

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

SIXTEENTH CONGRESS
Second Regular Session

House Bill No. 5674



Introduced by Honorable Sherwin T. Gatchalian

Explanatory Note

In the Declaration of Policy under Section 2 of Republic Act No. 7722, otherwise known as the "*Higher Education Act of 1994*," the State manifested its duty to "protect, foster, and promote the right of all citizens to affordable quality education at all levels" and to "take appropriate steps to ensure that education shall be accessible to all." Pursuant to this policy, said Act established the Commission on Higher Education (CHED) to ensure equitable access and superior quality of learning in Philippine tertiary education.

Two decades after the promulgation of RA 7722, inequity in higher education remains to be a crucial issue in the fight for education rights. According to the 2010 Annual Poverty Indicators Survey, there are more than 4.5 million out-of-school youth aged 16-24 who are currently out of school, are not gainfully employed, and have not finished a college or post-secondary course. Among these out-of-school youth, the top reason for not attending school, as indicated by almost one-third of survey respondents, is the high cost of education. Considering that more than three-fourths of the six million-plus out-of-school youth in the Philippines come from the poorest half of the total population in terms of per capita income, it is clear that most marginalized segments of our population – the people who stand to benefit most from expanded access to tertiary education – are, ironically, the ones whose right to education are being ignored.

Unfortunately, the cost of completing a college degree is increasing with each passing year. 287 private higher educational institutions increased the tuition fees charged to students for the current academic year, with increase rates reaching as high as 67% compared to the year before. Rules and regulations concerning the imposition of increased tuition fees, including CHED Memorandum Order No. 3, s. 2012, have not done enough to address this alarming increase in the cost of higher education, especially the various non-tuition fees that are not covered under the CHED order. As the constitutional and statutory right of each and every Filipino to equitable access to quality education at the tertiary level continues to be assailed, it is imperative for the State to grant expanded protection to this fundamental human right.

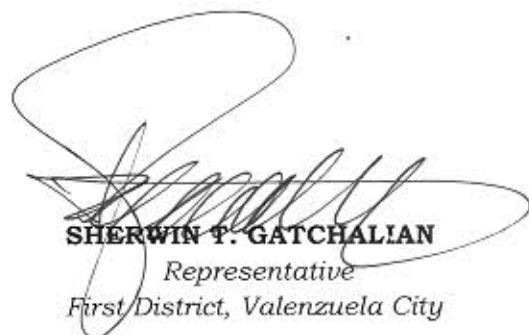
With these concerns in mind, this legislation seeks to promote justice and equity in higher education by expanding the composition, functions, powers, and mandate of the

Commission on Higher Education. Specifically, we propose the following amendments to RA 7722:

- (a) *Student Commissioner* – An additional commissioner shall be appointed from the student sector, ensuring that the primary stakeholders in higher education have a voice in crafting policies and promulgating regulations in pursuance of the Commission's mandate.
- (b) *Expanded Powers and Functions* – The mandate of the Commission shall be expanded to expressly include the promotion and protection of the Filipino's right to tertiary education. The Commission shall be responsible for actively regulating tuition and other fee increases, and it shall have the duty to disapprove any fee increase that is unreasonable, exorbitant, or prejudicial to the students' right to education.
- (c) *Auditing Body* – An auditing body shall be established under the Commission, its primary duty being to ensure that higher educational institutions are complying in good faith with provisions of law, administrative orders, and other regulations meant to regulate and control the imposition of fee increases. Institutions found to be non-complaint shall be disallowed from increasing their fees for a period of three (3) years.

Ensuring equitable access to quality education for Filipinos from all walks of life is a solemn obligation imposed upon the State by the Constitution. Considering the current status of affairs, this is an obligation that the State has failed the adequately perform in the context of tertiary education. As the future of our proud Nation, our young men and women deserve to be provided with the opportunity to graduate from college, find meaningful employment, and make their own contributions to growth and progress in Philippine society. This legislation is the first step in compelling the State, through its Commission on Higher Education, to take a more proactive role in defending and advancing the fundamental right to tertiary education.

In the name of justice and equity for the youth, support for the passage and approval of this legislation is earnestly sought.



SHERWIN T. GATCHALIAN
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HOUSE OF REPRESENTATIVES
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AN ACT
PROMOTING EQUITY AND JUSTICE IN HIGHER EDUCATION BY
PROVIDING FOR STUDENT REPRESENTATION IN THE COMMISSION OF
HIGHER EDUCATION AND BY EXPANDING THE POWERS OF THE
COMMISSION TO REGULATE INCREASES IN TUITION AND OTHER FEES,
AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7722, OTHERWISE
KNOWN AS THE "HIGHER EDUCATION ACT OF 1994"

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

SECTION 1. **Short Title.** – This Act shall be known as the "*Equity and Justice in Higher Education Act*".

SEC. 2. **Student Commissioner.** – Sections 4 and 5 of Republic Act No. 7722, otherwise known as the "*Higher Education Act of 1994*," are hereby amended to read as follows:

SEC. 4. Composition of the Commission. – The Commission shall be composed of [five (5)] **SIX (6)** full-time members. The President shall appoint a Chairman of the Commission and four (4) **REGULAR** 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.

THE PRESIDENT SHALL ALSO APPOINT ONE (1) STUDENT COMMISSIONER, WHO MUST BE (30) YEARS OF AGE OR BELOW AT THE TIME OF APPOINTMENT, WHO SHALL BE A DULY ENROLLED STUDENT IN ANY UNDERGRADUATE, GRADUATE, OR POST-GRADUATE DEGREE PROGRAM AT A UNIVERSITY OR COLLEGE IN THE PHILIPPINES. HE OR SHE SHALL BE AN INCUMBENT OR FORMER PRESIDENT OR CHAIRPERSON OF THE HIGHEST STUDENT GOVERNMENT BODY OF HIS OR HER UNIVERSITY, OR AN INCUMBENT OR FORMER STUDENT REPRESENTATIVE TO THE BOARD OF REGENTS OF HIS OR HER SCHOOL. HE OR SHE MUST BE A RESPECTED STUDENT LEADER WITH UNIMPEACHABLE INTEGRITY, AND MUST POSSESS AN IMPRESSIVE TRACK RECORD IN PROMOTING STUDENTS RIGHTS AND WELFARE.

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

SEC. 5. Term of Office. – The President shall appoint the full-time chairman and the **REGULAR** 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 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 PRESIDENT SHALL APPOINT THE STUDENT COMMISSIONER TO A TERM OF ONE (1) YEAR WITHOUT POSSIBILITY FOR REAPPOINTMENT.

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

SEC. 3. **Expanded Powers and Functions.** – A new paragraph is hereby inserted in Section 8 of Republic Act No. 7722, to read as follows:

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

xxx

P. PROMOTE AND DEFEND THE RIGHT OF EVERY FILIPINO TO EQUITABLE ACCESS TO TERTIARY EDUCATION BY REGULATING THE IMPOSITION OF TUITION AND OTHER FEES BY INSTITUTIONS OF HIGHER LEARNING.

SEC. 4. **Fee Increases.** – A new Section 11-A is hereby inserted in Republic Act No. 7722, to read as follows:

SEC. 11-A REGULATION AND DISAPPROVAL OF FEE INCREASES. – TO ENSURE EQUITABLE ACCESS TO TERTIARY EDUCATION, THE COMMISSION SHALL STRICTLY REGULATE THE IMPOSITION OF REASONABLE INCREASES IN TUITION AND OTHER FEES CHARGED BY INSTITUTIONS OF HIGHER LEARNING, PURSUANT TO CLEAR AND UNEQUIVOCAL GUIDELINES PROMULGATED BY THE COMMISSION. IN CASES WHERE AN INSTITUTION OF HIGHER LEARNING SHALL IMPOSE AN EXORBITANT, UNREASONABLE, OR INADEQUATELY JUSTIFIED INCREASE IN FEES TO THE DETRIMENT OF ITS STUDENTS, THE COMMISSION SHALL EITHER DISAPPROVE THE INCREASE OR LOWER THE PROPOSED AMOUNT TO MITIGATE THE ADVERSE EFFECTS ON THE STUDENTS' RIGHT TO TERTIARY EDUCATION.

ANY PROPOSED FEE INCREASE IN EXCESS OF PREVALENT INFLATION RATES SHALL BE PRESUMED TO BE UNREASONABLE AND MUST BE SUFFICIENTLY JUSTIFIED BY THE INSTITUTION OF HIGHER LEARNING PROPOSING SAID INCREASE.

SEC. 5. ***Audit of HEIs.*** – A new Section 11-B is hereby inserted in Republic Act No. 7722, to read as follows:

SEC. 11-B. AUDITING BODY. – TO MONITOR THE COMPLIANCE OF HIGHER EDUCATIONAL INSTITUTIONS WITH GUIDELINES CONCERNING THE ALLOCATION OF PROCEEDS DERIVED FROM THE IMPOSITION OF TUITION AND OTHER FEE INCREASES, THE COMMISSION SHALL ESTABLISH AN AUDITING BODY UNDER THE OFFICE OF THE EXECUTIVE DIRECTOR. THE AUDITING BODY SHALL BE RESPONSIBLE FOR CONDUCTING A YEARLY AUDIT OF THE FINANCIAL STATEMENTS OF EDUCATIONAL INSTITUTIONS TO ENSURE COMPLIANCE WITH PERTINENT LAWS, AND WITH RULES, REGULATIONS, AND ORDERS OF THE COMMISSION.

INSTITUTIONS OF HIGHER LEARNING FOUND TO BE NON-COMPLIANT WITH LAW OR COMMISSION GUIDELINES ON PROPORTIONAL ALLOCATION OF PROCEEDS FROM TUITION AND OTHER FEES INCREASES SHALL BE PROHIBITED FROM IMPOSING ANY FEE INCREASE OF ANY KIND FOR THREE (3) YEARS FROM THE DATE ON WHICH THEY ARE FOUND TO BE NON-COMPLIANT, WITHOUT PREJUDICE TO THE IMPOSITION OF ADDITIONAL SANCTIONS AT THE DISCRETION OF THE COMMISSION.

SEC. 6. ***Implementing Rules and Regulations.*** – Within (60) days from the effectivity of this Act, the Commission on Higher Education shall promulgate the implementing rules and regulations as may be necessary to ensure the efficient and effective implementation of this Act.

SEC. 7. ***Appropriations.*** – The funds necessary for the initial implementation of the provisions of this Act shall be sourced from the current budget of the Commission. Thereafter, such amount necessary to effectively carry out the provisions of this Act shall be included in the annual General Appropriations Act.

SEC. 8. ***Separability Clause.*** – Should any part of this Act be declared unconstitutional, the rest of the provisions of this Act shall continue to be in effect and subsisting.

SEC. 9. **Amendatory Clause.** – The pertinent provisions of Republic Act No. 7722, otherwise known as the “*Higher Education Act of 1994*,” in so far as they are inconsistent herewith, are hereby expressly amended or modified accordingly.

SEC. 10. **Repealing Clause.** – The provisions of other laws, decrees, executive orders, rules and regulations inconsistent with this Act are hereby repealed, amended, or modified accordingly.

SEC. 11. **Effectivity.** – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* and/or in at least two (2) national newspapers in general circulation.