



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

Sixteenth Congress
First Regular Session

HOUSE BILL NO. 3022



Introduced by:
Hon. Mariano U. Piamonte Jr.
Hon. Julieta R. Cortuna

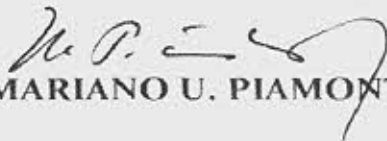
EXPLANATORY NOTE

The law creating the Commission on Higher Education (CHED), R.A. 7722 has seen its implementation obviously in need of amendments.

One of the flaws of the said law is the CHED's lack of power to regulate tuition fee increases. There is also this need to regulate review centers which sort of operate as an educational institution and yet it has escaped the regulating arms of CHED due its lack of power to regulate review schools.

Another aspect of CHED that needs to be changed is the inclusion of political appointees in its composition which will possibly deprive the entity of some much needed professionalism and expertise. All these necessary changes of the law creating CHED are contained in this proposed amendment.

In view of the foregoing, passage of this bill is hereby being earnestly sought.


MARIANO U. PIAMONTE, JR.


JULIETA R. CORTUNA



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AN ACT
STRENGTHENING THE COMMISSION ON HIGHER EDUCATION (CHED) BY
AMENDING REPUBLIC ACT NO. 7722 OTHERWISE KNOWN AS THE
"HIGHER EDUCATION ACT OF 1994" 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 "Amended Higher Education Act".

SECTION 2. *Declaration of Policy.* It shall be the policy of the State to continuously improve the quality of education at all levels in accordance with the mandate of the constitution to prioritize education in social development.

SECTION 3. *Amendment of the Higher Education Act.* Republic Act No. 7722 otherwise known as the Higher Education Act of 1994 is hereby amended to read as follows:

"SECTION 1. *Title.* – This Act shall be known as the "Amended Higher Education Act."

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.

SECTION 3. *DEFINITION OF TERMS.* FOR THE PURPOSE OF IMPLEMENTING THE PROVISIONS OF THIS ACT, THE FOLLOWING TERMS SHALL BE CONSTRUED TO MEAN AS FOLLOWS:

- A) HIGHER EDUCATION SUBSECTOR- SHALL REFER TO BOTH PUBLIC AND PRIVATE INSTITUTIONS THAT OFFER TERTIARY EDUCATION DEGREE PROGRAMS;
- B) HIGHER EDUCATION INSTITUTIONS (HEIs) – REFER TO PUBLIC OR PRIVATE INSTITUTIONS PRIMARILY OFFERING DEGREE-GRANTING PROGRAMS, INCLUDING POST-SECONDARY DEGREE-GRANTING VOCATIONAL AND TECHNICAL INSTITUTIONS DULY RECOGNIZED BY COMMISSION ON HIGHER EDUCATION (CHED);
- C) LOCAL COLLEGES AND UNIVERSITIES (LCUs) – REFER TO PUBLIC HEIs ESTABLISHED AND FINANCIALLY SUPPORTED BY THE LOCAL GOVERNMENT THROUGH AN ENABLING ORDINANCE. LCUs MAY BE REFERRED TO AS “DALUBHASAAN” FOR COLLEGE AND “PAMANTASAN” FOR UNIVERSITY;
- D) STATE UNIVERSITIES AND COLLEGES (SUCs) – SHALL REFER TO PUBLIC HEIs WITH INDEPENDENT AND SEPARATE GOVERNING BOARDS CREATED AND ESTABLISHED BY LAW;
- E) GOVERNING BOARDS (GBs) – REFER TO THE HIGHEST POLICY MAKING BODY OF CHARTERED SUCs AS DEFINED IN R.A. 8292 FOR CHARTERED STATE UNIVERSITIES, THEY ARE CALLED BOARD OF REGENTS (BOR). FOR CHARTERED STATE COLLEGES THEY ARE CALLED BOARD OF TRUSTEES (BOT).

SEC. [3] 4. *Creation of the Commission on Higher Education.*

– In pursuance of the abovementioned policies, the Commission on Higher Education (CHED) is hereby created, hereinafter referred to as the Commission. The Commission shall be independent and separate from the Department of Education, [Culture and Sports (DECS)] (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 [as well as degree-granting] OFFERING DEGREE programs [in all post-secondary educational

institutions, public and private]. IT SHALL ALSO SET THE STANDARDS FOR AND REGULATE REVIEW CENTERS AND SIMILAR ENTITIES.

SEC. [4] 5. *Composition of the Commission PROPER.* – The Commission PROPER shall be composed of A CHAIRPERSON [~~five (5) full-time members~~] AND FOUR (4) COMMISSIONERS WHO MUST HAVE DISTINGUISHED THEMSELVES IN THEIR CHOSEN CAREER OR PROFESSION, AND ARE KNOWN FOR THEIR HIGH DEGREE OF HONESTY, INTEGRITY, AND PROFESSIONALISM.

AT LEAST THREE (3) OF THE MEMBERS OF THE COMMISSION, INCLUDING THE CHAIRPERSON, SHALL COME FROM THE ACADEME. THEY SHALL BE HOLDERS OF EARNED DOCTORAL DEGREES AND HAVE BEEN ACTIVELY ENGAGED IN HIGHER EDUCATION FOR AT LEAST TEN (10) YEARS. THE REST SHALL COME FROM BUSINESS, INDUSTRY AND EXPERTS OR SPECIALISTS FROM OTHER AREAS OF DISCIPLINE WHO CAN CONTRIBUTE TO THE EFFICIENT AND EFFECTIVE GOVERNANCE OF HIGHER EDUCATION. NO PERSON SHALL BE APPOINTED AS CHAIRPERSON OR COMMISSIONER IF HE/SHE HAS BEEN A CANDIDATE FOR ELECTIVE POSITION IN THE LAST ELECTION PRIOR TO HIS APPOINTMENT.

THE COMMISSION SHALL REGULARLY MEET ONCE A MONTH, HOWEVER, THE MATTER OF IMPLEMENTATION AND EXECUTION OF POLICIES OR PROGRAMS SHALL BE THE JURISDICTION OF THE EXECUTIVE OFFICE OF THE COMMISSION.

[During the transition period which begins upon approval of this Act, the President may appoint the Secretary of Education, Culture and Sports as *ex officio* chairman of the Commission for a maximum period of one (1) year. Thereafter, the President shall appoint a Chairman of the Commission and four (4) commissioners, who shall be holders of earned doctorate(s), who have been actively engaged in higher education for at least ten (10) years, and must not have been candidates for elective positions in the elections immediately preceding their appointment. They shall be academicians known for their high degree of professionalism and integrity who have distinguished themselves as authorities in their chosen fields of learning. The members of the Commission shall belong to different academic specializations. In no case shall any and all of the Commissioners appoint representatives to act on their behalf.]

SEC. [5] 6. *Term of Office.* – The President shall appoint the full-time [chairman] CHAIRPERSON and the commissioners for a term of four (4) years, without prejudice to one reappointment. The terms of the initial appointees shall be on a staggered basis: the full-time [chairman] CHAIRPERSON shall hold office for a term of four (4) years, the next two (2) commissioners for three (3) years, and the last two (2) commissioners for two (2) years.

The commissioners shall hold office until their successors shall have been appointed and qualified. Should a member of the Commission fail to complete his/HER term, his/HER successor shall be appointed by the President of the Philippines but only for the unexpired portion of the term.

SEC. [6] 7. *Rank and Emoluments.* – The [chairman] CHAIRPERSON 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] 8. *Board of Advisers.* – There shall be constituted a Board of Advisers which shall meet with the Commission at least once a year to assist it in aligning its policies and plans with the cultural, political and socioeconomic development needs of the nation and with the demands of world-class scholarship. The Board of Advisers shall be composed of the following:

- (a) the Secretary of Education, [Culture and Sports], as chairman;
- (b) the Director-General of the National Economic and Development Authority, as co-chairman;
- (c) the Secretary of Science and Technology;
- (d) the Secretary of Trade and Industry;
- (e) the Secretary of Labor and Employment;
- (f) the President of the Federation of Accrediting Associations of the Philippines (FAAP); and
- (g) the President of the Fund for Assistance to Private Education (FAPE). Two (2) additional members of the Board of Advisers may be appointed by the President upon recommendation of the Commission;
- (h) THE PRESIDENT OF THE PHILIPPINE ASSOCIATION OF STATE UNIVERSITIES AND COLLEGES (PASUC) AND

(i) THE PRESIDENT OF THE PHILIPPINE ASSOCIATION OF LOCAL COLLEGES AND UNIVERSITIES (ALCU).

SEC. [8] 9. *Powers and Functions of the Commission.* – The Commission shall have the following powers and functions:

- (a) formulate and [recommend] IMPLEMENT development plans, policies, priorities, and programs on higher education and research;
- (b) formulate and [recommend] IMPLEMENT development plans, policies, priorities and programs on research IN HIGHER EDUCATION;
- (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 recommended by panels of experts in the field and subject to public hearing, and enforce the same;
- (e) monitor and evaluate the performance of programs and institutions of higher learning for appropriate incentives as well as the imposition of sanctions such as, but not limited to, diminution or withdrawal of subsidy, recommendation on the downgrading or withdrawal of accreditation, program termination or school closure;
- (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) recommend to the Department of Budget and Management the budgets of public institutions of higher learning as well as general guidelines for the use of their income;
- (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 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, as described in Section 10 hereunder, which will promote the purposes of higher education;

(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 for necessary action;

(n) promulgate such rules and regulations and exercise such other powers and functions as may be necessary to carry out effectively the purpose and objectives of this Act; [and]

(o) perform such other functions as may be necessary for its effective operations and for the continued enhancement, growth or development of higher education;

(p) APPROVE THE ESTABLISHMENT OF, AND CHANGES IN THE INSTITUTIONAL STATUS OF PRIVATE UNIVERSITIES AND COLLEGES; AND

(q) REGULATE THE INCREASE/REDUCTION IN TUITION AND OTHER FEES OF PUBLIC AND PRIVATE COLLEGES AND UNIVERSITIES.

SEC. [9] 10. *The Secretariat.* – The Commission shall organize a secretariat which shall be headed by an executive officer, subject to the national compensation and position classification plan. It shall fix the secretariat's staffing pattern, determine the duties, qualifications, responsibilities and functions, as well as the compensation scheme for the positions to be created upon the recommendation of the executive officer. It shall also prepare and approve its budget. The Commission shall appoint the members of the staff upon the recommendation of the executive officer.

SEC. [10] 11. *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.

(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 percent (5%) 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. [11] 12. *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. [12] 13. *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.

SEC. [13] 14. *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.

SEC. [14] 15. *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.

SEC. [15] 16. *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. [16] 17. *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 and to attain its objectives: *Provided,* That the Commission may seek the assistance of other government agencies for the proper implementation of this Act.

SEC. [17] 18. *Appropriation.* – The amount of Five hundred million pesos (P500,000,000) is hereby authorized to be appropriated for the seed capital of the Fund. The additional amount of Fifty million pesos (P50,000,000) 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. The sum equivalent to the appropriations for the current year for the Bureau of Higher Education and the degree-granting programs of the Bureau of Technical-Vocational Education, including those for higher and tertiary education and degree granting vocational and technical programs of the Bureau of Technical-Vocational Education in the regional offices, as well as parts of the budgetary items under the DECS budget that are concerned with higher and tertiary education and degree-granting vocational and technical programs such as those for personal services, maintenance and other operating expenses and capital outlay, shall be transferred to the Commission. Thereafter, the funds necessary shall be included in the General Appropriations Act.

SEC. [18] 19. *Transitory Provisions.* – Such personnel, properties, assets and liabilities, functions and responsibilities of the Bureau of Higher Education, including those for higher and tertiary education and degree-granting vocational and technical programs in the regional offices, under the Department of Education, Culture and Sports, and other government entities having functions similar to those of the Commission are hereby

transferred to the Commission. The Commission shall have the authority to appoint its own personnel. All regular or permanent employees transferred to the Commission shall not suffer any loss of seniority or rank or decrease in emoluments. Personnel of the Bureau of Higher Education not otherwise transferred to the Commission shall be reassigned by the DECS in any of its offices and bureaus: *Provided, however,* That, any employee who cannot be accommodated shall be given all the benefits as may be provided under existing laws, rules and regulations. Jurisdiction over DECS-supervised or chartered state supported post-secondary degree-granting vocational and technical programs and tertiary institutions shall be transferred to the

Commission. A transitory body is hereby created which shall be composed of the Secretary of Education, Culture and Sports (DECS), Chair of the Senate Committee on Education, Arts and Culture, Chair of the House Committee on Education and Culture, a representative each of the Association of Christian Schools and Colleges (ACSC), the Catholic Educational Association of the Philippines (CEAP), the Philippine Association of Colleges and Universities (PACU), the Philippine Association of Private Schools, Colleges and Universities (PAPSCU), the Philippine Association of State Universities and Colleges (PASUC), and the Philippine Association of Private Technical Institutions (PAPTI). The transitory body shall facilitate the complete and full operation of the Commission which shall not be later than three (3) months after the effectivity of this Act. It shall likewise, promulgate the rules and regulations necessary to effectively implement the smooth and orderly transfer to the Commission. The transition period not exceeding three (3) months shall commence from the approval of this Act.

SEC. [19] 20. *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.

SEC. [20] 21. *Separability Clause.* – If any part or provision of this Act shall be held unconstitutional or invalid, other provisions hereof which are not affected thereby shall continue to be in full force and effect.

SEC. [21] 22. *Effectivity.* – This Act shall take effect upon its approval”

SECTION 4. Appropriations. The budget necessary for the implementation of the provision of this Act shall be incorporated in the Annual Budget of the Department of Education.

SECTION 5. *Implementing Rules and Regulations.* The Department of Education shall issue the corresponding rules and regulation to implement the provisions of this Act.

SECTION 6. *Repealing Clause.* All laws or parts of any law, orders, rules, and regulations or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

SECTION 7. *Effectivity Clause.* This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,