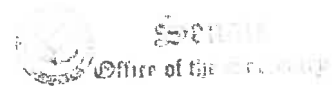


TWENTIETH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)

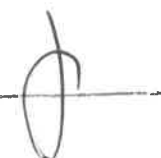


26 AUG 12 A9:08

SENATE

S.B. No. 2394

RECEIVED BY



Introduced by Senator Panfilo M. Lacson

AN ACT
AMENDING SECTION 15 OF REPUBLIC ACT NO. 6770, OTHERWISE
KNOWN AS THE "OMBUDSMAN ACT OF 1989", GRANTING ANTI-
CORRUPTION LAW ENFORCEMENT POWER TO THE OFFICE OF THE
OMBUDSMAN

EXPLANATORY NOTE

Section 12, Article XI of the 1987 Constitution provides that the Ombudsman and his Deputies serve the role of being protectors of the people, and are mandated to promptly act on complaints filed against public officials or employees of the government. This provision of the Constitution is carried in Section 13 of Republic Act No. 6770 or the Ombudsman Act of 1989.

In order to strengthen the Office of the Ombudsman in the exercise of its power to investigate, it is essential to afford the Office of the Ombudsman the power to effect arrests, detention, searches and seizures in accordance with the performance of its mandate imposed by no less than the Constitution itself.

Thus, this bill proposes the creation of a law enforcement service in the Office of the Ombudsman, to be known as the Ombudsman Marshall Service. This proposed law enforcement arm will have the power to conduct various forms of proactive inspections, inquiries and investigations to gather evidence,

and build-up cases in the implementation of its mandate and the directives of the Ombudsman.

The proposed law enforcement service shall be headed by a Special Investigator who shall carry the rank, salary, emoluments, benefits and retirement privileges of a Deputy Ombudsman.

In view of the immense contribution that this proposal will bring in empowering the Office of the Ombudsman in the fulfillment of its mandate, the immediate passage of this bill is earnestly sought.


Panfilo M. Lacson
Senator

TWENTIETH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



26 AUG 12 A9:08

SENATE

S.B. No. 2394

RECEIVED BY: _____

Introduced by Senator Panfilo M. Lacson

AN ACT

**AMENDING SECTION 15 OF REPUBLIC ACT NO. 6770, OTHERWISE
KNOWN AS THE "OMBUDSMAN ACT OF 1989", GRANTING ANTI-
CORRUPTION LAW ENFORCEMENT POWER TO THE OFFICE OF THE
OMBUDSMAN**

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

1 **SECTION 1.** Section 15 of Republic Act No. 6770 is hereby amended to
2 read as follows:

3
4 "SECTION 15. *Powers, Functions and Duties.* — The Office
5 of the Ombudsman shall have the following powers, functions and
6 duties:

7
8 (1) Investigate and prosecute on its own or on complaint by any
9 person, any act or omission of any public officer or employee, office
10 or agency, when such act or omission appears to be illegal, unjust,
11 improper or inefficient. It has primary jurisdiction over cases
12 cognizable by the *Sandiganbayan* and, in the exercise of this
13 primary jurisdiction, it may take over, at any stage, from any

1 investigatory agency of Government, the investigation of such
2 cases;

3
4 (2) Direct, upon complaint or at its own instance, any officer or
5 employee of the Government, or of any subdivision, agency or
6 instrumentality thereof, as well as any government-owned or
7 controlled corporations with original charter, to perform and
8 expedite any act or duty required by law, or to stop, prevent, and
9 correct any abuse or impropriety in the performance of duties;

10
11 (3) Direct the officer concerned to take appropriate action
12 against a public officer or employee at fault or who neglect to
13 perform an act or discharge a duty required by law, and
14 recommend his removal, suspension, demotion, fine, censure, or
15 prosecution, and ensure compliance therewith; or enforce its
16 disciplinary authority as provided in Section 21 of this Act:
17 *Provided*, That the refusal by any officer without just cause to
18 comply with an order of the Ombudsman to remove, suspend,
19 demote, fine, censure, or prosecute an officer or employee who is
20 at fault or who neglects to perform an act or discharge a duty
21 required by law shall be a ground for disciplinary action against
22 said officer;

23
24 (4) Direct the officer concerned, in any appropriate case, and
25 subject to such limitations as it may provide in its rules of
26 procedure, to furnish it with copies of documents relating to
27 contracts or transactions entered into by his office involving the
28 disbursement or use of public funds or properties, and report any
29 irregularity to the Commission on Audit for appropriate action;

30
31 (5) Request any government agency for assistance and
32 information necessary in the discharge of its responsibilities, and
33 to examine, if necessary, pertinent records and documents;

34
35 (6) Publicize matters covered by its investigation of the matters
36 mentioned in paragraphs (1), (2), (3) and (4) hereof, when
37 circumstances so warrant and with due prudence: *Provided*, That
38 the Ombudsman under its rules and regulations may determine

1 what cases may not be made public: *Provided, further,* That any
2 publicity issued by the Ombudsman shall be balanced, fair and
3 true;
4

5 (7) Determine the causes of inefficiency, red tape,
6 mismanagement, fraud, and corruption in the Government, and
7 make recommendations for their elimination and the observance
8 of high standards of ethics and efficiency;
9

10 (8) Administer oaths, issue *subpoena* and *subpoena duces*
11 *tecum*, and take testimony in any investigation or inquiry, including
12 the power to examine and have access to bank accounts and
13 records;
14

15 (9) Punish for contempt in accordance with the Rules of Court
16 and under the same procedure and with the same penalties
17 provided therein;
18

19 (10) Delegate to the Deputies, or its investigators or
20 representatives such authority or duty as shall ensure the effective
21 exercise or performance of the powers, functions, and duties
22 herein or hereinafter provided;
23

24 (11) Investigate and initiate the proper action for the recovery of
25 ill-gotten and/or unexplained wealth amassed after February 25,
26 1986 and the prosecution of the parties involved therein[;]
27

28 **(12) ESTABLISH AN ANTI-CORRUPTION LAW**
29 **ENFORCEMENT SERVICE, THAT WILL BE KNOWN AS THE**
30 **OMBUDSMAN MARSHALL SERVICE, TO BE HEADED BY A**
31 **SPECIAL INVESTIGATOR WITH THE RANK OF A DEPUTY**
32 **OMBUDSMAN, WITH THE MEMBERS THEREOF BEING**
33 **PEACE OFFICERS TO BE KNOWN AS OMBUDSMAN**
34 **MARSHALS WITH THE POWERS TO EFFECT ARRESTS,**
35 **DETENTION, SEARCHES AND SEIZURES AND VARIOUS**
36 **FORMS OF INVESTIGATIONS IN ACCORDANCE WITH THE**
37 **LAW AND TO POSSESS AND CARRY SUITABLE AND**
38 **ADEQUATE FIREARMS FOR THEIR PERSONAL**

1 **PROTECTION IN CONNECTION WITH THEIR DUTIES AND**
2 **FOR THE PROPER PROTECTION OF WITNESSES AND**
3 **PERSONS IN CUSTODY WITHOUT NEED OF ANY SPECIAL**
4 **PERMIT FROM ANY OTHER GOVERNMENT AGENCY:**
5 ***PROVIDED*, THAT THE SAID SERVICE MAY BE CALLED**
6 **UPON TO ENFORCE ANY ORDER, WRIT OR PROCESS OF**
7 **THE OFFICE OF THE OMBUDSMAN, *SANDIGANBAYAN* OR**
8 **ANY ANTI-CORRUPTION COURT, AGENCY OR UNIT: AND,**
9 ***PROVIDED, FINALLY*, THAT ADEQUATE FACILITIES SHALL**
10 **BE MAINTAINED FOR PERSONS IN CUSTODY, INCLUDING**
11 **DETAINEES UNDER INVESTIGATION, WHISTLEBLOWERS**
12 **AND WITNESSES. THE FUNDING FOR THE SERVICE SHALL**
13 **BE SOURCED FROM THE REGULAR APPROPRIATIONS OF**
14 **THE OFFICE OF THE OMBUDSMAN AND SHALL BE**
15 **AUGMENTED ON A YEAR-TO-YEAR BASIS AS MAY BE**
16 **APPROPRIATE TO ENSURE PERFORMANCE OF ITS**
17 **MANDATE."**

18
19 The Ombudsman shall give priority to complaints filed
20 against high ranking government officials and/or those occupying
21 supervisory positions, complaints involving grave offenses as well
22 as complaints involving large sums of money and/or properties.
23

24 **SEC 2.** Section 11 of Republic Act No. 6770 is hereby amended to read
25 as follows:

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

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

35 (2) The Office of the Overall Deputy shall oversee and administer
36 the operations of the different offices under the Office of Ombudsman. It

1 shall likewise perform such other functions and duties assigned to it by
2 the Ombudsman.

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

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

11 (a) To conduct preliminary investigation and prosecute
12 criminal cases within the jurisdiction of the Sandiganbayan;

13 (b) To enter into plea bargaining agreements; and

14 (c) To perform such other duties assigned to it by the
15 Ombudsman.

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

18 **(5) THE OMBUDSMAN MARSHAL SERVICE SHALL HAVE**
19 **THE AUTHORITY TO ENFORCE DECISIONS, RESOLUTIONS,**
20 **ORDERS AND WRITS OF THE OFFICE OF THE OMBUDSMAN,**
21 **INCLUDING CITATIONS FOR CONTEMPT AS PROVIDED BY**
22 **EXISTING LAWS.**

23 ~~[(5)]~~ (6) The position structure and staffing pattern of the Office
24 of the Ombudsman, including the Office of the Special Prosecutor, shall
25 be approved and prescribed by the Ombudsman. The Ombudsman shall
26 appoint all officers and employees of the Office of the Ombudsman,
27 including those of the Office of the Special Prosecutor, in accordance with
28 the Civil Service Law, rules and regulations.

29 **SEC 3.** Section 6 of Republic Act No. 6770 is hereby amended to read as
30 follows:

31 "Section 6. Rank and Salary. — The Ombudsman and his Deputies
32 shall have the same ranks, salaries and privileges as the Chairman and

1 members, respectively, of a Constitutional Commission. Their salaries
2 shall not be decreased during their term of office. **THE SPECIAL**
3 **INVESTIGATOR WILL CARRY THE RANK, SALARY,**
4 **EMOLUMENTS, BENEFITS AND RETIREMENT PRIVILEGES OF A**
5 **DEPUTY OMBUDSMAN."**

6
7 **SEC 4. *Separability Clause.*** - If any provision of this Act is declared invalid
8 or unconstitutional, the remainder of this Act or any provisions not affected
9 thereby shall remain in force and effect.
10

11 **SEC. 5. *Repealing Clause.*** - All laws, decrees, ordinances, rules and
12 regulations, executive or administrative orders, and other presidential issuance
13 inconsistent with this Act, are hereby repealed, amended or modified
14 accordingly.
15

16 **SEC. 6. *Effectivity.*** - This Act shall take effect fifteen (15) days after its
17 complete publication in at least two (2) newspapers of general circulation.
18

19 Approved,