

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 3712

Introduced by ATTY. MAGTANGGOL T. GUNIGUNDO I

EXPLANATORY NOTE

The Philippine Constitution mandates that the State accord education the highest priority in the government's expenditure programs. As the country adheres to the Education for All (EFA) Plan of Action of the global education community, the commitment to the program of compulsory elementary education, the system of free secondary education and sustained delivery of non-school based basic learning needs has to be guaranteed by the law.

However, in guaranteeing widest possible access to education, the Government need not be the exclusive maintainer, caretaker, supervisor, quality controller and manager of all of these educational schemes. Experiments and actual program implementation in a number of developing and developed countries have clearly shown that these functions may be effectively delegated to qualified private partners and providers and other entities with better results in terms of wider outreach and better or even superior quality impact. The efficient delivery of these education services at least costs has also resulted to substantial savings on the part of the government which enable them to devote additional resources to other priority programs, deserving geographic areas and more needy groups and improve the quality and relevance of basic education.

The subject bill is submitted as an economic efficiency measure that will bring about fiscal reforms, thus, revolutionize the delivery and management of basic education. This will ensure the country's commitment to Education for All (a global movement to promote the basic learning needs and the Millennium Development Goal (MDG) for primary education.

This legislation is based on a viable private-public partnership in education and the evolving paradigm of government assistance and/or subsidy anchored on market efficiency through the concept and practice of "service purchasing." The latter is exemplified and has been proven feasible by the existing secondary education service contracting scheme. With this paradigm, the wide range of basic education services that can be purchased by the State from qualified private providers include literacy, early childhood care/education, and elementary and secondary education and other non-school based basic learning needs. The government stands to benefit more from better quality of services instead of having to spend bigger with higher overhead costs of construction and maintenance of a big and expensive bureaucracy. Service purchasing shall be applied in rationalizing the allocation for school-building program, staff recruitment and development, educational management and supervision and monitoring and assessment at the local levels and such other aspects of quality assurance in the delivery of basic education.

Without departing from the spirit of the existing legislation in assisting students of private schools, the measure would promote respectability and the dignity of the private schools which should henceforth be regarded as autonomous and self-reliant educational services providers for their sustenance and survival and as capable and willing partners that perform public functions. The viability of the operations of the private providers is also guaranteed with the utilization by the government of their excess capacities.

In view of the importance of this Bill, its earliest approval is earnestly sought.

Magsaysay-Funguendo

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AN ACT
STRENGTHENING THE EDUCATION SERVICE CONTRACTING SCHEME
FOR BASIC EDUCATION

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 “Basic Education Service Contracting Act”.

SECTION 2. *Declaration of Policy.* – It is a declared policy of the State, in conformity with the mandate of the Constitution, to promote and make quality education accessible to all Filipino citizens. The State hereby recognizes that empowering the population with basic levels of learning, skills, knowledge and values is essential for functioning effectively in society and for continuing learning and development.

The State also hereby recognizes the complementary roles of public and private educational institutions in the educational system and the invaluable contribution that the private institutions have made and will make to education. The State also recognizes that providing an efficiency measure will carry out wider education outreach at the least cost and improvement of education and its relevance. For these purposes, the State shall enhance partnership with all qualified providers, provide mechanisms to improve quality in private education by maximizing the use of its existing resources, recognizing in the process the government’s responsibility to provide equitable access to

early childhood education, formal basic education, and alternative learning system as having priority over its other functions.

SECTION 3. *Definition of terms.* – For purposes of this Act, the terms and phrases used shall mean or be understood as follows:

a. *Alternative Learning System* shall refer to a parallel learning system to provide a viable alternative to the existing formal education. It compasses both the non-formal and informal sources of knowledge and skills;

b. *Basic Education* shall refer to both the elementary and secondary education intended to meet basic learning needs, which lays the foundation on which subsequent learning can be based. It encompasses early childhood, elementary and high school education as well as alternative learning system for out-of-school youth and adult learners and includes education for those with special needs;

c. *Early Childhood Education* shall refer to the two (2) year pre-elementary education, the completion of which is attested by certificate issued by or permission of the Department of Education and/or Local Government Unit;

d. *Formal Education* shall refer to the systematic and deliberate process of hierarchically structured and sequential learning corresponding to the general concept of elementary and secondary level of schooling. At the end of each level, the learner needs a certification in order to enter or advance to the next level;

e. *Informal Education* shall refer to a lifelong process of learning by which every person acquires and accumulates knowledge, skills, attitudes and insights from daily experiences at home, at work, at play and life itself;

f. *Instructional Manager* shall refer to the key learning group leader who is hired with a service contract outlining their duties and responsibilities including the number of learning support services to be rendered;

g. Learner shall refer to any individual seeking basic literacy skills and functional life skills or support services for the improvement of the people's quality of life;

h. Learning Center shall refer to a physical space to house learning resources and facilities of a learning program for out-of-school youth and adults. It is a venue for face-to-face learning activities and other learning opportunities for community development and improvement of the people's quality of life;

i. Learning Facilitator shall refer to the key learning support person who is responsible for supervising/facilitating the learning process and activities of the learner;

j. Normative Financing shall refer to the formula in which resources are allocated to schools strictly in proportion to their number of pupils, using a standard per capita sum;

k. Private Organization/Institution shall refer to any self-sustaining special interest group set up by people or community acting outside the scope of any official position, and independent from the government in terms of funding and appointment of its official and staff. For the purpose of this Act, private organization/institution shall include non-government organization, community based organization, and private education service provider;

l. Private-Public Partnership shall refer to the link between the government and qualified education service provider, wherein both parties entered into an agreement, for the delivery of basic educational services, i.e. school building.

n. Underprivileged Student shall refer to a student whose gross income, if any, and that of the combined annual gross income of his/her family do not exceed one hundred fifty thousand pesos (150,000.00) or such amount declared as may be determined by the appropriate agency.

SECTION 4. Education Services. – For purposes of this Act, the basic education services that may be availed of by the government shall include but shall not be limited to the following areas regardless of basic education levels and modality of delivery subject to the provisions of rules and regulations laid down by the Basic Education Partnership Council (BEPC) hereinafter referred to as the Council:

- (a) Instructional services of private schools;
- (b) Private management/supervision of certain public schools;
- (c) Private-public partnership for school building;
- (d) Educational assessment and monitoring; and
- (e) Such other similar aspects of private-public partnership in education.

Provided, That the basic education services to be contracted shall be based on a set of criteria which shall include, among others, the socioeconomic needs of each region, the academic qualifications and the financial needs of the students and/or learners and the teachers and/or learning facilitators and instructional managers, the geographic spread and size of student population, and regional compliance with the certification standards.

SECTION 5. *Planning of Education Services.* – The planning of which services to be prioritized and contracted at a given period particularly the school building and teacher recruitment shall be based on regular school/learning center mapping that takes into account the availability of private schools and potentially available program offerings of other providers in the locality.

The amount of basic education services to be contracted shall be allocated and distributed among the seventeen (17) regions subject to the provisions of rules and regulations laid down by the Basic Education Partnership Council (BEPC) in consideration to the total population, the incidence of poverty, functional literacy status, and drop-out rates in the region.

The allocation and distribution of the amount of assistance among the private basic education service providers shall be under the discretion of the DepEd Regional Offices except in case provided in the last sentence of paragraph (a) of Section 7.

SECTION 6. *Education Service Providers.* – For purposes of this Act, the following private or non-governmental service providers may be invited to participate in the program:

- (a) Established private schools;

(b) Non-governmental or civic organizations which have substantial involvement in the field of education;

(c) People and/or community organizations; and

(d) Other entities such as private firms which are committed to assist the government in providing basic education for all.

In order to attract the most qualified providers, the Department of Education shall endeavor to adequately publicize at the national and subnational levels the availability and operation of the program, and the list and the performance track record of participating private and non-government basic education service providers.

SECTION 7. *Strengthening of the Existing Education Service Contracting (ESC) Scheme.*

(a) DepEd shall enter into contracts with private schools and other qualified basic education service providers in communities where there are no public and/or other private and non-government basic education schools, as well as pre-schools, in which case DepEd shall pay the private basic education provider. In areas where there are no private formal schools and non-formal education centers, the contract with qualified basic education service provider shall be guaranteed;

(b) The amount to be given under every contract entered into by the government for the purchase of priority basic education services shall be equivalent to that determined as the per student/learner cost and other elements of normative financing in public elementary schools, high schools, alternative learning system as well as pre-schools, as the case maybe;

(c) Every contract to purchase priority services shall be guaranteed and maintained for one (1) year subject to renewal upon documented attestation of good performance or educational impacts of the contracted services. In which case, the Basic Education Partnership Council (BEPC) shall regularly oversee and evaluate the performance of the private basic education service provider.

The Department of Education (DepEd) shall, based on agreed quality performance and outcome criteria, determine the continuity of the contract in consultation with the Basic Education

Partnership Council (BEPC) and direct stakeholders anytime within the stipulated duration mentioned above;

SECTION 8. *Program Administration/Rules and Regulations.* – (a) The Basic Education Partnership Council (BEPC), hereinafter known as the Council, shall be responsible for policy guidance, monitoring and evaluation of the implementing rules and regulations while the Department of Education (DepEd) shall be responsible for the day-to-day administration and implementation program. Likewise, it may engage the services and support of any qualified government or private entity for its implementation.

(b) The Council shall be responsible for the over-all determination and promulgation of the implementing rules and regulations, and appropriate guidelines on the identification of the priority education services, contracting of services, the selection of qualified service providers, the evaluation of the contracted services, and the renewal of contracts.

(c) The Department of Education shall determine the priority education services to be contracted in consultation with the direct stakeholders. The Department shall also endeavor to adequately publicize at the national and subnational levels the availability and operation of the program.

(d) DepEd shall determine the operational feasibility and financial viability and profitability of the priority education services that will be contracted from qualified private service providers, which shall form part of the annual budgetary and expenditure programs. Thereafter, DepEd shall undertake regular monitoring of the academic outcomes and financial impact of the contracted services to further rationalize resource allocation and academic programs.

(e) The Council shall be headed by the Secretary of Education as chairperson; with representatives from the National Economic and Development Authority, the Department of Budget and Management, the Department of Finance, and one each coming from duly organized nationwide associations of education service providers, teachers, students, parents, and school administrators concerned with early childhood education, formal basic education, and alternative

learning systems as members. The total number of the members shall in no case be not more than eleven (11).

(f) There shall be a Basic Education Partnership Committee (BEPCom), hereinafter known as the Committee, to be designated by the Council which shall oversee the administration and implementation of the program. It shall be responsible on the evaluation of the contracted services and the performance of the contracted private service provider. Thereafter, the Committee shall submit report to the Basic Education Partnership Council (BEPCom) and recommendation to the Department of Education to determine the continuity of the contract based on the review of programs/service performance anytime within the stipulated duration mentioned in section 7 (c).

(g) The Council shall meet at least once every quarter of the year and as the need arises, to assess the over-all effectiveness and efficiency of the program, undertake a continuing and progressive policy review and to ensure that the program continue to provide quality education.

(h) There shall be created a Basic Education Partnership Council at the regional level to continuously undertake an inventory of schools and other basic education service providers including the ALS, assess their absorptive capacities and allocate student places/learners' slots. The Regional Councils shall also oversee the implementation and execution of the policies laid down by the National BEPC in their respective regions.

(i) The local government units through their respective Local Basic Education Boards (formerly School Boards) may take their own initiatives in participating in the program in their own localities with their local resources and shall follow the standards of quality assurance and all policies in establishing partnership with the accredited service providers in the region.

SECTION 9. Appropriations. – The Department of Budget and Management shall allocate budgetary resources as part of the multi-year expenditure program of the government.

The Department of Budget and Management shall cause the savings to be realized from the purchase of the priority services to be streamed back to budgetary entitlement of the Department of

Education (DepEd), which shall be expressly utilized for purposes directly related to improving quality and greater access of basic education.

SECTION 10. *Penalties.* – In case of violations of the provisions of this Act or the rules and regulations promulgated pursuant thereto by an institution and DepEd, upon the recommendation of the Council, may bar the institution from the participating in or benefiting from the programs of this Act, and from other programs of the Department, without prejudice to administrative and criminal charges as may be filed against the private education service provider and/or its responsible officers under existing laws.

SECTION 11. *Repealing Clause.* – All laws and decrees, particularly Republic Act No. 8545 and Presidential Decree Nos. 932 and 1371, and such letter of instructions, rules and regulations or parts thereof, which are inconsistent with this Act, are hereby repealed or modified accordingly.

SECTION 12. *Separability Clause.* – If any provision of this Act is declared unconstitutional, the same shall not effect the validity and effectivity of the other provisions not affected thereby.

SECTION 13. *Effectivity Clause.* – This Act shall take effect immediately upon its publication in the official gazette and/or in a newspaper of general circulation: Provided, That implementation of new programs of assistance provided in this Act shall be effective in the school year of the succeeding fiscal year within which the appropriations necessary to implement the new programs shall have been approved into law.

Approved.