



SENATE

Senate Bill No. 633

'19 JUL 22 A9:03

Introduced by Senator FRANCIS N. PANGILINAN

AN ACT

AMENDING SECTION 15 OF REPUBLIC ACT NO. 8436 OTHERWISE KNOWN AS AN ACT AUTHORIZING THE COMMISSION ON ELECTIONS TO USE AN AUTOMATED ELECTION SYSTEM IN THE MAY 11, 1998 NATIONAL OR LOCAL ELECTIONS AND IN SUBSEQUENT NATIONAL AND LOCAL ELECTORAL EXERCISES, AS AMENDED BY REPUBLIC ACT NO. 9369 AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Under Section 80 and Section 264 of the Omnibus Election Code, premature campaigning (*i.e.*, campaigning outside the campaign period) shall be punishable by imprisonment of one to six years, disqualification to hold public office, and the deprivation of the right of suffrage.

However, premature campaigning has been effectively decriminalized by the Supreme Court in *Penera v. COMELEC* (G.R. No. 181613, November 25, 2009). The Supreme Court ruled that a candidate may be liable for election offenses, including premature campaigning, "only upon the start of the campaign period" citing Section 15 of Republic Act No. 8436, as amended by Republic Act No. 9369 which states that a person who files a certificate of candidacy "shall only be considered as a candidate at the start of the campaign period." Put simply, candidates may not be liable for election offenses, including premature campaigning, outside of the campaign period.

Following *Penera*, acts such as the airing of political TV and radio advertisements and the posting of collaterals before the campaign period remain unpunished and unregulated. Wealthy candidates have an undue advantage over poorer candidates. In this connection, the constitutional mandate to ensure equal opportunity, time, and space among candidates is not being followed.

This bill proposes to amend Section 15 of Republic Act No. 8436, as amended by Republic Act No. 9369, to clarify that candidates may be liable for election offenses, including premature campaigning, even before the campaign period.

In view of the foregoing, the passage of this bill is earnestly sought.


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

SECTION 1. Section 15 of Republic Act No. 8436, as amended by Republic Act No. 9369, is hereby further amended to read as follows:

“Section 15. Official Ballot. – xxx

xxx

For this purpose, the Commission shall set the deadline for the filing of certificate of candidacy/petition of registration/manifestation to participate in the election. A[ny] person [who] **SHALL BE CONSIDERED A CANDIDATE AT THE MOMENT SUCH PERSON** files [his] A certificate of candidacy within [this period shall only be considered as a candidate at the start of the campaign period for which he filed his certificate of candidacy]

THE PERIOD PROVIDED BY THE COMMISSION: Provided, That, unlawful acts or omissions applicable to a candidate shall take effect [only] upon [the start of the aforesaid campaign period] **THE FILING OF THE CERTIFICATE OF CANDIDACY:** Provided, finally, That any person holding a public appointive office or position, including active members of the armed

1 forces, and officers, and employees in government-owned or-controlled
2 corporations, shall be considered ipso facto resigned from [his/her] office and
3 must vacate the same at the start of the day [of the filing of his/her] **SUCH**
4 **PERSON FILED A** certificate of candidacy.

5 xxx''

6 **SEC. 2. *Repealing Clause.*** – All statutory laws, orders, issuances, rules and
7 regulations, and/or parts thereof which are inconsistent with the provisions of this Act
8 are hereby repealed or modified accordingly.

9 **SEC. 3. *Effectivity.*** – This Act shall take effect after fifteen (15) days following its
10 publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,