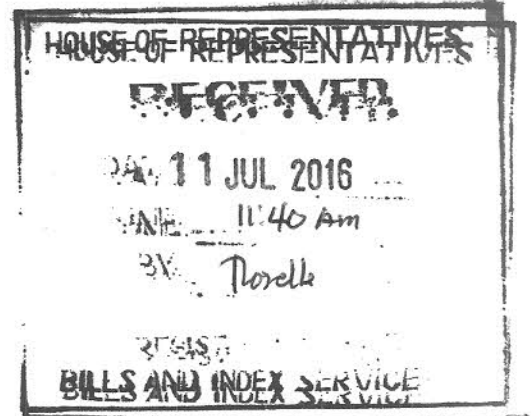


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. 1349



Introduced by Rep. Edcel C. Lagman

EXPLANATORY NOTE

The *ipso facto* resignation of any elective official upon filing of a certificate of candidacy for a position other than for which he has been elected or is holding was previously decreed by Sec. 67 of the Omnibus Election Code (Batas Pambansa Blg. 881), which reads in full:

Sec. 67. *Candidates holding elective office.* - Any elective official, whether national or local, running for any office other than the one which he is holding in a permanent capacity, except for President and Vice-President, shall be considered *ipso facto* resigned from his office upon the filing of his certificate of candidacy.

The aforementioned Section was amended by the first *proviso* in the third paragraph of Section 11 of Republic Act No. 8436 (Automated Election System Act) which made the resignation effective upon the start of the campaign period, to wit:

"x x x Provided, That, any elective official, whether national or local, running for any office other than the one which he/she is holding in a permanent capacity, except for president and vice-president, shall be deemed resigned only upon the start of the campaign period corresponding to the position for which he/she is running: x x x"

The automatic resignation upon filing of a certificate of candidacy or upon the start of the campaign period of any elective incumbent running for a different position had been repealed by the "Fair Election Act" (R.A. No. 9006), Sec. 14 of which provides:

Sec. 14. **Repealing Clause.** - Sections **67** and 85 of the Omnibus Election Code (Batas Pambansa Blg. 881) and Sections 10 and 11 of Republic Act No. 6646 are **hereby repealed**. As a consequence, **the first proviso in the third paragraph of Section 11 of Republic Act No. 8436** is rendered ineffective. All laws, presidential decrees, executive orders, rules and regulations, or any part thereof inconsistent with the provisions of this Act are hereby repealed or modified or amended accordingly. (Emphasis supplied).

This repeal was not in the House version (H.B. No. 9000), as approved on third reading, when it was transmitted to the Senate. It appears that the repeal was later provided unwarrantedly because it had no basis in the substantive provisions of the "Fair Election Act" and had no relevance whatsoever with the regulation of election propaganda, which was the principal purpose for the enactment of R.A. No. 9006. Verily, it was a last-minute rider.

Section 26 of Comelec Resolution No. 3636 implementing the "Fair Election Act" provides:

Effect of Filing Certificate of Candidacy of Elective Officials. –

Any elective official whether national or local, who has filed a certificate of candidacy for the same or any other office **shall not be considered resigned from his office.** (Emphasis supplied).

With the foregoing repeal, elective officials, more particularly and almost singularly incumbent Senators, vie for different positions in presidential or mid-term elections during their term of office without forfeiting their position as Senator in the eventuality of a lost bid. Except also for elective barangay officials whose terms expire sometime after the election of national and local officials, incumbents in other elective positions whose term of office are for three (3) years could not avail of the benefits of the "non-forfeiture" clause because their incumbency ends shortly after the concerned presidential or midterm elections, for which reason they have no position to return to in the event of electoral defeat.

This practice of allowing defeated candidates to reassume their position after the election must be jettisoned from our statute books for the following reasons:

1. An elective official must serve out his term consistent with the people's mandate, otherwise he must forfeit his office if he runs for another position during his term.
2. The present practice of reclaiming one's position violates the equal protection clause because only a group of elected officials are benefited.
3. Ethics in politics demands automatic forfeiture for incumbents running for a different position while their terms subsists.
4. Running for another position during one's incumbency must be considered abandonment of an elective position.
5. This class legislation and unethical practice is anathema to fair elections, despite the fact that the repeal of the then *ipso facto* resignation provision was imbedded in the "Fair Election Act".

Thus, the import of this bill, restoring the automatic resignation of any elective incumbent running for a different position during his/her term upon filing of the corresponding certificates of candidacy, merits its immediate enactment.



EDCEL C. LAGMAN

Republic of the Philippines
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House Bill No. 1349

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AN ACT
DECLARING AN ELECTIVE OFFICIAL *IPSO FACTO* RESIGNED FROM HIS OFFICE
UPON FILING OF HIS CERTIFICATE OF CANDIDACY FOR A POSITION OTHER
THAN THE ONE FOR WHICH HE HAS BEEN ELECTED OR IS HOLDING IN A
PERMANENT CAPACITY

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

SECTION 1. *Ipsa Facto Resignation of Elective Officials.* – Any elective official, whether national or local, running for any office other than the one for which he has been elected or is holding in a permanent capacity shall be considered *ipso facto* resigned from his office upon the filing of his certificate of candidacy.

SEC. 2. *Repealing Clause.* – All laws, presidential decrees, executive orders, rules and regulations and any part thereof, which are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 3. *Separability Clause.* – If any part or provision of this Act is held unconstitutional or invalid, other provisions thereof which are not affected shall continue to be in full force and effect.

SEC. 4. *Effectivity.* – This Act shall take effect fifteen (15) days following its publication in at least two (2) newspapers of general circulation, which publication shall be made within seven (7) days from the approval of this Act.

Approved,

