

SEVENTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

HOUSE OF REPRESENTATIVES
H. No. 4754



Introduced by Representative H. Harry L. Roque Jr.

EXPLANATORY NOTE

Under the 1987 Constitution, the Ombudsman and his Deputies are “protectors of the people” that shall act upon complaints filed in any form or manner against public officials and other employees of the government. The Ombudsman plays a pivotal role in fighting corruption and abuses of public trust. Accordingly, the Ombudsman must be empowered to shield itself from adverse influences and potential conflicts of interest.

Historically, the conviction rate of the Office of the Ombudsman has been very low, ranging from 10 to 25%, depending on the year, and the source. In some instances, the Office of the Ombudsman would claim that the conviction rate reaches above 50%. Of late, it is most worrisome that the Office of the Special Prosecution have lost cases against the so-called “big fish”, three of which are cases that were either filed by the undersigned, or cases where the undersigned had involvement in connection with the filing of these cases; to wit: the NBN-ZTE scam the Fertilizer scam, and the Malampaya fund scam. These cases were dismissed despite the fact that both the Senate and the Ombudsman had previously investigated them and found the evidence to be sufficient. Their dismissals attest to the fact that the status quo is unacceptable and hence, this bill.

There are many reasons why conviction rates may be low – a lack of resources, the existence of political deterrence to prosecute cases, or conflicts of interest, whether political or economic, lack of capacity and even corruption. The Office of the Ombudsman experiences the same pressures like any other subdivision of the government. To believe that the Office of the Ombudsman is free from any political or economic pressure would be to turn a blind eye to the realities on the ground. The purpose of this bill is to structurally aid the Ombudsman to remain independent and be more efficient in seeking convictions before the Sandiganbayan.

This bill authorizes the Ombudsman to deputize the role of prosecuting cases to private lawyers and private law firms in cooperation with, and under the Office of the Special Prosecutor. This is a proffered solution to the spate of dismissals of cases filed by the Ombudsman before the Sandiganbayan. Unlike in ordinary criminal cases where private prosecutors are allowed to prosecute the civil aspect of the case, private lawyers cannot do so in the Sandiganbayan. This Bill amends the Ombudsman law to allow the services of private lawyers to be deputized by the Ombudsman.

The passage of this bill is earnestly sought.



H. HARRY L. ROQUE JR.

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AN ACT AMENDING SECTION 11 OF REPUBLIC ACT NO. 6770, OTHERWISE
KNOWN AS THE OMBUDSMAN ACT OF 1989, TO ALLOW FOR THE
DEPUTIZATION OF PRIVATE LAWYERS AND LAW FIRMS.

SECTION 1. Section 11 of Republic Act No. 6770, also known as the
Ombudsman Act of 1989, as amended, is hereby amended to read as follows:

Section 11. *Structural Organization.* — The authority and responsibility for the
exercise of the mandate of the Office of the Ombudsman and for the discharge of
its powers and functions shall be vested in the Ombudsman, who shall have
supervision and control of the said office.

(1) The Office of the Ombudsman may organize such directorates for
administration and allied services as may be necessary for the effective discharge
of its functions. Those appointed as directors or heads shall have the rank and
salary of line bureau directors.

(2) The Office of the Overall Deputy shall oversee and administer the operations
of the different offices under the Office of Ombudsman shall likewise perform
such other functions and duties assigned to it by the Ombudsman.

(3) The Office of the Special Prosecutor shall be composed of the Special Prosecutor and his prosecution staff. The Office of the Special Prosecutor shall be an organic component of the Office of the Ombudsman and shall be under the supervision and control of the Ombudsman.

(4) The Office of the Special Prosecutor shall, under the supervision and control and upon the authority of the Ombudsman, have the following powers:

- (a) To conduct preliminary investigation and prosecute criminal cases within the jurisdiction of the Sandiganbayan;
- (b) To enter into plea bargaining agreements; and
- (c) To perform such other duties assigned to it by the Ombudsman.

The Special Prosecutor shall have the rank and salary of a Deputy Ombudsman.

(5) The position structure and staffing pattern of the Office of the Ombudsman, including the Office of the Special Prosecutor, shall be approved and prescribed by the Ombudsman. The Ombudsman shall appoint all officers and employees of the Office of the Ombudsman, including those of the Office of the Special Prosecutor, in accordance with the Civil Service Law, rules and regulations.

(6)The Ombudsman may deputize private lawyers or private law firms to prosecute cases under, and in cooperation with, the Office of the Special Prosecutor. They will work under the Office of the Special Prosecutor, and

shall remain under the supervision and control, and upon the authority of the Ombudsman. A compensation structure based on work evaluation studies and subject to the Ombudsman's approval, shall be instituted. The Ombudsman shall prepare a compensation structure to conform as closely as possible to the principles provided for in Republic Act 6758, the Salary Standardization Act.

SECTION 2. *Separability Clause.* - If any provision is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SECTION 3. *Repealing Clause.* - Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule, or regulation contrary to or inconsistent with the provisions of this Act is hereby repealed, modified, or amended accordingly.

SECTION 4. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,