

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

Seventeenth Congress  
First Regular Session

**HOUSE BILL NO. 3242**

HOUSE OF REPRESENTATIVES	
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**Introduced by Honorable Joaquin M. Chipeco, Jr.**

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**EXPLANATORY NOTE**

Under the present state of our laws, there is no longer any prohibition against premature campaigning. Premature campaigning has already been decriminalized in the 2009 case of *Penera v. Comelec, et al.* (G. R. No. 181613, Nov. 25, 2009, *En Banc*). This means that a candidate in our (automated) elections could campaign much earlier than the start of the campaign period and not incur any criminal liability for premature campaigning under our election laws.

Summarizing *Penera*, the rule now is that two (2) facts must concur in order for a person or aspiring candidate to be liable for an election offense: first, he must have filed his certificate of candidacy; and second, the campaign period has commenced.

The legal conundrum arising from such a jurisprudential rule is patently manifest - it effectively decriminalizes not just premature campaigning, but any and all election offense committed prior to the campaign period as well. Whether the majority of the Court realizes this grave implication from its ruling, it merely washes its hands by conveniently stating that "the forum for examining the wisdom of the law, and enacting remedial measures, is not this Court but the legislature." Interestingly enough, the minority opinion chimed in by stating, in part, that "x x x this dissenting opinion will not be viewed as an effort made in vain if in the future the said resolution can be revisited and somehow rectified." Clearly, then, the entire Supreme Court displayed varying degrees of unease as to how the *Penera* decision turned out. Whether the fault lies in the flawed phraseology of our law on automated elections (as the majority seems to imply), or the infirm legal reasoning or interpretation of the *ponencia* (as the minority suggested), one thing clearly stands out - there is an urgent need for remedial legislation in this particular area of our election law.

For the most part, this bill merely reinstates the prohibition against premature campaigning, specifically, and revives the election offenses

committed prior to the start of the campaign period, in general, which were all swept away or repealed by the *Penera* ruling. A new feature of this bill, however, is that the fine imposable upon responsible officers of political parties guilty of premature campaigning, vote-buying, etc., has been increased from the previous ten thousand pesos (a paltry sum by today's standards) to a hundred thousand pesos. Another feature of this bill is to remove the distinction between automated elections and manual elections – a distinction made by the Comelec in the immediately past election – and make premature campaigning and similar election offenses applicable to both types of democratic exercise. Possibly, the most prominent feature of this bill, however, is that premature campaigning would only be made an election offense if the person or the aspiring candidate in whose favor the early campaigning was committed pursues his political ambitions by filing a certificate of candidacy. The reason for this rule is obvious – if the favored candidate did not eventually file his certificate of candidacy, then the social evil which the law seeks to stamp-out, namely, the undue or unfair advantage derived by a candidate on account of premature campaigning, would not exist. Whatever premature campaigning that was committed in this instance would then be meaningless as it did not redound to the benefit of anybody.

The fight for electoral reforms (and for fair elections), it may be said, is a never-ending one. Congress could not afford to allow a wide array of election offenses committed before the commencement of the campaign period to remain in limbo any moment longer.

In view of the foregoing, the approval of this bill, at the earliest possible time, is most earnestly sought.



**JOAQUIN M. CHIPECO, JR.**  
Representative  
Second District of Laguna

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**AN ACT**  
**PROHIBITING ELECTORAL CAMPAIGN OR PARTISAN**  
**POLITICAL ACTIVITY EXCEPT DURING THE CAMPAIGN**  
**PERIOD AND PROVIDING A PENALTY THEREFOR**

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

SECTION 1. *Prohibition against premature campaigning.* - It shall be unlawful for any person, whether or not a voter or candidate, or for any party, or association of persons, to engage in an election campaign or partisan political activity except during the campaign period: *Provided*, that the person or aspiring candidate in whose favor the premature campaigning was done eventually files his certificate of candidacy; and *provided* further, that the prohibition against premature campaigning shall apply in all kinds of election, whether done manually, automated, or otherwise.

Nothing in this Act shall prohibit political parties or association of persons from holding political conventions or meetings to nominate their official candidates within thirty days before the commencement of the campaign period and forty-five days for Presidential and Vice-Presidential election.

SEC. 2. *Prohibition against other premature election campaign or partisan political activity.* – Any other act designed to promote the election or defeat of a particular candidate or candidates to a public office committed prior to the campaign period, including but not necessarily limited to vote-buying and vote-selling, is likewise declared an election offense.

SEC. 3. *Penalty.* - Any person found guilty of any election offense under this Act shall be punished with imprisonment of not less than one year but not more than six years and shall not be subject to probation. In addition, the guilty party shall be sentenced to suffer disqualification to hold public office and deprivation of the right of suffrage. If he is a foreigner, he shall be subject to deportation which shall be enforced after the prison term has been served. Any political party found guilty shall be sentenced to pay a fine of not less than one hundred thousand pesos, which shall be imposed upon such a party after criminal action has been instituted in which their corresponding officials have been found guilty.

SEC. 4. *Repealing clause.* - All laws, decrees, orders, rules and regulations, or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

SEC. 5. *Effectivity clause.* - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,