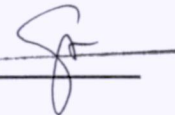


SENATE

'19 JUL 25 A11 :07

S. No. 777

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Introduced by **SENATOR LEILA M. DE LIMA**

**AN ACT**  
**PENALIZING PREMATURE CAMPAIGNING, AMENDING SECTION 15**  
**OF REPUBLIC ACT NO. 8436, AS AMENDED BY REPUBLIC ACT NO.**  
**9369**

**EXPLANATORY NOTE**

The prohibited act of premature campaigning is defined under Section 80 of the Omnibus Election Code, to wit:

SECTION 80. *Election campaign or partisan political activity outside campaign period.* - 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 political parties may hold 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.

The repercussion for the violation of Section 80 is spelled out in Section 60 of the same Code, which reads:

SECTION. 68. *Disqualifications.* - Any candidate who, in an action or protest in which he is a party is declared by final decision of a competent court guilty of, or found by the Commission of having xxx (e) violated any of Sections 80, 83, 85, 86 and 261, paragraphs d, e, k, v, and cc, subparagraph 6,

shall be disqualified from continuing as a candidate, or if he has been elected, from holding the office. xxx

In 2007, Republic Act No. 9369 (RA 9369) was enacted. Section 15, paragraph 3 thereof provided a new definition of “candidate” which, as a result, premature campaigning may no longer be committed, to wit:

SEC.15. *Official Ballot.* -

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. **Any person who files his 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:** *Provided, That, unlawful acts or omissions applicable to a candidate shall effect only upon that start of the aforesaid campaign period xxx. (Emphasis added)*

However, in *Penera v. Commission on Elections*<sup>1</sup>, the Supreme Court clarified that Section 15, paragraph 3 of RA 9369 does not repeal Section 80 of the Omnibus Election Code; rather “it is possible to harmonize and reconcile these two provisions” since “premature campaigning may be committed even by a person who is not a candidate. xxx it is only at the start of the campaign period, when the person officially becomes a candidate, that the undue and iniquitous advantages of his/her prior acts, constituting premature campaigning, shall accrue to his/her benefit.”

A Commission on Elections (COMELEC) Commissioner was quoted by news reports saying that the Commission *En Banc* recognized that there is no law against premature campaigning, whether for manual or automated elections<sup>2</sup>.

This measure aims to correct the provision by considering the persons who filed certificates of candidacy as candidates at the time of the filing. Thus, said

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<sup>1</sup> *Penera v. Commission on Elections*, G. R. No. 181613, September 11, 2009

<sup>2</sup> Santos, T. (2018). *Comelec: Premature campaigning not poll offense*. Retrieved from <https://newsinfo.inquirer.net/985111/comelec-premature-campaigning-not-poll-offense>

persons can already be held liable for election offenses including premature campaigning.

It is high time to address the issue of premature campaigning through a corrective legislative action<sup>3</sup>. This legislative loophole has repeatedly been used and abused by offenders in order to gain an undue advantage over their fellow candidates. In fact, the recently held national and local elections had seen ubiquitous and brazen instances of premature campaigning, on top of massive vote-buying in unprecedented levels. Let us take the necessary steps to ensure an even playing field and foster an environment of fairness and propriety every election season.

Approval of this measure is earnestly sought.

  
LEILA M. DE LIMA


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<sup>3</sup> Jimenez, James. 21 June 2018. "A Stitch in Time". Business Mirror. Retrieved from <https://businessmirror.com.ph/a-stitch-in-time/>



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**9369**

*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. 8436, as amended by R.A. No. 9369,  
2 is hereby further amended to read as follows:

3                   **SECTION 15. Official Ballot.** – xxxx:

4                   xxxxx.

5                   For this purpose, the Commission shall set the deadline for the  
6 filing of certificate of candidacy/petition for  
7 registration/manifestation to participate in the election. A person  
8 **[who] SHALL BE CONSIDERED A CANDIDATE AT THE**  
9 **MOMENT SUCH PERSON** files **[his] A** certificate of candidacy  
10 within ~~[this period shall only be considered as a candidate at the~~  
11 ~~start of the campaign period which he filed his certificate of~~  
12 ~~candidacy]~~ **THE PERIOD PROVIDED BY THE**  
13 **COMMISSION**; *Provided*, That, unlawful acts or omissions  
14 applicable to a candidate shall take effect **[only]** upon ~~[the start of~~  
15 ~~the aforesaid campaign period]~~ **SUCH FILING OF THE**  
16 **CERTIFICATE OF CANDIDACY**; *Provided, finally*, That any  
17 person holding a public appointive office or position, including  
18 active members of the armed forces, and officers and employees in

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

5 XXXX.

6 XXXX.

7 XXXX.

8 XXXX.

9

10 Sec. 2. *Repealing Clause.* – All laws, decrees, orders, and issuances, or portions  
11 thereof, which are inconsistent with the provisions of this Act, are hereby repealed,  
12 amended or modified accordingly.

13 Sec. 3. *Effectivity.* – This Act shall take effect fifteen (15) day after its  
14 publication in two (2) newspapers of general circulation.

Approved,