entire private education system, and creates a Private Education Institution Regulatory Board for that particular purpose.

In view of the foregoing, immediate approval thereof is highly recommended.


Rep. Teodoro Casiño
Bayan Muna Party-List

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AN ACT
REGULATING TUITION FEES OF PRIVATE EDUCATION INSTITUTIONS, THEREBY
AMENDING BATAS PAMBANSA BLG 232 AS AMENDED, CREATING A PRIVATE
SCHOOL FEE REGULATORY BOARD, AND FOR OTHER PURPOSES

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

Section 1. Title. – This Act shall be known as the “Private School Fee Regulation Act of 2005”

Section 2. Declaration of Policy. – Section 1 of Article 14 of the Constitution states that the state shall protect and promote the right of all citizens to quality education at all levels, and further mandates the state to take appropriate steps to make such education accessible to all. While the Constitution also recognizes the complementary role of private schools in attaining this goal, steps should be taken to ensure that there is no profiteering in the Philippine private school system and that everybody is protected from unjust school fee increases.

Section 3. Private Education Institutions. – as used in this Act, Private Education Institutions, hereinafter referred to as “institutions” shall refer to any school, college, university, company or corporation authorized by the state to grant education, either formal or informal; technical or non-technical; vocational or non-vocational; and whose subsistence relies significantly in it gaining profits, dividends or stocks from giving such. Private Schools and Private Education Institutions are used in this Act interchangeably.

Section 4. Section 3 of Batas Pambansa Bilang 232, other known as the “*Education Act of 1982*” is hereby amended to read as follows:

“SECTION 3. Declaration of Basic Policy. – It is the policy of the state to PROMOTE QUALITY EDUCATION THAT IS ACCESSIBLE AND AFFORDABLE TO ALL AND TO establish, [and] maintain AND SUPPORT a complete, adequate and integrated EDUCATIONAL system [system of] relevant to the NEEDS AND DEVELOPMENT OF THE FILIPINO PEOPLE [goals of national development]. Towards this end, the government shall ensure within the CONTEXT [text] of a free, PATRIOTIC and democratic system, THAT THE EDUCATION

SECTOR BE GIVEN THE BIGGEST PORTION OF THE NATIONAL GOVERNMENT BUDGET TO ENSURE THE OPTIMUM AND RIGHTFUL [maximum] contribution of the educational system to the attainment of the following national development goals:

- (1.) To achieve and maintain an accelerating EQUITABLE AND SUSTAINABLE rate of economic development and social progress;

xxx. “

Section 5. Section forty-two of Batas Pambansa Blg. 232 is hereby amended to read as follows:

“SECTION 42: [Tuition and other fees] —

- (1) TUITION FEES – Each private school, WHETHER PRIMARY, SECONDARY, TERTIARY, POST-GRADUATE, OR TECHNICAL AND VOCATIONAL, shall determine its rate of tuition FEE [and other school fees or charges. The rates and charges adopted by schools pursuant to this provision shall be collectible, and their application or use authorized,] BASED ON A REASONABLE RETURN OF INVESTMENT OF NOT MORE THAN SIX PERCENT (6%) AND subject to the rules and regulations promulgated BY the PRIVATE SCHOOL FEE REGULATORY BOARD (PSFRB). [Ministry of Education, Culture and Sports.]

ANY INCREASE IN TUITION FEES SHOULD BE APORTIONED AS SUCH:

- (a) AT LEAST SEVENTY PERCENT (70%) SHOULD GO TO SALARIES, BENEFITS, COMPENSATION AND TRAINING OF FACULTY AND / OR NON-ACADEMIC PERSONNEL; AND
 - (b) AT LEAST TWENTY PERCENT (20%) SHOULD BE APPORTIONED FOR RECOVERY OF CAPITAL OUTLAY AND THE LIKES.
- (2) MISCELLANEOUS FEES – ARE FEES TO PROVIDE FOR ACTUAL STUDENT SERVICES.

EACH PRIVATE SCHOOL, WHETHER IT BE PRIMARY, SECONDARY, TERTIARY, POST-GRADUATE, OR TECHNICAL, MAY ADD ANY MISCELLANEOUS FEES ASIDE FROM TUITION FEES, BASED ON A REASONABLE RETURN OF INVESTMENT OF NOT MORE THAN SIX PERCENT (6%), AND SUBJECT TO THE RULES AND REGULATIONS SET FORTH BY THE PRIVATE SCHOOL FEE REGULATORY BOARD (PSFRB). PROVIDED THAT THE PURPOSE FOR EACH AND EVERY SUB-ITEM INDICATED UNDER THE MISCELLANEOUS FEES SHALL BE CLEARLY INDICATED.

- (3) NO INCREASES IN EITHER TUITION OR MISCELLANEOUS FEES SHOULD BE GRANTED IN THE ABSENCE AN AGREEMENT, MADE THROUGH PUBLIC HEARING, BETWEEN A SCHOOL'S COMPETENT AUTHORITY AND OF STUDENTS, PARENTS, NON-ACADEMIC PERSONNEL AND FACULTY EQUALLY REPRESENTED.
- (4) THERE SHALL BE NO OTHER SCHOOL FEES WHICH MAY BE DESIGNATED ASIDE FROM TUITION AND MISCELLANEOUS FEES.

Section 6. Section 68 of Batas Pambansa Blg. 232 as Amended is hereby amended to read as follows:

"Sec. 68. Penalty Clause. — Any person upon conviction for an act in violation of Section 28, Chapter 3, Title III above OR SECTION 42, CHAPTER 5 TITLE B OF THIS ACT, shall be punished with a fine of not less than ONE HUNDRED THOUSAND PESOS (P100,000.00) [two thousand pesos (P2,000.00)] nor more than THREE HUNDRED THOUSAND PESOS (300,000.00) [ten thousand pesos (P10,000.00)] or imprisonment [for a maximum period] OF NOT MORE THAN SIX (6) YEARS [two (2) years], or both, in the discretion of the court.

MISREPRESENTATION OR MISDECLARATION OF ASSETS, INCOMES AND LIABILITIES SHALL BE PRIMA FACIE EVIDENCE AS VIOLATING SECTION 42 CHAPTER 5 TITLE B OF THIS ACT.

If the act is committed by a school corporation, the school head, together with the person or persons responsible for the offense or violation shall be equally liable."

Section 7. Creating the Private School Fee Regulatory Board – it is hereby created an independent quasi-judicial regulatory body to be named the Private School Fee Regulatory Board (PSFRB) and which shall be attached to the Office of the President.

The Board shall consist of a chairman, one (1) vice chairman, and six (6) members of the board of directors including two (2) youth representatives, all of which shall be appointed by the President

The Chairman and the Directors of the Board, except the youth representatives, shall be natural born citizens who are residing in the Philippines with recognized competence in at least one of the following fields: law, education, finance, commerce, accounting, economics, and social sciences; or had been a member of the academe of a reputable state university for at least five (5) years.

The youth representatives shall be not be less than eighteen (18) years of age but not more than thirty-five (35) years of age upon their appointment, should be natural born citizens who are residing in the Philippines and should fulfill at least one of the following: a ranking officer of a youth student organization of national scope, officer of a university student council of

a reputable university or an officer of a non-government organization with education as its primary advocacy.

At least one of the members of the board should be a certified public accountant, while another should be a member of the Philippine bar with at least five (5) years of experience in the chosen field of expertise. Likewise, at least two (2) directors of the board should be women.

Section 8. Terms of Office. – the chairman, vice-chairman and the directors of the board appointed by the President shall serve a term of six years.

Section 9. The Youth Representatives. – no person above the age of thirty-five (35) may be appointed by the President to become a youth representative in the Board. If, before the term expires, a youth representative has reached the maximum allowable age, the youth representative shall remain in the Board until his or her term expires.

No policy, recommendation, approval to fee increase or program may be implemented by the Board unless a majority vote of all its members are in order, and that at least one (1) of the two (2) youth representatives in the Board have voted in favor of said policy or recommendation.

Section 10. Compensation and Emoluments for the Board. – the chairman shall enjoy the same benefits, privileges and emoluments equivalent to the rank of secretary while the vice-chairman and the directors of the Board shall enjoy the benefits, privileges and emoluments equivalent to the rank of Undersecretary.

Section 11.. Director-General of the Secretariat. – The authority and responsibility for the implementation of the board of directors' mandate shall be vested on the Director-General of the Board, which shall be appointed by the President from a list of three names that will be submitted by the Board's directors. Under no circumstance shall the Director-General be a member or stockholder of any private educational institution.

The Director-General shall sit as a member of the board of directors and hence, shall enjoy the same benefits, privileges and emoluments equivalent to the rank of Undersecretary.

Section 12. Mandate. –

- (1) The Private Education Institution Regulatory Board (PEIRB) is hereby granted powers to regulate the fees, return of investments and any and other matters as may be delegated to it by law. The board's jurisdiction covers all fees being collected by an institution's administration on either students or employees whether academic or non-academic;
- (2) This regulatory power includes benefits that laws and statutes of the land may require of private learning institutions to grant its student population, faculty or even non-academic personnel; and

- (3) Any other issue relating to proper disbursement of funds of Institutions, and proper allocation of fees collected for their particular purpose.

Its mandate, however, does not include the regulation of the curricula and other academic requirements an institution needs to fulfill. Such mandate is maintained on DepEd, CHED or TESDA.

Section 13. Duties and Functions of the Board. – The Private Education Institution Regulatory Board (PEIRB) shall promulgate within sixty-days after this Act is in effect, the guidelines, rules and regulations for the implementation of this Act. In addition, the Board shall have the following duties and functions:

- (1) To issue, after conducting appropriate hearings with the concerned sectors, policies, plans, programs and guidelines as may be necessary for the effective implementation of this Act.
- (2) To conduct public hearings on any fee increase petition applied by institutions;
- (3) To conduct hearings regarding any complaint filed before it regarding improper allocation of fees intended for other purpose;
- (4) To institute regional boards and to promulgate rules and regulations regarding the conduct of hearings in exercise of its regulatory powers to its provincial and regional offices;
- (5) To issue rules and regulations governing proceedings before the Board;
- (6) To revise, amend or cancel License to Operate or Certificates of Accreditation granted either by CHED, DepEd or TESDA to an institution if it found the institution violating any of the rules and regulations promulgated by it in accordance to this Act;
- (7) To fix, impose and collect, and periodically review and adjust, reasonable fees and other related charges for services rendered;
- (8) To issue either a prohibitory or mandatory injunction, whether preliminary or permanent, in all cases in which it has jurisdiction, and in which cases the pertinent provisions of the Rules of Court shall apply;
- (9) To punish for contempt of the Board, both direct and indirect, in accordance with the pertinent provisions of, and the penalties prescribed by, the Rules of Court;
- (10) To issue subpoena and subpoena duces tecum and summon witnesses to appear in any proceedings of the Board, to administer oaths and affirmations; and
- (11) To perform such other functions and duties as may be provided by law,

Section 14. Budget of the Board. – initially, the amount of one hundred million pesos (P100,000,000.00) shall be charged against the following for the immediate implementation of this Act:

- (1) Fifty million (P50,000,000) from the President's contingency fund; and
- (2) Fifty million (50,000,000) from the unprogrammed fund allocation.

Thereafter, such funds as may be necessary for the continued implementation of this Act shall be included in the Annual General Appropriations Act.

Section 15. Transitory Provision. – to give time for the institutionalization of the Board, there shall be no fee increases, whether tuition or miscellaneous, in the immediately following academic year after this Act takes effect.

Thereafter, all tuition and miscellaneous fee increases intended by private schools will then be referred to for resolution with the Board.

Section 16. Repealing Clause. – All laws, presidential decrees, executive orders, rules and regulations or parts thereof which are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Section 17. Separability Clause. – If any part or provision of this Act shall be held unconstitutional or invalid, other provisions hereof which are not affected shall continue to be in full force and effect.

Section 18. Effectivity. – This Act shall take effect fifteen (15) days after its publication to two (2) national newspapers of general circulation.

So approved,